UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BELINDA DE GAUDEMAR, ANTHONY HOFFMANN, SUSAN SCHOENFELD, NANCY PASCAL, and MICHAEL CORBETT

Plaintiffs,

v.

PETER S. KOSINSKI, in his official capacity as Co-Chair of the State Board of Elections; DOUGLAS A. KELLNER, in his official capacity as Co-Chair of the State Board of Elections; ANDREW J. SPANO, in his official capacity as Commissioner of the State Board of Elections; ANTHONY J. CASALE, in his official capacity as Commissioner of the State Board of Elections; TODD D. VALENTINE, in his official capacity as Co-Executive Director of the State Board of Elections; and KRISTEN ZEBROWSKI-STAVISKY, in her official capacity as Co-Executive Director of the State Board of Elections,

Defendants.

Case No. 22 Civ. 3534

DECLARATION OF ARIA C. BRANCH IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows.

My name is Aria C. Branch. I am an attorney with the law firm of Elias Law Group LLP, and I am counsel for Plaintiffs. I submit this affidavit to provide the Court true and correct copies of documents submitted in support of Plaintiffs' Order to Show Cause for Temporary Restraining Order and Preliminary Injunction.

Exhibit 1 is a true and correct copy of the Order in *United States v. New York*, 1:10-cv-01214, ECF No. 59 (Jan. 27, 2012).

Exhibit 2 is a true and correct copy of the Declaration of Laura P. Costello and Jerry O.

Eaton, Officers of the New York State Election Commissions' Association, submitted in *United States v. New York*, 1:10-cv-01214, ECF No. 45-2 (Dec. 6, 2011).

Exhibit 3 is a true and correct copy of the March 31, 2022 Order from the Steuben County Supreme Court in *Harkenrider v. Hochul*, No. E2022-0166CV.

Exhibit 4 is a true and correct copy of the April 27, 2022 Opinion from the New York Court of Appeals in *In the Matter of Tim Harkenrider, et al. v. Hochul*, No. 60.

Exhibit 5 is a true and correct copy of the April 29, 2022 Order from the Steuben County Supreme Court in *Harkenrider v. Hochul*, No. E2022-0166CV.

Exhibit 6 is a true and correct copy of the New York Legislature's legislation fixing 26 congressional districts for the state of New York (A.9039-A / S.8172-A), dated January 30, 2022.

Exhibit 7 is a true and correct copy of the New York Legislature's legislation providing a technical amendment for the congressional districts for the state of New York (A.9167 / S.8196), dated February 1, 2022.

Exhibit 8 is a true and correct copy of the transcript from the March 3, 2022 hearing in *Harkenrider v. Hochul*, No. E2022-0166CV, at the Steuben County Supreme Court.

Exhibit 9 is a true and correct copy of the Order Adopting Remedial Plan, *Favors v. Cuomo*, No. 1:11-cv-05632, ECF No. 242 (E.D.N.Y Mar. 19, 2012)

Exhibit 10 is a true and correct copy of the April 27, 2021 article entitled, "Surprising upside in NY census total points to bigger shift in Albany" from the Empire Center.

Exhibit 11 is a true and correct copy of the November 2021 Report entitled "2020 Census: Municipal Population Shifts in New York State" from the Office of the New York State Comptroller.

Exhibit 12 is a true and correct copy of the April 26, 2021 article entitled, "For the lack of

89 people, New York will lose 1 House seat" from Politico.

Exhibit 13 is a true and correct copy of the Consent Decree in *United States v. New York*, 1:10-cv-01214, ECF No. 9 (Jan. 27, 2012).

Exhibit 14 are true and correct copies of election results of congressional primary elections conducted in New York State from 2012 to 2020, demonstrating all occurred on the fourth Tuesday in June, which are publicly available at: https://www.elections.ny.gov.

Exhibit 15 is a true and correct copy of the notarized affidavit of Plaintiff Susan Schoenfeld.

Exhibit 16 is a true and correct copy of the notarized affidavit of Plaintiff Anthony Hoffman.

Exhibit 17 is a true and correct copy of the notarized affidavit of Plaintiff Nancy Pascal.

Exhibit 18 is a true and correct copy of the notarized affidavit of Plaintiff Michael Corbett.

Exhibit 19 is a true and correct copy of the New York State Board of Elections Website, as of May 1, 2021, which is publicly available at: https://www.elections.ny.gov/.

Exhibit 20 is a true and correct copy of the August 25, 2021 article entitled, "Where America Gained and Lost Population Could Help Democrats in Redistricting" from FiveThirtyEight.

Exhibit 21 is a true and correct copy of the August 4, 2020 article entitled, "After 6 Weeks, Victors Are Declared in 2 N.Y. Congressional Primaries," from the New York Times.

Exhibit 22 is a true and correct copy of the signed declaration of Belinda de Gaudemar.

Exhibit 23 is a true and correct copy of the webpage for New York on the Federal Voting Assistance Program as of May 2, 2022, which is available at: https://www.fvap.gov/new-york.

Exhibit 24 is a true and correct copy of the webpage for Federal Election Commission's

primary calendar as of May 2, 2022, which is available at: https://www.fec.gov/calendar/

Exhibit 25 is a true and correct copy of the declaration of Jackie Gordon, candidate for New York's First Congressional District.

Exhibit 26 is a true and correct copy of the declaration of Representative Sean Patrick Maloney.

There have been no previous requests for this relief.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 2, 2022

_____

Aria C. Branch

Exhibit 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

1:10-cv-1214 (GLS/RFT)

v.

STATE OF NEW YORK et al.,

Defendants.

APPEARANCES:	**OF COUNSEL:**
FOR THE PLAINTIFF:	
HON. RICHARD J. HARTUNIAN United States Attorney 445 Broadway 218 James T. Foley U.S. Courthouse Albany, NY 12207-2924	BARBARA D. COTTRELL THOMAS SPINA, JR. Assistant U.S. Attorneys
United States Dept. of Justice Civil Rights Division 950 Pennsylvania Ave. NW Washington, D.C. 20530	RICHARD A. DELLHEIM, ESQ. RISA A. BERKOWER, ESQ.
FOR THE DEFENDANTS:	
State of New York HON. ERIC T. SCHNEIDERMAN New York State Attorney General Albany Department of Law The Capitol Albany, NY 12224	JEFFREY M. DVORIN BRUCE J. BOIVIN Assistant Attorney Generals
Board of Elections New York State Bd. of Elections Office of Special Counsel 40 Steuben Street	KIMBERLY A. GALVIN, ESQ. PAUL M. COLLINS, ESQ.

Albany, NY 12207-1650

Gary L. Sharpe
Chief Judge

MEMORANDUM-DECISION AND ORDER

I. Introduction

Nothing is more critical to a vibrant democratic society than citizen participation in government through the act of voting. It is unconscionable to send men and women overseas to preserve our democracy while simultaneously disenfranchising them while they are gone. To some extent, that is precisely what New York has done. Having had ample opportunity to correct the problem, it has failed to find the political will to do so. While matters of comity ordinarily counsel federal courts to refrain from becoming embroiled in state election schemes, New York has left the court no choice. If federally-guaranteed voting rights are to be protected, the court must act.

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 42 U.S.C. §§ 1973ff to 1973ff-7, as amended by the Military and Overseas Voter Empowerment (MOVE) Act, Pub. L. No. 111-84, subtitle H, §§ 575-589, 123 Stat. 2190, 2318-2335 (2009) protects

the federally-guaranteed voting rights of New York's military and overseas voters. Since at least 2010, New York has recognized that its voting laws are not compliant with UOCAVA's federal mandate. Accordingly, the State entered a Consent Decree on October 19, 2010. (*See* Dkt. No. 9.) Among other things, it agreed to amend its law to ensure future compliance with UOCAVA and agreed to take certain steps to correct UOCAVA violations. (*See* Consent Decree Terms, *id.*) Furthermore, the State transmitted additional absentee ballots after October 1, 2010—that were unknown to the court at the time it entered the Decree—which constituted additional UOCAVA violations that fell beyond the scope of the relief ordered in the Consent Decree. (*See id.*)

Now pending is the United States' motion seeking permanent and supplemental relief to ensure New York's primary election date complies with UOCAVA and to address the additional violations found subsequent to the Decree. (*See* Dkt. No. 16.) For the reasons that follow, the motion is granted.

II. Background

On October 12, 2010, the United States filed this action to remedy violations of UOCAVA. UOCAVA guarantees active duty members of the

uniformed services (and their spouses and dependents), and United States citizens residing overseas, the right "to vote by absentee ballot in general, special, primary, and runoff elections for Federal office." 42 U.S.C. § 1973ff-1(a)(1). New York is responsible for complying with UOCAVA and ensuring that validly-requested absentee ballots are sent to UOCAVA voters in accordance with its terms. 42 U.S.C. §§ 1973ff-1 & 1973ff-6(6).

New York's statutorily-prescribed non-presidential federal primary election date prevents it from complying with UOCAVA's ballot transmission deadline of forty-five (45) days prior to a federal general election. On August 27, 2010, the Secretary of Defense granted New York a hardship waiver for the November 2, 2010 federal general election on that basis. The waiver exempted New York from complying with UOCAVA's ballot transmission deadline of September 18, 2010. Thus, the waiver extended New York's UOCAVA ballot transmission deadline until October 1, 2010. The waiver was granted based in part upon New York's representations that all ballots would be transmitted by October 1, 2010.

However, New York failed to transmit all UOCAVA ballots by October 1, 2010, prompting the United States to contact State officials. During these communications, New York represented that at least thirteen (13)

counties transmitted UOCAVA ballots after October 1, 2010, but stated that all UOCAVA ballots had been transmitted no later than October 10, 2010.

On October 19, 2010, and based on these representations, this court entered the Decree to remedy these UOCAVA violations. (*See* Dkt. No. 9.) The Decree required New York to accept as valid all UOCAVA ballots that were properly executed and postmarked or showing a date of endorsement of receipt by another agency of the United States government by November 1, 2010, and that were received by New York's election officials by November 24, 2010 and otherwise valid. The Decree left open the issue of additional relief should New York fail to take necessary measures to ensure future UOCAVA compliance. The Decree also contemplated supplemental relief should additional UOCAVA violations be discovered.

III. Discussion

A. Primary Election Date

Determining an UOCAVA-complaint date for New York's 2012 primary election requires consideration of a multitude of positions, all of which were presented by New York. While the Election Commissioners' Association (ECA), the State Senate, which was granted amicus status,

and the State Assembly[1] expressed their views, the Governor did not take a position.

Specifically, the ECA and State Assembly urge the court to move the September Primary to the fourth Tuesday in June in order to reliably meet the mandates of UOCOVA. The ECA contends that an August primary election does not provide sufficient time to deal with the foreseeable obstacles in certifying a primary election result or the ballot. Thus, ECA claims that an August election would potentially disenfranchise military and overseas voters.

On the other hand, the State Senate seeks an August primary date because it would be the least disruptive to the current, and long-standing, September primary system. In so arguing, the Senate urges the court to consider the economic implications of the primary date, the hardship of candidates to obtain signatures in the winter months, and that June is at the end of the legislative session. More specifically, the Senate points out that a June primary would force its members to have to weigh their elected responsibilities against the need for political presence in their district.

Having considered the parties submissions, and considering their

[1] Not a party to this litigation and did not seek amicus status.

contentions with care, the court concludes that the fourth Tuesday in June for the non-presidential primary is in the best interest of the State. However, this decision by no means precludes New York from reconciling their differences and selecting a different date, so long as the new date fully complies with UOCAVA. The court fully recognizes that a permanent primary date is best left to New York, but has acted as it must to preserve federally protected voting rights.

B. Additional UOCAVA violations

Following the entry of the Decree, the court has been informed that at least thirty-six (36) of New York's sixty-two (62) counties transmitted UOCAVA ballots after October 1, 2010. Furthermore, at least thirteen (13) counties transmitted UOCAVA ballots after the October 10, 2010, transmission date stipulated in the Decree. Since there appears to be no dispute on the subsequent violations, the court grants the relief sought by the United States to determine the extent of the UOCAVA violations and the proposed remedy to rectify those violations.

IV. Conclusion

WHEREFORE, for the foregoing reasons, it is hereby

ORDERED that the United States' motion for permanent and

supplemental relief (Dkt. No. 16) is **GRANTED**; and it is further

ORDERED that:

(1) Notwithstanding any current state law or administrative procedure to the contrary, New York shall conduct its 2012 non-presidential federal primary election on a date no later than 35 days prior to the 45-day advance deadline set by the MOVE Act for transmitting ballots to the State's military and overseas voters, *i.e.*, at least 80 days before the November 6, 2012 federal general election. In 2012, that date shall be June 26, 2012.

(2) In subsequent even-numbered years, New York's non-presidential federal primary date shall be the fourth Tuesday of June, unless and until New York enacts legislation resetting the non-presidential federal primary election for a date that complies fully with all UOCAVA requirements, and is approved by this court.

(3) For the purposes of determining the date and time for performing any act prescribed by any law and/or administrative procedure applicable to New York's non-presidential federal

primary, such non-presidential federal primary election date shall be deemed to be held on the dates provided in paragraphs (1) and (2) above.

(4) The New York State Board of Elections ("NYSBOE") shall, within five (5) days of this Order, provide the court with a proposed non-presidential federal primary election calendar for all statutory and administrative election-related deadlines based upon the non-presidential federal primary election date set by the court. The United States shall have five (5) days to respond. Once approved by the court, the NYSBOE shall have ten (10) days to take all steps necessary to adopt and promulgate this non-presidential federal primary calendar.

(5) Having promulgated an approved non-presidential federal primary election calendar, the NYSBOE shall take all steps necessary to ensure that such non-presidential federal primary election calendar is implemented by and complied with by local boards of election. To this end, and to ensure future UOCAVA compliance, the parties shall confer as to an appropriate schedule for defendants to provide pre-election reporting to the

United States with respect to the State's UOCAVA compliance.

(6) Within fourteen (14) days of this Order, the parties, having conferred, shall provide the court with a list of those county boards of elections, if any, to be re-surveyed concerning UOCAVA ballots from the 2010 federal general election, along with an explanation of any differences between the parties' proposals.

(7) If necessary and appropriate, the court will determine the list of counties to be re-surveyed. Within seven (7) days of that determination, the NYSBOE shall transmit the attached questionnaire concerning ballots transmitted to voters in the 2010 federal general election pursuant to UOCAVA to each county board of elections on that list with instructions for the chief official or officials of each county board to certify the accuracy of the board's responses to the questionnaire.

(8) Defendants shall instruct each affected county board of elections that each completed questionnaire must be returned to the NYSBOE within thirty (30) days of its receipt. After consulting with counsel for the United States, the NYSBOE

shall file all completed questionnaires with this court within sixty (60) days of this Order, along with an accurate summary of the survey results, and, if necessary, an explanation as to why the survey results are incomplete. The United States may respond to this filing within ten (10) days. This court retains jurisdiction to take all appropriate steps to ensure the completeness and accuracy of the information provided by defendants and the county boards of elections.

(9) After the actions in paragraphs (7) and (8) above are complete, defendants shall ensure that local election officials in New York State take such steps as are necessary to count as validly-cast ballots in the November 2, 2010 federal general election all those ballots cast for federal offices, including Federal Write-in Absentee Ballots, requested up to and including October 10, 2010 and transmitted to overseas and military voters after that date but received by such election officials after November 24, 2010, so long as such ballots are executed and postmarked, or show a dated endorsement of receipt by another agency of the United States government (or in the case of military voters, are

signed and dated by the military voter and one witness thereto) by November 1, 2010 and are otherwise valid under New York law.

(10) Within twenty (20) days of the completion of the actions required by paragraphs (7)-(9) above, defendants shall, after consulting with the United States, present a plan to the court detailing the procedures it will employ to count such ballots and certify the votes for federal offices. Defendants shall conclude ballot counting and recertification of all affected ballots within thirty (30) days after the court approves the ballot counting and recertification plan.

(11) Defendants shall take all reasonable steps to notify all affected voters of the terms of this Order and that their votes were counted in the 2010 federal general election.

(12) Defendants shall file a report with this court, in a format to be agreed upon by the parties, no later than five (5) days following the completion of any recertification process, detailing the number of UOCAVA absentee ballots, by county, that meet the conditions of this Order and that have been counted for the

November 2, 2010 federal general election. The report will set forth the following information, by county, categorized by absent uniformed services voters with APO/FPO addresses or non-US street addresses; uniformed services voters at a street address within the US; and overseas civilian voters:

a. The number of absentee ballots requested by UOCAVA voters between October 1, 2010 and October 10, 2010;

b. The number of absentee ballots requested by UOCAVA voters between October 1, 2010 and October 10, 2010 but sent to such voters after October 10, 2010;

c. The number of absentee ballots identified in subparagraph (b) that were received from UOCAVA voters later than the close of business on November 24, 2010 and rejected solely for that reason; and

d. The number of absentee ballots that, pursuant to this Order, have been counted and included in recertified election totals.

(13) This court shall retain jurisdiction to ensure additional relief as appropriate; and it is further

ORDERED that the Clerk provide a copy of this Memorandum-Decision and Order to the parties.

IT IS SO ORDERED.

January 27, 2012
Albany, New York

Gary L. Sharpe
Chief Judge
U.S. District Court

Questionnaire

County: _____

Instructions: Each New York county board of elections must answer the following questions. The chief official of the board must sign the responses to these questions and attest to their accuracy under penalty of perjury. Responses must be submitted to the New York State Board of Elections within 30 days of receiving this survey. Please attach additional sheets of paper if necessary to respond completely to each question. All responses will be filed by the State with the U.S. District Court for the Northern District of New York in connection with United States v. New York, et al., No. 1:10-CV-1214 (GLS/RFT) (N.D.N.Y. filed Oct. 12, 2010).

Part I: UOCAVA Ballot Requests

1. Please provide the number of UOCAVA ballot requests received by your county prior to September 18, 2010: _____.

2. Please provide the number of UOCAVA ballot requests received by your county between September 18, 2010 and October 1, 2010: _____.

3. Please provide the number of UOCAVA ballot requests received by your county between October 1, 2010 and October 10, 2010:_____.

4. Please provide the number of UOCAVA ballot requests received by your county after October 10, 2010: _____.

Part II: UOCAVA Ballot Transmittals

1. Please provide the number of UOCAVA ballots that were transmitted to voters (including by electronic transmission) by October 1, 2010: _____.

2. Please provide the number of UOCAVA ballots that were transmitted to voters (including by electronic transmission) between October 1, 2010

and October 10, 2010: _____.

3. Please provide the number of UOCAVA ballots that were transmitted to voters (including by electronic transmission) after October 10, 2010: _____.

a. If ballots were transmitted after October 10, 2010, please provide the following:

i. The number of UOCAVA ballots transmitted after October 10, 2010 that were requested before October 10, 2010: _____.

ii. The number of UOCAVA ballots transmitted after October 10, 2010 that were requested after October 10, 2010: _____.

Part III: UOCAVA Ballots Returned to the County

1. Please provide the number of UOCAVA ballots received by the county prior to November 2, 2010: _____.

2. Please provide the number of UOCAVA ballots received by the county between November 2, 2010 and November 24, 2010: _____.

3. Please provide the number of UOCAVA ballots received by the county after November 24, 2010: _____.

Part IV: Rejected UOCAVA Ballots

1. Please provide: a.) the number of UOCAVA ballots that were received prior to November 2, 2010 that were rejected and not counted: _____; and b.) the reason(s) for rejection of each of those ballots: _____
_____

2. Please provide: a.) the number of UOCAVA ballots that were

received between November 2, 2010 and November 24, 2010 that were rejected and not counted: _____; and b.) the reason(s) for rejection of each of those ballots:

_____

_____

3. Please provide the number of UOCAVA ballots that were received after November 24, 2010 that were rejected and not counted: _____.

a. Were any ballots received after November 24, 2010 requested by October 10, 2010 and transmitted to the voter after that date? _____.

i. If yes, please provide the number of such ballots: _____.

ii. If yes, please provide the number of such ballots that were not counted only because they were received after November 24, 2010: _____.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Signature:

_____

Printed name:

_____

Title:

_____

Date: _____

Exhibit 2

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
Attorney General

STATE COUNSEL DIVISION
Litigation Bureau

Writer Direct: (518) 473-7614

December 6, 2011

Honorable Gary L. Sharpe
James T. Foley U.S Courthouse
445 Broadway, Room 441
Albany, NY 12207-2926

Re: *United States v. State of New York, et al.*
Northern District of New York
10-CV-1214 (GLS)

Dear Judge Sharpe:

As the Court is aware, the Department of Defense recently denied New York State's application for a waiver of the 45-day deadline for transmitting UOCAVA ballots for the 2012 federal non-presidential primary and general elections. The State's prematurity argument with respect to the 2012 federal elections is thus no longer viable. Several important issues do, however, remain before the Court.

As set forth in the State's memorandum of law in opposition to the United States' motion for supplemental and permanent relief, New York does not dispute that, given the fact of the waiver denial, the federal non-presidential 2012 primary should be held at least 80 days before the 2012 general election to insure compliance with UOCAVA. As the State also pointed out, however, the United States seeks additional relief that goes beyond that required to guarantee compliance with federal law and which, if granted, would improperly infringe on the State's prerogative to set its own UOCAVA-compliant primary date. Specifically, the federal government asks the court to direct that the State propose a new primary date, and any other necessary election calendar adjustments, within ten days of the issuance of a remedial order. As explained in the State's opposition papers, the ten-day deadline would deprive the Legislature of a reasonable opportunity to develop a revised primary schedule. Instead, the Court can issue a remedial order requiring that the primary election be scheduled for a date prior to August 18, 2012, and then should set a status conference for a later date to allow the Court sufficient time to take any necessary action to insure UOCAVA compliance in 2012 if a new primary date has not been set by that date.

In its reply papers, the Proposed-Intervenor New York State Senate, requests that the Court grant relief significantly beyond that sought by the United States by ordering that the primary be held in August 2012. The State Senate would thus have the Court involve itself -- to a far greater extent than contemplated by even the federal government -- in an area traditionally

left to the states. See Bush v. Hillsborough County Canvassing Board, 123 F. Supp.2d 1305, 1317 (N.D. Fla. 2000) (requiring compliance with UOCAVA but declining to "legislate the intricacies of state election procedures" in its remedial order). Further, the Legislature is best suited to resolve the implementation issues that would arise from the setting of dates for state and federal primaries. An order directing that the primary be held before August 18, as requested by the United States, insures UOCAVA compliance; the State should be allowed to set the specific date.

Should the Court, at some point, nonetheless deem it appropriate to direct that the primary be conducted on a particular date, it should be mindful that there is a widely held view -- among elected officials of both major political parties and public interests groups -- that an August primary date could significantly disrupt election operations in a manner that could be avoided by holding the primary in June. It should also be noted that, for many years, New York's primary elections were held in June. Although the State of New York does not take a position as to the appropriate primary date, and remains hopeful of a legislative solution, the Court should have before it the fullest record upon which to render a decision should it reach the primary date issue. Accordingly, annexed to this letter are (1) a letter signed by the Speaker of the New York State Assembly and (2) an affidavit from the bi-partisan Election Commissioners' Association, to which the Speaker refers, each of which offers a factual basis and rationale for holding the primary in June. In addition, several civil rights and civic groups (Dkt. 38) and the Election Commissioners' Association (undocketed) have already submitted letters to the Court in support of a June primary. Any determination by the Court as to the primary date would involve the consideration of a highly complex pre-election process. The State, therefore, urges the Court to take into account the information in support of a June primary should it be deemed necessary to impose a Court-ordered date.

Finally, the State respectfully submits that any order regarding the primary election schedule be limited to 2012, thus affording the State Legislature and the Governor an opportunity to set the primary dates for future primaries.

Thank you for your consideration of this matter.

Respectfully yours,

S/ Jeffrey M. Dvorin
Jeffrey M. Dvorin
Assistant Attorney General
Bar Roll No. 101559

cc: All attorneys of record via CM/ECF

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

SHELDON SILVER
Speaker of the Assembly

Room 932
Legislative Office Building
Albany, New York 12248
(518) 455-3791

December 2, 2011

Honorable Gary L. Sharpe
James T. Foley U.S. Courthouse
445 Broadway
Albany, NY 12207-2924

Dear Judge Sharpe:

On behalf of the New York State Assembly, I write to explain why we, along with the New York State Election Commissioner's Association, and a host of good government groups, believe that a June primary election, rather than an August one, offers the greatest potential for voter participation and practical logistical efficiency while simultaneously discouraging widespread voter suppression.

At the outset, it is my belief that the Legislature should and can come to an agreement which is in full compliance with the MOVE act. To that end, I ask the Court to grant us time, a short period, to set a date as required. However, should this Court determine that it is constrained to fix a new primary day for all New York State federal, state, and local elections at this time, the Assembly strongly believes that such a primary election should be held on the fourth Tuesday in June.

The Assembly has consistently authored and supported legislation intended to increase voter turnout, access, and overall participation in our election process. It is our continued commitment to these principles and opposition to policies that suppress voter participation that we support a primary in June.

It is well known that voters, notably those living in urban centers, traditionally take annual vacations away from their homes in July or August. Therefore, a primary election in July or August would undoubtedly have a widespread and deleterious effect of suppressing voter turnout in important primary elections.

The Assembly views a June primary as not only ensuring higher voter participation but also as the most effective way to ensure full and meaningful compliance with all aspects of the MOVE Act.

New York's election law is extraordinarily rigid, linear, and sequential. That is to say that the Election Law mandates that each step in the responsible and effective administration of an orderly primary election is predicated upon the completion of a required preceding step. Each essential step is dictated by the date of the Primary Election.

The Election Law's structure being what it is, an August primary day is simply unworkable from a practical and logistical standpoint. An August primary is easily scheduled and administered on paper. The actual administration of such an election is quite a different matter.

The foundational goal of the MOVE Act is to ensure the participation of members of our Armed Forces and Americans living abroad (UOCAVA voters). To that end, local boards of election mail ballots to UOCAVA voters 45 days before a federal election. In 2012, the general election is scheduled to be held on November 6. UOCAVA general election ballots must therefore be mailed on or before September 22 (though likely September 21 as September 22 is a Saturday).

Before any general election ballots can be printed and mailed pursuant to the MOVE Act, the results of the primary election must be ascertained and the general election ballots certified. New York State Board of Election certification of the general election ballot must be completed 54 days before the general election and local certification 53 days before. This leaves eight days for the production, printing, preparation, and transmission of UOCAVA ballots to ensure MOVE Act compliance. Lawsuits, machine malfunctions, and counting of paper ballots in contested primaries all carry with them the potential to delay this all-important general election ballot certification. This problem is further exacerbated in an August 14 primary scenario. A June primary would go a long way towards mitigating some of these potential pitfalls and better ensure MOVE Act Compliance.

Logistical obstacles are also multiplied when considering an August. These include locating alternative polling sites to replace schools that are closed in July and August, identifying and training new election inspectors who may be away in August, and the inability to hold judicial conventions as currently mandated in statute.

The pendency of this issue before this Court and this Court's capacity to order a single primary for federal, state, and local offices notwithstanding, the Assembly asserts that we, along with our colleagues in the Senate, have a responsibility to make the law and policy determinations regarding the rescheduling of primary day. The concept of legislative prerogative supports such a proposition.

With the legislative session set to commence on January 4, 2012, and the Governor's ability to call a special session before that time, surely enough time remains before the start of a revised political calendar for to craft a legislative solution. Ballot access procedures connected to a fourth Tuesday in June Primary would begin on the last day of February.

The Assembly feels so strongly regarding the utter disruptiveness of an August primary that should this Court order one, we would then, as a last resort, be compelled to advocate for a separate state and local primary for September.

Thank you in advance for your careful consideration of the New York State Assembly's position on this very important matter.

Sincerely,

SHELDON SILVER
Speaker

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA
Plaintiffs,

Case No. 10-CV-1214
Judge Gary L. Sharpe

v.

STATE OF NEW YORK, et al.
Defendants.

DECLARATION OF LAURA P. COSTELLO and JERRY O. EATON as OFFICERS OF THE NEW YORK STATE ELECTION COMMISSIONERS' ASSOCIATION

Pursuant to 28 U.S.C. § 1746, LAURA P. COSTELLO and JERRY O. EATON, each for him and herself, declare the following:

1. LAURA P. COSTELLO is the President of the New York State Election Commissioner's Association (hereinafter "ECASNY"), and JERRY O. EATON is the First Vice-President of the NYSECA, and as such submit this declaration.

2. ECASNY is a bipartisan organization consisting of the respective two election commissioners from each of New York State's 62 counties. The Preamble to ECASNY's By-Laws provides that ECASNY is dedicated to the following precepts: The preservation of the integrity of the ballot; the easiest possible access to the ballot by the voters; programs to promote greater voter participation; promotion and enactment of laws for the more effective conduct and administration of elections within the State of New York; the enactment of laws that guarantee the voting public fair, open and honest elections.

3. It is the county election commissioners, acting in their official capacity, and their boards of elections that have the ultimate responsibility to meet the 45 day pre-election ballot transmission requirement of the Military and Overseas Voting (MOVE) Act.

4. Long before the US Department of Justice (DOJ) brought this supplemental application for compliance, the ECASNY at its January 25, 2011 meeting voted overwhelmingly to recommend to the New York State Legislature and the Governor that in light of the MOVE Act, the date for New York's primary should be moved from the second Tuesday in September to the fourth Tuesday in June. A June primary allows meaningful compliance with the federal MOVE Act and ensures enough time between the primary election and general election to resolve ballot access disputes and create and test ballot accuracy. (***See*** March 8, 2011 letter to Speaker Silver and attached October 3, 2011 communication to Judge Sharpe previously sent to the Court).

5. While an August Primary date may work on paper, experience has shown that a late primary will likely produce late primary certifications that would still preclude our ability to get our military and special federal voters their general election absentee ballots in a timely fashion.

6. The main issue is the ability to finalize the general election ballots early enough to permit sufficient time to draft the ballots, translate, proof, produce and timely transmit accurate ballots to all military and special federal voters in compliance with the MOVE Act.

7. We respectfully remind the Court that under New York State Election Law, a military voter is entitled to a ballot which includes all local races and propositions which further complicates the creation of the military ballot in a timely fashion. Military voters deserve no less and we support that determination.

8. Simply moving the date to conduct the Primary election 3 to 4 weeks earlier doesn't resolve all of the issues impacting timely military and special federal ballot transmission. As set forth in our October 3rd letter and proposed calendar, a realistic time period to conduct post-primary election canvass, recanvass and audit requirements is 21 days after the primary election for counties outside of NYC and 28 days after the primary election in New York City, rather than the existing 15 days election law mandates. Also, the MOVE Act requirement to transmit the ballots no later than 45 days before the general election is 14 days earlier (45th day falls on a Saturday and is moved earlier to Friday) than the current NYS Election Law mandate of 32 days before.

9. A prime example of post primary election delays which affect the county boards of Elections' ability to get out military and special federal absentee ballots is the history of this litigation. In 2010, under an Order from this Court to get military and special federal ballots out by October 10th, (26 days after the September 14th Primary Election), thirteen county boards of elections were unable to do so despite their best efforts.

10. In most instances the delay is occasioned by state court litigation directed at the primary election or other ballot access issues. Additionally, the New York State Election Law allows an otherwise late declination where the candidate is subsequently nominated for a different office (for example, a nomination from a judicial convention held 7 to 13 days after the primary is the basis for the declination of prior nominations). The next issue in this scenario is the time afforded for the substitution of the new candidate for the declined nomination which is now vacant.

11. In contested primaries when there are administrative or judicial challenges to; the machine count, the right of voters who cast affidavit (provisional) ballots, the absentee ballots themselves, as well as the propriety of the county board of elections having issued the absentee ballot, and the canvass and recanvass of such election, the timely completion of the essential tasks

necessary to certify a winner impacts the time required to prepare and transmit military and special federal absentee ballots.

12. In a United States Senate or congressional district race such challenges would constitute a major issue and would take considerable time to resolve. We believe, based upon our hands-on experience, that a time frame in excess of the 25 days is required between the last date to conduct the August 2012 Primary Election (as provided in the DOJ proposed order) and the time frame we believe necessary for the date upon which the New York State Board of Elections (NYSBOE) to finalize the candidates to appear on the general election ballot while still affording the county boards of elections sufficient time to meet the 53-day pre-general election deadline referenced in our letter to the court and proposed calendar.

13. The United States Senate seat and 16 of the current 29 congressional district boundaries extend beyond a single county. As such, the county boards of elections must complete their post-primary election canvass and certification processes and forward completed results to the NYSBOE which has the responsibility to aggregate the vote totals and certify the winners. The federal election ballot certification is sent by the NYSBOE to the county boards of elections where the task of building ballot styles begins. This process is much more complicated than might appear to those not familiar with the process in order to assure that the correct combination of candidates appears on the ballot for each election district within the county, and that these same candidates for the same election districts are properly coded into the software that formats the ballot scanning devices and the ballot marking devices. In addition, many counties are required to translate the ballot into additional languages. The ballot marking devices must also include audio that verbally lists the name of each candidate for those voters who use the audio ballot feature of the ballot

marking devices. State regulations and proper election administration practices require that there be thorough logic and accuracy testing of the set-up of each machine prior to each election event.

14. The date for determination of Primary winners is critical. As set forth in our calendar, the NYSBOE certification of the candidates to appear on the general election ballot must be completed 54 days before the general election with local certification 53 days before. This time frame allows eight days for the production, printing, preparation and transmission of the military and special federal ballots to enable full compliance with the 45 day pre-election deadline.

15. In order for the NYSBOE to meet its 54 day pre-general election deadline, all certified primary election results must be received at the NYSBOE in sufficient time before the 54 day pre-election deadline to allow it to complete the aggregation of primary election results, determine the primary election winners and certify the general election candidates and offices.

16. Experience has shown that this entire process is frequently interrupted by candidates who obtain state court injunctions which slow the process and preclude the act of certification of the contested nomination pending the determination of such litigation.

17. Setting aside timing issues discussed above, there are logistical considerations that favor a June as opposed to August primary. A significant number, if not a majority, of polling locations are situated in schools. Those schools are largely unstaffed or closed during the summer months of July and August. Many school buildings are also not air conditioned and inspectors working 17 hour days during the hottest month of the year in those conditions may prove intolerable.

18. Running a primary election requires a large number of trained election inspectors and related essential temporary election workers. A significant number of such individuals vacation with their families during the traditional summer months of July and August.

19 Other obstacles are raised should the federal primary be held in August and the state primary remain in September including: the need for two general election absentee ballots for use by military voters, the added $50 million expense to conduct an additional primary election, the overlapping responsibility for the boards of elections to complete critical state primary election day and post-primary election day requirements during the same time period immediately leading up to the general election MOVE Act absentee ballot transmission mandate, and confusion to voters that three primary elections and a general election in such close proximity will create.

20. Splitting the primaries by requiring either a June or August federal office primary and maintaining state office September primary election will require two absentee ballots to be provided to military voters; a federal office ballot transmitted no later than 45 days (September 22nd) before the general election containing candidates for federal offices, and a state and local office ballot transmitted in accordance with New York State Election Law no later than 32 days before the general election. New York State Election Law provides for military voters to be able to vote for both federal level candidates and state/local level candidates and proposals.

21. Such dual sending of military ballots will also require the county boards of election to track the transmission and receipt of such ballots and file multiple ballots for each voter returning both ballots. Existing absentee ballot computer management systems do not readily accommodate such tracking. Such dual ballots will also increase voter confusion and county board of election staff confusion that could possibly lead to voter disenfranchisement.

22. Further conflict occurs as the absentee ballot computer management systems will need to complete recording information relative to such voters only eligible to vote in the September 11th state office primary election, but also be updated to record information relative to

the voters qualified to receive a general election federal absentee ballot just 11 days after the September 11th state office primary election.

23. It will cost an estimated $50 million in added expense to conduct both a federal office primary election and a state office primary election. This will include the dual expense for poll site rent, inspector and other election worker pay, voting system election programming, logic and accuracy testing, transportation cost and the expense to print and mail absentee ballots and print election day ballots. There are added expenses to county boards of elections to pay overtime and hire and train additional temporary workers which would be necessary to complete each respective primary elections pre-election and post-election requirements, especially if the two primary elections are held in close proximity to one another.

24. Simply put, New York's electronic voting machines are programmed for each election. As part of that programming, the voting systems must be subjected to and pass logic and accuracy tests conducted after the various ballot styles are created, proofed and loaded into the machines. As we indicated in our October 3rd communication, all issues relative to the finalization of the *election day* ballots must be resolved 35 days before an election so that logic and accuracy testing can occur in an orderly fashion before the voting systems are sealed, prepared for shipping and shipped to the various polling locations in time for such use on election day.

25. As indicated in paragraph 8, it takes 28 days after the primary election for the NYC Board of Elections to complete its post-primary election requirements. That time period coupled with the 35 day pre-election requirement to finalize the *election day* ballot provides a 63 day period in between elections that is reasonably necessary to accommodate the clearing from the voting systems of the records of the previous primary election and the resetting, testing and certification of those same systems for use at the next election. Superimposing that 63 day period before the

State's local primary election date of September 11th and after the MOVE Act compliant April 24th Presidential Preference Primary would result in an available date range of June 26th to July 11th which dates fall 29 days after the Presidential Primary and at least 35 days before any new election could be conducted. For that available 16 day time window, a June 26th primary election is preferable as a July primary brings with it all of the poll site availability, machine delivery and staffing issues of an August primary, exacerbated by the July 4th holiday.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of December 2011.

LAURA P. COSTELLO

JERRY O. EATON

Exhibit 3

STATE OF NEW YORK
SUPREME COURT : COUNTY OF STEUBEN

Index No. E2022-0116CV

TIM HARKENRIDER, GUY C. BROUGHT, LAWRENCE CANNING, PATRICIA CLARINO, GEORGE DOOHER, JR., STEVEN EVANS, LINDA FANTON, JERRY FISHMAN, JAY FRANTZ, LAWRENCE GARVEY, ALAN NEWPHEW, SUSAN ROWLEY, JOSEPHINE THOMAS, and MARIANNE VOLANTE,

Petitioners,

-against-

DECISION and ORDER

GOVERNOR KATHY HOCHUL, LIEUTENANT GOVERNOR AND PRESIDENT OF THE SENATE BRIAN A. BENJAMIN, SENATE MAJORITY LEADER AND PRESIDENT PRO TEMPORE OF THE SENATE ANDREA STEWART-COUSINS, SPEAKER OF THE ASSEMBLY CARL HEASTIE, NEW YORK STATE BOARD OF ELECTIONS, and THE NEW YORK STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,

Respondents.

PRESENT: Hon. Patrick F. McAllister
Acting Supreme Court Justice

The Petitioners, through their attorneys, are seeking to set aside the newly enacted congressional districts and senate districts. The Petitioners allege that the Respondents did not have the authority under the constitution to create the new congressional and senate districts as they did, and further that the Respondents engaged in prohibited gerrymandering when creating the districts. The Respondents oppose the Petitioners' application. The court heard oral argument on March 3, 2022. The court reserved decision pending further development of the record. The court heard testimony of several experts and final arguments were heard on March 31, 2022.

In making this Decision and Order the court has considered all the submissions made in this matter. To specifically innumerate them would needlessly waste pages of paper and lots of ink. The e-file system has them all enumerated.

Background:

Although it has been quite some time since one party controlled the Senate, the Assembly, and held the governorship, New York State has a long history of gerrymandering when it comes to the creation of new voting districts. Whichever major political party has been in power has used the creation of new voting districts to their own advantage and to the disadvantage of their opposition. The result was that 98% of incumbents were getting reelected before the constitutional amendment in 2014.

The scourge of gerrymandering is not unique to New York. In recent years the courts throughout the country have been called on to invalidate gerrymandered districts and to create new fairer districts. League of Women Voters v. Commonwealth, 178 AD3d 737 (Pa. 2018); League of Women Voters of Fla. v. Detzner, 172 So. 3d 363 (Fla. 2015); Rucho v. Common Cause, 204 L.Ed. 2d 931 (2019). In 2014, New York State took major steps to avoid being plagued by gerrymandering by amending Article III §§4 & 5 of the New York State Constitution. The 2020 census was the first time after the constitutional amendment that led New York to draw new districts. Therefore, this is a case of first impression in many respects.

Under New York's very old rule there was a district seat for each county, except for Hamilton County. The Federal Courts found that unconstitutional because some counties were sparsely populated resulting in the citizens of those counties receiving disproportionate representation as compared to the heavily populated counties. Reynolds v. Sims, 377 U.S. 533 (1964); In re Orans, 15 NY2d 339 (1965). The law was changed to create districts that were roughly equal in population. In doing so other redistricting criteria in the Constitution such as not crossing county lines were given less value. See, Wolpoff v. Cuomo, 80 NY2d 70 (1992).

In the past most redistricting challenges were heard in federal court. However, in Rucho v. Common Cause, 139 S.Ct. 2482 (2019) the court ruled that federal courts do not have the authority to strike down maps based on partisan gerrymandering. Hence, this action is brought in state supreme court.

The courts have recognized that redistricting requires a balancing of sometimes competing Federal and State Constitutional requirements. "The test is whether the Legislature has 'unduly departed' from the State Constitution's requirements regarding contiguity, compactness and integrity of counties (Matter of Schneider v. Rockefeller, 31 NY2d 420, 429) in its compliance with federal mandates. It is not our function to determine whether a plan can be worked out that is superior to that set up by the legislature. Our duty is, rather, to determine whether the legislative plan substantially complies with the Federal and State Constitutions." Wolpoff v. Cuomo, (supra. at 78). To again quote Wolpoff "This is no simple endeavor". "Balancing the myriad requirements imposed by both the State and the Federal Constitution is a function entrusted to the Legislature. It is not the role of this, or indeed any, court to second-guess the determinations of the Legislature, the elective representatives of the people in this regard. We are hesitant to substitute our own determination for that of the Legislature even if

we would have struck a slightly different balance on our own." " Wolpoff v. Cuomo, (supra. at 79).

Standing:

The Respondents challenge whether or not the Petitioners in this case have standing to bring this action since the various Petitioners live in only a small number of Congressional and State Senate Districts.

It is the law's policy to only allow an aggrieved person to bring a lawsuit. One not affected by anything a would-be defendant has done or threatened to do ordinarily has no business suing. *New York Practice 6th Ed.* Seigel §136 Pg. 270.

Many of the prior redistricting challenges where the courts have found petitioners do not have standing were cases focused only on a particular district boundary. In those cases if the petitioner did not live in the district he/she did not have standing. The Petitioners in this case are challenging the entire process as being in violation of the Constitutionally prescribed method for redistricting and in particular that the Congressional and State Senate maps were drawn with a political bias that is contrary to the Constitution. In Dairylea Cooperative, Inc. v. Walkey, 38 NY2d 6 (1975) a milk distributor sought to challenge a Commissioner of Agriculture decision which granted a milk dealer license to another entity. The court found there was standing because the Plaintiff was in the "zone of interest." Further, only when there is a clear lack of injury would standing be denied.

In Society of Plastics Industry. Inc. v. County of Suffolk, 77 NY2d 761 (1991) the court made clear that having an economic interest is not sufficient to find standing if the issue is a non-economic interest. In that case to have standing the Plaintiff needed to show non-economic issues such as environmental or aesthetic reasons to challenge the legislation.

If this court finds the method used in enacting these maps violated the Constitution this would not affect just a handful of districts, but in fact would effect every district in New York. It would be impractical to require someone from every district to serve as a Petitioner. Once one district is invalid it impacts neighboring districts. But if the entire process is invalidated then everyone is impacted. The court finds these Petitioners have standing.

The 2014 Constitutional Amendment:

The 2014 amendment to the New York Constitution includes both a provision to prohibit discrimination against racial or language minority voting groups and a prohibition against creating maps with partisan bias. The prohibition against discriminating against minority voting groups at the least encapsulated the requirements of the Federal Voting Rights Act, and according to many experts expanded their protection. That new provision is not currently being challenged. Therefore, the court will focus on the prohibition against partisan

bias and the process by which redistricting was to take place.

To tell how important the people considered the issue of partisan bias not only was Article III section 4 amended to add "Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties", but the Constitutional process for redistricting was also revised to create an Independent Redistricting Committee (IRC), which was to create non-biased bipartisan maps. This provision creating an IRC was intended to take the creation of proposed redistricting maps out of the hands of a one-sided, partisan legislature as much as possible. This IRC committee was to consist of appointees as follows: two members by the temporary president of the senate, two members by the speaker of the assembly, two by the minority leader of the senate and two by the minority leader of the assembly, plus two additional members which were to be appointed, one by the Democratic committee members and one by the Republican committee members. NY Constitution Art. III §5-b. Although the word "compromise" is not used it is clear from reading the constitutional amendment that the people of the State of New York believed that nonpartisan maps agreed upon as a result of a compromise were the best way to avoid gerrymandering when redistricting. At the very least in the event one party controlled both the senate and the assembly the amended constitution required there to be both support from some of the Democrats on the committee and also by some of the Republicans on the committee in order for the redistricting plan to receive the minimum seven votes necessary for the plan to be submitted to the legislature for approval, and to the governor for signature. NY Constitution Art III §5-b(f).(1) reads as follows:

> "In the event that the speaker of the assembly and the temporary president of the senate are members of the same political party, approval of a redistricting plan and implementing legislation by the commission for submission to the legislature **shall** require the vote in support of its approval by at least seven members including at least one member appointed by each of the legislative leaders." (Emphasis added)

In 2022 the Democrats controlled both the senate and the assembly. Nevertheless, the IRC committee failed to come up with any plan that obtained the minimum seven votes. There was no plan that received bipartisan support. That eventuality was anticipated in the constitution and according to Art. III §5-b(g) the plan or plans receiving the highest vote were to be submitted to the legislature. The Democrat committee and the Republican committee each submitted their own plans known as Plan A and Plan B with an equal number of IRC votes, but only from their own respective subcommittees. The court heard limited testimony concerning both Plan A and Plan B and received copies of those plans as exhibits. Even though a few of the proposed districts seemed to be the same in both plans, the IRC was not able to come up with a bipartisan plan that received seven votes. Both Plan A and Plan B were submitted to the legislature and the legislature quickly rejected both plans. According to the amended constitution, the committee was then to submit to the legislature a second set of redistricting plans. NY Constitution Art. III §4(b).

In 2022 the committee never submitted a second revised redistricting proposal to the legislature. Hence, the legislature went ahead and in a few days drafted and passed their own redistricting maps. A couple of Democrats voted against the legislature's redistricting maps, but otherwise the legislation was passed along party lines. It is these Congressional and Senate redistricting maps that this court must review to determine whether they violate the state and/or federal constitutions.

Before analyzing the specifics of the redistricting plans that were passed, it is important to review what did not happen. The IRC committee never embraced the task of coming up with compromise plans. It was clear from the amended constitution that the people of the State of New York believed the best way to avoid partisan politics in drawing new district lines was for a small group to work together to come up with compromise plans that obtained some bipartisan support. The plans did not have to be unanimously approved by the members of the committee, but at least some members of each subcommittee had to support the plan. The court comes to this conclusion from the following:

1. The Constitution was amended to add Article III §4(c)(5) which now reads as follows: "Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties." ;
2. The Constitution created an Independent Restricting Committee (IRC);
3. The IRC was constructed in such a way that neither political party would attain the seven votes necessary without bipartisan support;
4. The Constitution specifically reads that the approved plan had to have support from at least one appointee of each of the political leaders that appointed members to the IRC.
5. That even if the IRC plan was rejected it was the IRC and not the legislature that was authorized to draw a second set of revised maps.
6. That even if the second set of IRC maps was rejected, the legislature could only vary the enacted maps slightly from the IRC maps. There could be no more than a 2% deviation in any district according to the Redistricting Reform Act of 2012.
7. The people of the State of New York rejected the 2021 ballot proposal that would have authorized the legislature to draw the maps in the event the IRC was not able to come with maps.

By contrast the important constitutional amendment that protected racial and language minority voting groups from being discriminated against had only one provision. Article III §4(c)(1). There was no new committee appointed to insure that this amendment to the Constitution was carried out. The court can only conclude that the people of the State of New York thought the creation of a non-biased, nonpartisan IRC committee that must work together to arrive at bipartisan redistricting maps was crucial to avoid gerrymandering - and even though the legislature, under certain circumstances, had the power to create their own redistricting maps, the legislature would have been under scrutiny in rejecting two sets of proposed bi-partisan maps before drawing their own maps, a circumstance that would invite the wrath of the electorate. Further, the law only permits slight alterations of the IRC maps by the legislature.

The legislature is not free to ignore the IRC maps and develop their own.

In a democracy it is rare if ever that one party has all the right answers and all the right policies. A democracy works best when every responsible adult has a voice and when by listening to each other a compromise is worked out that incorporates part of everyone's opinion. Unfortunately, in recent years the idea of "compromise" has gotten the reputation as being something distasteful and something to be avoided. Yet compromise is the foundation upon which the United States Constitution, our political system, and our country was established. It is compromise that is the safest way to avoid the plague of partisan gerrymandering. If gerrymandering is allowed to occur then certain groups of voters will be discriminated against and become disenfranchised. Discrimination comes in many forms whether it be against ones race, sex, age, religion, political party or something else. The New York Constitution specifically says, "When drawing district lines, the commission shall consider whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgment of such rights. Districts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice." Art. III §4(c)(1).

Gerrymandering discrimination hurts everyone because it tends to silence minority voices. Then none of us receives the benefit from the input of the silenced. Imagine a society where only Democrats are able to work on cancer research or only Republicans could be board certified as heart surgeons. Imagine all the accomplishments and discoveries that would never come to pass because the majority thought it best to eliminate minority positions or views. Lives and the common good are at stake. When we choose to ignore the benefits of compromise we not only hurt others, we hurt ourselves as well.

There is nothing in the constitution that permits the IRC to just throw up their collective hands. Courts are very familiar with juries who say "We can't come to an agreement" during deliberations. However, the more the court keeps requiring them to go back and try again the more likely they are to finally reach a consensus. It is rare for the court to end up with a hung jury. Here the IRC stopped working well before their deadline. What someone should have done was bring an action to compel the members of the IRC to continue their work or for the political sides of the legislatures that appointed 8 of the 10 members of the IRC to remove and replace any IRC member that did not embrace his/her constitutional role. NY Constitution Art III §5-b(a)(1)-(4). Then either the court could have compelled the IRC to work together until they came up with a plan or the IRC new members could develop new bipartisan maps. Instead the IRC was permitted to throw up their hands and the legislature stepped in. Does the Constitution permit the legislature to take over if the IRC fails to do it's job? By the Constitution the IRC's drop dead date for submitting a plan was February 28th. This action was commenced long before that deadline.

Under the "new" process that was put in place a committee (IRC) was formed to try to create a fair redistricting map. The committee had 4 Democrats, 4 Republicans and 2 people that could not be Democrats or Republicans. The Democrats chose 1 of the 2 and the Republicans chose the other. This year the committee met and considered a number of plans. The Democrats came up with a plan (Plan A) and the Republicans came up with a different plan (Plan B). The IRC could not come up with a compromise plan so both the Democrat and Republican plans were submitted to the legislature, although neither plan had obtained the required seven votes. Seven votes in favor of a plan were required since the Democrats control both the Senate and the Assembly. Both submitted plans were rejected by the legislature and sent back to the committee. The committee could not agree on anything different. They had a 15 day deadline but the IRC stopped working well before the deadline. So the legislature created it's own map. The legislature's plan differed significantly from either Plan A or Plan B submitted by the IRC.

Under the 2014 amendment the districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. Under constitutional criteria the maps must be compact, contiguous, of equal populations, avoid abridgment of racial or language minority voting rights, maintain cores, and not cross the boundary lines of pre-existing subdivisions such as counties, cities, towns and communities of interest and there was to be no partisan gerrymandering. "The anti-gerrymander provision of the State Constitution is found in article III. Section 4 requires that Senate districts 'be in as compact form as practicable' and 'consist of contiguous territory'; and section 5 provides that Assembly districts shall be formed from 'convenient and contiguous territory in as compact form as practicable. As we recognized in Matter of Orans, (15 NY2d 339, 351, supra), these constitutional requirements remain binding although they must be harmonized with the first principle of substantial equality of population among districts." Schneider v. Rockefeller, 31 NY2d 420 (1972).

The Failed 2021 Constitutional Amendment and Subsequent 2021 Legislation:

The political powers realized that the redistricting compromise plan envisioned by our 2014 amended constitution had a flaw. The plan lacked a way to handle the contingency of the committee not coming up with a bipartisan plan(s). Thus another constitutional amendment was proposed and put before the voters in November of 2021, under which the legislature could create and the Governor enact its own redistricting plan in the event the IRC committee failed to carry out its constitutionally prescribed duties. This constitutional amendment was voted down by the people of the State of New York - Republicans, Democrats, and Independents alike. Just three (3) weeks later, the legislature enacted legislation signed by the governor giving themselves the power to do exactly what the people of the State of New York had just voted down three (3) weeks earlier. Even though the proposed 2021 Constitutional Amendment contained other new provisions, none were hot button issues. In part this decision will focus on that legislation that was enacted just three (3) weeks after the proposed 2021 Constitutional Amendment was voted down.

Redistricting Reform Act of 2012 (The 2% Rule):

Another key component of the Redistricting Reform Act of 2012 that directly impacts the subsequent 2014 constitutional amendment was that: **"Any amendments by the senate or assembly to a redistricting plan submitted by the independent redistricting commission, shall not affect more than two percent of the population of any district contained in such plan.**" Redistricting Reform Act of 2012 N.Y. Sess, Laws 17 §3. The currently enacted plans vary by more than 2% from either of the plans submitted by the IRC. The Respondents do not allege that the plans they developed adhere to the 2% modification limit of either IRC map that was submitted. The Respondents contend that the "Notwithstanding any other provision" language of the newly enacted 2021 legislation made it so the legislature was not bound by the 2% rule. Obviously, it could not be compared to a final IRC map as such a map was never submitted. The court finds the 2% variance rule was another important procedural check to avoid partisan gerrymandering. These current maps ignore that procedural requirement. In essence, the legislature through the 2021 legislation, freed themselves from the constitutional process and the 2% limitation.

Analysis:

The New York Constitution Article III §§4 & 5 describes the process for the creation of election districts. Unconsolidated Laws §4221 says the supreme court has the jurisdiction to hear a petition brought by any citizen that wishes to challenge the redistricting law. The court is mandated to give this case the highest priority. The court has 60 days in which to render a decision from when the petition was filed. The Petition was filed February 3, 2022 so a decision must be rendered by April 4, 2022. If the court finds the redistricting plans invalid the legislature shall have a reasonable opportunity to correct their deficiency. Art. III §5. The Petitioners contend that this provision should be ignored by the court because the legislature never properly had jurisdiction to create these maps in the first place, since the IRC never submitted a second map to be considered.

The Petitioners seek to have this court find the 2022 Congressional Map and the 2022 Senate Map to be void *ab initio.* The Petitioners allege the legislature lacked the constitutional authority to enact redistricting maps because the Constitution proscribed an exclusive process, which in 2022 was not followed.

Not only must this court interpret the redistricting process under the 2014 amendment to the Constitution, but must also determine whether or not the legislature had the authority to alter the constitutional process by passing the recent 2021 legislation, when granting that same legislative authority was voted down by the people of the State of New York in the 2021 proposed Constitutional Amendment three weeks earlier.

On the November, 2021 ballot there was a proposed constitutional amendment to Article III Section 4(b) of the New York State Constitution that would have added language that

in the event the IRC redistricting commission fails to vote on a redistricting plan and implementing legislation by the required deadline then each house should introduce a redistricting plan and implementing legislation. When the constitutional amendment was voted down by the People of the State of New York the legislature passed a 2021 amendment to the Redistricting Reform Act of 2012 Section 4 (a) & (c) to provide that if the commission does not vote on any redistricting plan for any reason the legislature shall draft redistricting maps and implementing legislation and submit it to the governor.

In challenging the recently enacted 2021 legislation this court must start with the presumption that the legislation is constitutional. Matter of Moran Towing Corp. v. Urbach, 99 NY2d 443 (2003). Further, facial constitutional challenges like this one are disfavored. Overstock.com, Inc. v. New York State Dept. of Taxation and Fin., 20 NY3d 586 (2013). A challenge to a duly enacted statute requires the challenger to satisfy the substantial burden of demonstrating that in every conceivable application the enacted law suffers wholesale constitutional impairment. Center for Jud. Accountability, Inc. v. Cuomo, 167 AD3d 1406 (Third Dept. 2018); appeal dismissed 33 NY3d 933 (2019). Basically the challenger must establish that there is no set of circumstances under which the legislation could be valid. Overstock.com, Inc. v. New York State Dept. of Taxation and Fin., (supra). This court must make every effort to interpret the statute in a manner that otherwise avoids a constitutional conflict. See, People v. Davidson, 27 NY3d 1083 (2016).

The Petitioners contend that the November, 2021 legislation not only amended the Redistricting Reform Act of 2012 but also created a second path for redistricting that is not in the constitution. The constitution envisions the redistricting process to occur through the IRC. Only after the IRC has twice submitted maps that are rejected by the Legislature does the Legislature take up the process. The Constitution uses such words as **"the"** and **"shall"** to indicate this was the way and the only way that redistricting maps were to be drawn.

The 2021 legislation purportedly revised the 2012 Redistricting Reform Act so that if the IRC fails for any reason to submit a plan then the legislature shall prepare their own redistricting maps. However, the legislature can not override a constitutional barrier by passing a new law. City of N.Y. v. N. Y. State Div. of Human Rights, 93 NY2d 768 at 774 (1999). Further, this 2021 legislation purportedly negated the 2% variance limitation if the legislature drafted their own maps.

This court finds that by enacting the legislation in November of 2021 the legislature made it substantially less likely that the IRC would ever submit a bipartisan plan when the senate, assembly and governorship are all controlled by the same political party. Since the senate and assembly leaders appoint four of the ten members of the IRC, these four members, and by extension the legislature, would essentially have carte blanche veto power to keep the vote below the seven votes necessary to pass such a bipartisan plan. The intent of the 2014 constitutional amendment is to have bipartisan maps drawn by the IRC commission submitted and passed by the legislature.

Some might argue that whether the IRC failed to twice submit bipartisan maps or whether they did submit bipartisan maps and the legislature voted them down twice that it doesn't make any difference; that the legislature had the power to step in under either scenario. However, this court sees a difference. In this case the Legislature can say the IRC did not come up with bipartisan maps so we had to act. The IRC was a scapegoat for the legislature. If on the other hand the constitutional process were followed, the legislature would be in the awkward political position of having to vote down two sets of proposed bipartisan redistricting maps before drafting their own maps, at the risk of raising the ire of the voters at the next election. In addition the legislature, in drafting their own maps, would be under pressure and scrutiny to adopt a good portion of the proposed bipartisan maps submitted by the IRC commission, and they would also be limited by the no more than 2% alteration rule. The conclusion is that the currently enacted maps would have been substantially different had the constitutional process been followed.

This court finds that the November, 2021 legislation which purported to authorize the legislature to act in the event the IRC failed to act was not a mere enactment of legislation to help clarify or implement the Constitution, but in fact substantially altered the Constitution. Alteration of the Constitution can only be done by constitutional amendment and as recently as November, 2021 the people rejected the constitutional amendment that would have granted the legislature such authority. Therefore, this court finds the recently enacted Congressional and Senate maps are unconstitutional. Further, the enacted maps are void *ab initio.* Under the currently constructed Constitution when the IRC failed to act and submit a second set of maps there is nothing the Legislature has the power to do. Therefore, the court will need to step in. The court would note that not only are the Congressional District Maps and Senate District Maps void but the Assembly District Maps are void *ab initio* as well. The same faulty process was used for all three maps. Therefore new maps will need to be prepared for the Assembly Districts as well.

The People of the State of New York have spoken clearly. First, in the 2014 Constitutional Amendment not only did the People include language to prevent gerrymandering, but they also set forth a process to attain bipartisan redistricting maps through the IRC. The People of the State of New York again spoke loudly when they soundly voted down the proposed 2021 Constitutional amendment that would have granted authority to the Legislature to bypass the IRC redistricting process.

Although the court has already stricken the enacted redistricting maps as unconstitutional the court will discuss the Petitioners' further argument that the congressional and senate redistricting maps were the result of partisan bias. The standard of proof is beyond a reasonable doubt.

When considering redistricting there are two fundamental federal law principles that apply. There is the Equal Protection Clause of the 14th Amendment and the Voting Rights Act. The Equal Protection clause requires districts to be composed of the same number of residents

or within acceptable variance thereof. The Voting Rights Act prohibits drawing lines that deny racial or language minorities a fair opportunity to elect a candidate of their choice. In addition to those federal requirements, the New York constitution adds several other factors which must be considered, including the district being contiguous, compact, drawn so as to not favor or disfavor an incumbent or a political party, trying to keep county and town boundaries within the same district, and trying to maintain the cores of prior districts. Because of the need to make districts equal in population it is not always possible to meet all of the other factors to be considered. Article III §4 (c) 1 - 5 list a number of factors which "shall" be considered. "**Shall**" is a requirement.

What is compactness? "Reapportionment is one area in which appearances do matter." Shaw v. Reno, 509 U.S. 630 at 647 (1993). Compactness has been described in scientific terms as the extent to which a district's geography is dispersed around its center. In practice many courts use the eyeball test. Bush v. Vera, 517 U.S. 952 at 959 (1996). The Petitioners in this case claim districts that look like snakes or are elongated over hundreds of miles violate the Constitutional requirement of compactness. What the courts have found is that "compactness" may vary depending on whether or not the issue is racial gerrymandering or dilution of vote cases. "Dramatically irregular shapes may have sufficient probative force to call for an explanation." Shaw v. Reno, (supra. at 647); Karcher v. Daggett, 462 U.S. 725 at 755 (1983).

A contiguous district requires that all parts of the district be connected. This is usually measured by whether it is possible to travel to all parts of the district without ever leaving the district. In this case, some of these proposed districts you would need a boat to go from one section of the district to another, but at least you do not have to cross district lines, just County lines and other political boundaries.

According to the eyeball test there are some districts that don't look like they are compact. They include Congressional Districts 1,2, 3, 7, 8, 10, 17, 18, 19, 22 and 24. However, the eyeball test is not proof beyond a reasonable doubt.

The preservation of the cores of prior districts. At least 11 states, including New York, include this as part of the criteria when drawing new maps. The likely theory behind this is that by maintaining continuity of districts you maintain continuity of the representation for the citizens within that group. Obviously, when the number of districts has to change it is impossible to fully comply with this criteria.

According to *Redistricting Law 2020* by Davis, Strigari, Underhill, Wice & Zamarripa 18 states have now included language prohibiting redistricting to be drawn with the intent of favoring or disfavoring an incumbent or a political party, with 12 other states currently in the process of adopting neither favoring or disfavoring language. This language was the new anti-gerrymandering requirement added by the 2014 New York Constitutional Amendment.

Although the Federal Courts no longer have the authority under the First and/or

Fourteenth Amendments to invalidate maps based on partisan gerrymandering, numerous states and state courts have been addressing these issues. Rucho v. Common Cause, (supra.). States have been addressing this through constitutional amendments, the appointments of independent commissions and by prohibiting the drawing of district lines for partisan advantage. Rucho v. Common Cause, (supra.). In recent years both Florida and Pennsylvania courts have found and overturned maps based on partisan gerrymandering. See, League of Women Voters of Pa. v. Commonwealth 644 PA 287 (2018); League of Women Voters of Fla, v. Detzner, 172 So. 3d 363 (2015). In both of these cases the courts interpreted their respective constitutional provision which prohibited redistricting with the intent to favor or disfavor a political party or an incumbent. In the 2014 Constitutional Amendment Art. III §4(c)(5) New York added "Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties." The meaning of this portion of the constitution and how it applies to the recently enacted Congressional and State Senate maps is key. Courts have for a long time struggled with being able to adequately define a standard to apply in such situations. Everyone agrees that politics plays some part in redistricting. In Davis v. Bandemer, 478 U.S. 109 (1986). At what point does permissible partisanship become unfair or unconstitutional? How much is too much? Comm. for a Fair & Balanced Map v. Ill. State Bd. of Elections, No. 11 C 5065 2011 U.S. Dist. LEXIS 117656 (2011).

In this case the Petitioners have presented expert testimony through Shawn Trende indicating that he ran at first 5,000 and then 10,000 potentially unbiased simulated redistricting maps. Respondents' expert Michael Barber testified he ran 50,000 maps attempting to duplicate Trende's maps. Trende and Barber's maps came up with the same results. The result according to Trende's Gerrymandering Index was that the maps adopted by the Legislature and signed by Governor Hochul were the most favorable to Democrats of any of the sample maps. Barber disagreed with Trende's use of a a Gerrymandering Index and concluded that the enacted maps actually favored Republicans. Likewise, Respondents other experts came to the conclusion that the enacted maps actually favored Republicans. The court finds it strains credulity that a Democrat Assembly, Democrat Senate, and Democrat Governor would knowingly pass maps favoring Republicans. Petitioners had two experts testify and Respondents had five experts testify. However, it is not the number of experts that is determinative but the quality and credibility of the expert testimony.

The Respondents' expert attempted to discredit Trende's analysis by claiming that a large percentage of Trende's simulated maps are redundant in that the maps essentially show the same boundaries. It is claimed that as many as one half to three/fourths of the simulated maps are duplicative. Therefore, it was argued that Trende should have eliminated the duplicates as he did when addressing Maryland maps. Duplication or redundancy is claimed to be a common problem with this type of simulation. However, Trende ultimately did 10,000 simulated maps which could be reduced to 2,500 simulated maps if three quarters were redundant maps and were eliminated. Even under this analysis the enacted maps are the worst of 2,500 simulated maps, ie the worst of the worst.

What all the experts agreed upon was that the enacted congressional map would likely lead to the Republicans winning four Congressional seats. The Republicans currently hold 8 of the 27 congressional seats. A majority of the 5,000, 10,000 or 50,000 unbiased maps would have the Republicans winning less than four seats if you use 50.01% Democrats in a given district as the standard for which way a given district is likely to elect a Democrat or a Republican. Thus the Partisan Index used by the Respondents experts conclude the enacted maps favors Republicans because they are likely to receive four seats. However, both Trende and Respondents' expert, Jonathan Katz, testified that historically the Republicans win a district up to 52% Democrat and that incumbent Republicans enjoy an additional 3%, which means the districts would have to be at least 55% Democrats for the Democrats to actually win. The enacted maps gives the Democrats at least 55% in every district except the four that are Republican leaning. Obviously actual elections vary but as a general rule that is what the reliable historical data shows. What Trende's report shows is that the first four districts heavily lean toward the Republicans. See Trende's Gerrymandering Index (graphs pgs. 14 & 15 of the Expert Report dated February 14, 2021). However, in the enacted plans congressional seats 5 - 13 not only favor Democrats but show 55% or higher Democrats in those districts making them noncompetitive and virtually impossible for a Republican to win. However, in the "unbiased" sampling by Trende and Barber as few as 2 seats heavily favor Republicans, but in sample districts 3 - 13, while the Democrats were favored in those samples, their advantage was in most cases substantially less than 55% Democrat leaning and in many cases less than 52% Democrat leaning. That would mean these districts would be competitive and if historical data is accurate would likely result in several of those seats going to Republicans.

The Respondents' experts claim that the Gerrymandering Index should not be recognized by the court. The Petitioners cite Szeliga v. Lamone, C-02-CV-21-001816, a recent Maryland case (March 25, 2022) that recognized the Gerrymandering Index as proof that the maps were biased.

What is clear from the testimony of virtually every expert (Trende, Lavigna, Barber, and Katz) is that at least in the congressional redistricting maps the drawers packed Republicans into four districts thus cracking the Republican voters in neighboring districts and virtually guaranteeing Democrats winning 22 seats. In 5,000, 10,000 or 50,000 unbiased computer drawn maps there were several, and perhaps as many as 10 competitive districts. The enacted congressional map shows virtually zero competitive districts. Trende concludes and the court agrees that this shows political bias. Katz and Barber agree with Trende that creating districts with no competitive districts is a potential sign of political bias. However, both Katz and Barber conclude there is no bias since Republicans are likely to win four seats; and that four seats is higher than most of the projected wins assuming the Democrats win every district that is at least 50.01 % Democrat leaning which is what the Partisan Index is designed to depict.

The court finds that Trende's maps, and those drawn by Katz and by Barber, do not include every constitutional consideration. Katz and Barber testified they attempted to duplicate the maps drawn by Trende using the same variables used by Trende. However, none

of Respondents' experts attempted to draw computer generated maps using all the constitutionally required considerations. Katz said to do so would have significantly increased the time it would take to draw the maps. Both Katz and Barber thought that by including every constitutional consideration the maps would have been different, but they could not say how or by how much they would have differed. If they had done so and could thus demonstrate that the additional constitutional factors not considered in Trende's maps cause a representative sample that differed appreciably from Trende's sample then the court could have considered those maps against the enacted map to see whether or not the same political bias was shown. Since no such computer generated maps were provided to the court the court must use the evidence before it.

According to Rucho (supra.) the fundamental difficulty in formulating a standard to adjudicate whether or not partisan gerrymandering has occurred is for the court to determine what is "fair". Is fairness formulating a greater number of competitive districts? Whitford v. Gill, 218 F. Supp.3rd 837 (W.D. Wis 2016). Does fairness require as many safe seats for each party as possible? Davis v. Brademer, 478 U.S. 109 (1986). This court concludes that generating a map that significantly reduces the number of competitive seats is a clear sign of bias.

The court finds by clear evidence and beyond a reasonable doubt that the congressional map was unconstitutionally drawn with political bias in violation of Art. III §4(c)(5). One does not reach the worst of 2,500, 5,000, 10,000 or 50,000 maps by chance. Therefore, the court agrees with the Petitioners that the congressional map was unconstitutionally drawn with political bias in violation of Art. III §4(c)(5) of the New York Constitution.

The court will next consider the newly enacted senate map. The Petitioners presented credible evidence that this map also was gerrymandered. However, Todd Breitbart testified in-depth that many of the changes found between the 2012 enacted senate map and the 2022 enacted senate map were attempts by the legislature to correct malapportionment, and other constitutional deficiencies in the 2012 map. The court finds that testimony sufficiently credible. However, the court does not accept Breitbart's premise that the Republicans essentially gerrymandered the 2012 senate map since in 2012 the Assembly and Governorship were controlled by the Democrats and so the Republicans and Democrats had to work together to enact the maps. Therefore Petitioners could not show that the enacted 2022 senate map was drawn with political bias beyond a reasonable doubt. However, since this map was already struck down as void *ab initio* a new map will need to be drawn.

Having declared the recently enacted 2022 maps unconstitutional where do we go from here. It was clear from the testimony that not only is the 2012 congressional map not useable because New York State now only has 26 instead of 27 Congressional districts, but the 2012 senate map is also not useable because as a result of population shifts that map is now constitutionally malapportioned. Therefore, that leaves no maps. At this point in time, the candidates have been collecting signatures for over a month to get on the ballot for districts that

no longer exist. The end of the signature gathering process will occur within a few days. Yet Petitioners urge the court to have the parties quickly submit new maps and create new election time-lines so that the election can proceed on properly drawn redistricting maps that are free of partisan bias. The Respondents contend it is too late in the election cycle to try to draft new maps and then hold elections based on the new maps.

The Respondents point out that the U.S. Supreme Court has long ruled that Congressional elections can proceed even under defective lines. Merrill v. Milligan, 142 S. Ct. 879(2022); Abbott v. Perez, 138 S. Ct. 2305 (2018); Wells v. Rockefeller, 394 U.S. 542 (1969). In Wells v. Rockefeller the court faced a similar time deadline when on March 20, 1968 the primary election was three months away and yet the court permitted the election based on the redistricting maps that were constitutionally infirm, rather than delay the primaries and redraw the redistricting maps. Therefore, the Respondents urge this years election to proceed under the unconstitutional maps.

The Petitioners urge the court to strike down these constitutionally infirm maps and have new maps prepared. This of course will require revision of the election schedule since candidates would not even know what district he/she would run in before most of the current deadlines would have expired. The Petitioners urge moving the primary back to as late as August 23, 2022. The Petitioners cite other states that have recently moved their primaries to a later date because of challenges to the redistricting maps. See, Harper v. Hall, 865 S.E.2d 301, 302 (N.C. 2021); In re 2022 Legislative Districting of the State of Maryland, No. COA-MISC-0025-2021 (Md. Mar. 2022).

This court is well aware that this Decision and Order is only the beginning of the process and not the end of the process. There will likely be appeals to the Appellate Division and the Court of Appeals in addition to what ever time it takes to draw new maps. Then once the maps are drawn the County Boards of Election need time to apply the new redistricting maps to the precincts within their respective borders.

On March 3, 2022 when the court initially denied Petitioners application to stay the election process the court was not at all sure that the Petitioners could overcome the extremely high hurdle of demonstrating the maps violated the constitution. Thus, the court did not see a substantial likelihood for ultimate success by the Petitioners. Therefore the request for a temporary stay was denied. The court was also unaware of the prior courts ruling with regard to not permitting new elections in Congressional races in 2023 even when the maps were found to be unconstitutional. Having now determined that the various redistricting maps are unconstitutional the court is still concerned about the relatively brief time in which everything would need to happen to draw new maps, complete the appellate review process, revise the election process guidelines, and give the county election commissioners time to do their jobs.

However, this court's deadline of April 4, 2022 to make a decision was set by law (60 days to render a decision) in order to allow time for elections under newly drawn maps.

As the court sees it the drop dead date for sending out overseas military ballots is forty-five days before the November 8, 2022 general election. Thus, the ballots have to be finalized and mailed out no later than September 23, 2022. Between the primary election and that September 23rd date the votes have to be counted, the elections need to be certified, candidates need time to challenge election results, and the ballots need to be prepared. Thus, August 23, 2022 is the last possible date to hold a primary. An earlier August date would be preferred from the stand point of providing sufficient time from the holding of the primary to the completion of the November ballot. However, the same 45 day rule applies with regard to sending out overseas primary ballots. Thus, the primary ballots would have to be sent out no later than July 8, 2022. That only leaves about 100 days from today for the drawing of new maps, the candidates to gather signatures, the preparation of the primary ballots, the appellate review process, etc.

The court is mindful that in the Maryland case decided on March 25, 2022 that court threw out the recently enacted gerrymandered maps and ordered new maps to be drawn. This court finds that although it will be very difficult this court must require new maps to be drawn and the current maps are void and unusable. The court will leave it to the legislature and governor to develop new time frames for gathering signatures, how many signatures will be required to be on the ballot, whether signatures already gathered can be counted toward meeting the quota to appear of the ballot, etc.

N.Y. Constitution Art III §5 states as follows:

> "In any judicial proceeding relating to redistricting of congressional or state legislative districts, any law establishing congressional or state legislative districts found to violate the provisions of this article shall be invalid in whole or in part. In the event that a court finds such a violation the legislature **shall** have a full and reasonable opportunity to correct the law's legal infirmities." (Emphasis added)

Therefore, the Constitution requires the Legislature to be given another chance to pass maps that do not violate the Constitution. Part of the problem is these maps were void *ab initio* for failure to follow the constitutional process of having bipartisan maps presented by the IRC. The second problem was the Congressional map that was presented was determined to be gerrymandered. The Legislature could correct the gerrymander issue, but they can not correct the constructional failure to have IRC present bipartisan maps for Congressional, State Senate, and State Assembly Districts. Therefore, the court will require any revised maps generated by the Legislature to receive bipartisan support among both Democrats and Republicans in both the senate and the assembly. The maps do not have to be unanimously approved, but they must enjoy a reasonable amount of bipartisan support to insure the constitutional process is protected. This they will need to do quickly. In Maryland the court gave their legislature 5 days in which to submit appropriate new maps for the court to review. The court will give the legislature until April 11, 2022 (which is slightly more time than they took to prepare the

enacted maps) to enact new bipartisan supported proposed maps that meet the constitutional requirements. This court will review those maps. If the maps do not receive bipartisan support or if no revised maps are submitted, then I will retain an expert at the States expense to draw new maps. Not only would the process be expensive it is possible that New York would not have a Congressional map in place that meets the Constitutional requirements in time for the primaries even with moving the primary date back to August 23, 2022.

NOW, therefore, upon consideration of all papers and proceedings heretofore had herein, and after due deliberation, it is

ORDERED, ADJUDGED, and DECREED the Petitioner are found to be in the zone of interest and therefore having standing to bring this action; and it is further

ORDERED, ADJUDGED, and DECREED that the Governor and Lt. Governor are necessary parties to this action; and it is further

ORDERED, ADJUDGED, and DECREED that the process used to enact the 2022 redistricting maps was unconstitutional and therefore void *ab initio*; and it is further

ORDERED, ADJUDGED, and DECREED that with regard to the enacted 2022 Congressional map the Petitioners were able to prove beyond a reasonable doubt that the map was enacted with political bias and thus in violation of the constitutional prohibition against gerrymandering under Article III Sections 4 and 5 of the Constitution; and it is further

ORDERED, ADJUDGED, and DECREED that the maps enacted by 2021-2022 N.Y. Reg. Sess. Leg. Bills S8196 and A.9039-A (as technically amended by A.9167) be, and are hereby found to be void and not usable; and it is further

ORDERED, ADJUDGED, and DECREED that the maps enacted by 2021-2022 N.Y. Reg. Sess. Leg. Bills S9040-A and A.9168 be, and are hereby found to be void and not usable; and it is further

ORDERED, ADJUDGED, and DECREED that congressional, state senate and state assembly maps that were enacted after the 2010 census are no longer valid due to unconstitutional malapportionment and therefore can not be used; and it is further

ORDERED, ADJUDGED, and DECREED that the legislation enacted in November, 2021 purporting to create a way to bypass the IRC is unconstitutional and in clear violation of the Peoples' express desire to not amend the Constitution to permit the Legislature to act in the event the IRC failed to submit maps; and it is further

ORDERED, ADJUDGED, and DECREED that the enacted legislation L. 2021 c. 633 §1 be and is hereby found to be void and not usable and shall be stricken from the books; and it

is further

ORDERED, ADJUDGED, and DECREED that the Petitioners and others have been injured as a result of the unconstitutional enacted maps; and it is further

ORDERED, ADJUDGED, and DECREED that in order to grant appropriate relief the court hereby grants to Petitioners a permanent injunction refraining and enjoining the Respondents, their agents, officers, and employees or others from using, applying, administering, enforcing or implementing any of the recently enacted 2022 maps for this or any other election in New York, included but not limited to the 2022 primary and general election for Congress, State Senate and State Assembly; and it is further

ORDERED, ADJUDGED, and DECREED that the Legislature shall have until April 11, 2022 to submit bipartisanly supported maps to this court for review of the Congressional District Maps, Senate District Maps, and Assembly District Maps that meet Constitutional requirements; and it is further

ORDERED, ADJUDGED, and DECREED that in the event the Legislature fails to submit maps that receive sufficient bipartisan support by April 11, 2022 the court will retain a neutral expert at State expense to prepare said maps; and it is further

ORDERED, ADJUDGED, and DECREED that any request for attorneys' fees and costs is denied; and it is further

ORDERED, ADJUDGED, and DECREED that this Court retains jurisdiction to issue any and all further orders which shall be necessary to comply with the mandates set forth herein.

Dated: March 31, 2022

Hon. Patrick F. McAllister
Acting Supreme Court Justice

ENTER

Exhibit 4

State of New York Court of Appeals

OPINION

This opinion is uncorrected and subject to revision before publication in the New York Reports.

No. 60
In the Matter of Tim Harkenrider, et al.,
Respondents-Appellants,
v.
Kathy Hochul, &c., et al.,
Appellants-Respondents,
et al.,
Respondents.

Craig R. Bucki, for appellant-respondent Heastie.
Eric Hecker, for appellant-respondent Stewart-Cousins.
Jeffrey W. Lang, for appellants-respondents Hochul et al.
Misha Tseytlin, for respondents-appellants.
Campaign Legal Center et al.; League of Women Voters; Thomas F. O'Mara, et al.; Jamaal Bowman, et al., amici curiae.

DiFIORE, Chief Judge:

In 2014, the People of the State of New York amended the State Constitution to adopt historic reforms of the redistricting process by requiring, in a carefully structured process, the creation of electoral maps by an Independent Redistricting Commission (IRC)

and by declaring unconstitutional certain undemocratic practices such as partisan and racial gerrymandering. No one disputes that this year, during the first redistricting cycle to follow adoption of the 2014 amendments, the IRC and the legislature failed to follow the procedure commanded by the State Constitution. A stalemate within the IRC resulted in a breakdown in the mandatory process for submission of electoral maps to the legislature. The legislature responded by creating and enacting maps in a nontransparent manner controlled exclusively by the dominant political party — doing exactly what they would have done had the 2014 constitutional reforms never been passed. On these appeals, the primary questions before us are whether this failure to follow the prescribed constitutional procedure warrants invalidation of the legislature's congressional and state senate maps and whether there is record support for the determination of both courts below that the district lines for congressional races were drawn with an unconstitutional partisan intent. We answer both questions in the affirmative and therefore declare the congressional and senate maps void. As a result, judicial oversight is required to facilitate the expeditious creation of constitutionally conforming maps for use in the 2022 election and to safeguard the constitutionally protected right of New Yorkers to a fair election.

I.

Every ten years, following the federal census, reapportionment of the state senate, assembly, and congressional districts in New York must be undertaken to account for population shifts and potential changes in the state's allocated number of congressional representatives (*see* NY Const, art III, § 4). Redistricting — which is "primarily the duty and responsibility of the State" (*Perry v Perez*, 565 US 388, 392 [2012] [internal quotation

marks and citation omitted]; *see Growe v Emison*, 507 US 25, 34 [1993]) — is a complex and contentious process that, historically, has been "within the legislative power . . . subject to constitutional regulation and limitation" (*Matter of Orans*, 15 NY2d 339, 352 [1965]). In New York, prior to 2012, the process of drawing district lines was entirely within the purview of the legislature,[1] subject to state and federal constitutional restraint and federal voting laws, as well as judicial review.

Particularly with respect to congressional maps, exclusive legislative control has repeatedly resulted in stalemates, with opposing political parties unable to reach consensus on district lines — often necessitating federal court involvement in the development of New York's congressional maps (*see e.g. Favors v Cuomo*, 2012 WL 928223 *2, 2012 US Dist LEXIS 36910, *10 [ED NY, Mar. 19, 2012, No. 11-CV-5632, Raggi, Lynch, and Irizarry, JJ.]; *Rodriguez v Pataki*, 2002 WL 1058054, *7, 2002 US Dist LEXIS, *25-27 [SD NY 2002, May 24, 2002, No. 02 Civ. 618, Walker, Ch. J., Koeltl, and Berman, JJ.]; *Puerto Rican Legal Defense & Educ. Fund, Inc. v Gantt*, 796 F Supp 681, 684 [ED NY 1992]). Among other concerns, the redistricting process has been plagued with allegations of partisan gerrymandering — that is, one political party manipulating district lines in order to disproportionately increase its advantage in the upcoming elections, disenfranchising voters of the opposing party (*see generally Rucho v Common Cause*, 588 US —, 139 S Ct 2484, 2494 [2019]).

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[1] A legislative advisory task force on apportionment — created by statute and comprising lawmakers and staff selected by legislative leaders — conducted studies and proffered recommendations and proposed maps for the legislature's consideration (*see* Legislative Law § 83-m; L 1978, ch 45, § 1).

By adopting the 2014 constitutional amendments, the People significantly altered both substantive standards governing the determination of district lines and the redistricting process established to achieve those standards. Given the history of legislative stalemates and persistent allegations of partisan gerrymandering, the constitutional reforms were intended to introduce a new era of bipartisanship and transparency through the creation of an independent redistricting commission and the adoption of additional limitations on legislative discretion in redistricting, including explicit prohibitions on partisan and racial gerrymandering (*see* Assembly Mem in Support, 2012 NY Senate-Assembly Concurrent Resolution S6698, A9526 Sponsor Memo, S2107). The Constitution now requires that the IRC — a bipartisan commission working under a constitutionally mandated timeline — is charged with the obligation of drawing a set of redistricting maps that, with appropriate implementing legislation, must be submitted to the legislature for a vote, without amendment (*see* NY Const, art III, § 4 [b]; § 5-b [a]).[2] If this first set of maps is rejected, the IRC is required to prepare a second set that, again, would be subject to an up or down vote by the legislature, without amendment (*see* NY Const, art III, § 4 [b]). Under that

[2] Many other states have also turned to independent redistricting commissions to curtail partisan gerrymandering (*see e.g.* Ariz Const, art IV, pt. 2, § 1; Cal Const, art XXI, § 2; Colo Const, art V, §§ 44 44-48.4; Conn Const, art III, § 6; Haw Const, art IV, § 2; Idaho Const, art III, § 2; Me Const, art IV, part 3, § 1-A; Mich Const, art 4, § 6; Mont Const, art V, § 14; NJ Const, art II, § 2; Ohio Const, arts XI, XIX; Va Const, art II, § 6-A; Wash Const, art II, § 43). In upholding a state constitutional delegation of redistricting authority to an IRC, the United States Supreme Court has recognized that IRCs "generally draw their maps in a timely fashion and create districts both more competitive and more likely to survive legal challenge" and "have succeeded to a great degree [in limiting the conflict of interest implicit in legislative control over redistricting]" (*Arizona State Legislature v Arizona Independent Redistricting Comm'n*, 576 US 787, 798, 821 [2015] [internal quotation marks and citation omitted]).

constitutional framework, only upon rejection of a second set of IRC maps is the legislature free to offer amendments to the maps created by the IRC (*see* NY Const, art III, § 4 [b]) and, even then, a statutory restriction enacted as a companion to the constitutional reforms precluded legislative alterations that would affect more than two percent of the population in any district (*see* L 2012, ch 17, § 3).

II.

Following receipt of the results of the 2020 federal census, the redistricting process began in New York — the first opportunity for district lines to be drawn under the new IRC procedures established by the 2014 constitutional amendments. Due to shifts in New York's population, the state lost a congressional seat and other districts were malapportioned, undisputedly rendering the 2012 congressional apportionment — developed by a federal court following a legislative impasse (*see Favors*, 2012 WL 928223, *2, 2012 US Dist LEXIS 36910, *10) — unconstitutional and necessitating the drawing of new district lines. Throughout 2021, the IRC held the requisite public hearings, gathering input from stakeholders and voters across the state to inform their composition of redistricting maps. In December 2021 and January 2022, however, negotiations between the IRC members deteriorated and the IRC, split along party lines, was unable to agree upon consensus maps. According to the IRC members appointed by the minority party, after agreement had been reached on many of the district lines, the majority party delegation of the IRC declined to continue negotiations on a consensus map, insisting they would proceed with discussions only if further negotiations were based on their preferred redistricting maps.

As a result of their disagreements, the IRC submitted, as a first set of maps, two proposed redistricting plans to the legislature — maps from each party delegation — as is constitutionally permitted if a single consensus map fails to garner sufficient votes (*see* NY Const, art III, § 5-b [g]). The legislature voted on this first set of plans without amendment as required by the Constitution and rejected both plans. The legislature notified the IRC of that rejection, triggering the IRC's obligation to compose — within 15 days — a second redistricting plan for the legislature's review (*see* NY Const, art III § 4 [b]). On January 24, 2022 — the day before the 15-day deadline but more than one month before the February 28, 2022 deadline— the IRC announced that it was deadlocked and, as a result, would not present a second plan to the legislature. Within a week, the Democrats in the legislature — in control of both the senate and assembly — composed and enacted new congressional, senate, and assembly redistricting maps (*see* 2022 NY Assembly Bill A9167, 2022 NY Senate Bill S8196, 2022 NY Assembly Bill A9039-A, 2022 NY Senate Bill S8172-A, 2022 NY Assembly Bill A9168, 2022 NY Senate Bill S8197, 2022 NY Senate Bill S8185-A, 2022 NY Assembly Bill A9040-A), undisputedly without any consultation or participation by the minority Republican Party.[3] On February 3rd, the Governor signed into law this new redistricting legislation, which also superseded the two

[3] As one house of the legislature explained during this litigation, in their view "there [was no] reason for the Democratic super-majorities in both houses of the [l]egislature to seek 'input or involvement' from the Republican minorities" regarding the development of these legislative maps, characterizing such communications as inviting "time-wasting political theater" (App Div reply brief for respondent-appellant Senate Majority Leader, at 13).

percent limitation imposed in 2012 on the legislature's authority to amend IRC plans (Senate Introducer's Mem in Support, Bill Jacket, L 2012, ch 17, at 11).

That same day, petitioners — New York voters residing in several different congressional districts — commenced this special proceeding under Article III, § 5 of the State Constitution and Unconsolidated Laws § 4221 against various State respondents, including the Governor,[4] Senate Majority Leader, Speaker of the Assembly, and the New York State Board of Elections, challenging the congressional and senate maps. Petitioners alleged that the process by which the 2022 maps were enacted was constitutionally defective because the IRC failed to submit a second redistricting plan as required under the 2014 constitutional amendments and, as such, the legislature lacked authority to compose and enact its own plan. Petitioners also asserted that the congressional map is unconstitutionally gerrymandered in favor of the majority party because it both "packed" minority-party voters into a select few districts and "cracked" other pockets of those voters across multiple districts, thereby diluting the competitiveness of those districts. Petitioners asked Supreme Court to enjoin any elections from proceeding on the 2022 congressional map and to either adopt its own map or direct the legislature to cure the infirmities. Petitioners subsequently sought to amend their petition to include similar challenges to the state senate map. The State respondents answered that petitioners lacked standing to challenge most of the districts they claimed were gerrymandered, that the IRC's failure to

[4] Notwithstanding respondent Governor's contentions to the contrary, any petition challenging redistricting legislation must be served upon the Attorney-General, President of the Senate, Speaker of the Assembly and the Governor, who are proper parties to this proceeding (*see* Uncons Laws § 4221).

perform its duty did not strip the legislature of its enduring authority to enact redistricting plans, and that petitioners could not meet their burden of proving that the maps were unconstitutionally partisan.

A trial ensued, at which petitioners and the State respondents presented expert testimony regarding the maps. Petitioners' expert, Sean P. Trende — a doctoral candidate who has a juris doctorate, a master's degree in political science, and a master's degree in applied statistics, and who has participated as an expert in several redistricting proceedings in other states — was qualified as an expert in election analysis with particular knowledge in redistricting, with no objection from the State respondents or any request for a *Frye* hearing to challenge the efficacy of his methodology or the basis of his opinion. Trende testified that a comparison of the enacted congressional map to ensembles of 5,000 or 10,000 maps created by computer simulation revealed that the enacted map was an "extreme outlier" that likely reduced the number of Republican congressional seats from eight to four by "packing" Republican voters into four discrete districts and "cracking" Republican voter blocks across the remaining districts in such manner as to dilute the strength of their vote and render such districts noncompetitive.

Opposing experts called by the State respondents challenged Trende's methodology and asserted that the enacted congressional map actually resulted in more Republican districts than the simulated maps, although several conceded that they did not analyze the level of competitiveness of the new districts. Further, the State's experts defended various choices made by the legislature as justifiable based on constitutionally required considerations, contending that the enacted maps were not reflective of partisan intent.

After determining petitioners had standing to challenge the statewide maps, Supreme Court declared the congressional, state senate, and state assembly maps "void" under the State Constitution, reasoning that the legislature's enactment of redistricting maps absent submission of a second redistricting plan by the IRC was unconstitutional and that 2021 legislation purporting to authorize the enactment ("the 2021 legislation") was also unconstitutional. Further, crediting Trende's testimony, Supreme Court found that petitioners had proven that the congressional map violated the constitutional prohibition on partisan gerrymandering by packing republican voters into four districts while ensuring there were "virtually zero competitive districts." Supreme Court declared all three maps void, enjoined the State respondents from using the maps in the impending 2022 election, and directed the legislature to submit new "bipartisanly-supported" maps that meet constitutional requirements for the court's review by a particular date.

The State respondents appealed, and a Justice of the Appellate Division stayed much of Supreme Court's order pending that appeal, including the deadline for submission of new redistricting maps by the legislature. However, the stay order did not prohibit Supreme Court from retaining a neutral expert to prepare a proposed new congressional map, which would have no force and effect until certain contingencies occurred, including the legislature's failure to proffer its own new congressional maps by April 30th — 30 days after the date of Supreme Court's order.[5] Thereafter, in a divided decision, the Appellate

[5] Supreme Court also analyzed whether the state senate map was an unconstitutional partisan gerrymander after granting petitioners' request to amend the petition to challenge the senate map but concluded petitioners did not meet their burden of proof on such claim. Petitioners have not sought review of that determination.

Division modified Supreme Court's order by denying the petition, in part, vacating the declaration that the senate and assembly maps and the 2021 legislation were unconstitutional, but otherwise affirmed and remitted, with three Justices agreeing with Supreme Court that petitioners had met their burden of proving that the constitutional prohibition against partisan gerrymandering had been violated with respect to the 2022 congressional map, rendering that map void and unenforceable (— AD3d —, 2022 NY Slip Op 02648 [4th Dept 2022]).[6] In reaching that conclusion, the Appellate Division relied on "evidence of the largely one-party process used to enact the 2022 congressional map, a comparison of the 2022 congressional map to the 2012 congressional map, and the expert opinion and supporting analysis of Sean P. Trende" (*id.* at *3). However, the Court rejected petitioners' argument that both the congressional and senate maps were void due to the failure to adhere to the constitutional procedure, with one Justice dissenting on that point. The parties now cross appeal as of right (*see* CPLR 5601 [b] [1]), challenging certain aspects of the Appellate Division order.

III.

As a threshold matter, relying on common law standing principles, the State respondents assert that petitioners lack standing to challenge many of the districts that they claim reflect unconstitutional partisan gerrymandering because none of the individual

[6] Supreme Court, as permitted by the stay, has procured the services of a neutral redistricting expert "to serve as special master to prepare and draw a new neutral, non-partisan [c]ongressional map" and has established a schedule by which the parties and other interested persons may submit commentary and proposed redistricting plans for consideration prior to a planned hearing. Petitioners and several interested parties have already proffered submissions to that court.

petitioners reside in those districts. Even absent the procedural challenge applicable to all districts, this contention is unavailing because standing is expressly conferred by constitution and statute. Article III, § 5 of the New York Constitution provides that "[a]n apportionment by the legislature, or other body, shall be subject to review by the supreme court, *at the suit of any citizen*, under such reasonable regulations as the legislature may prescribe" (NY Const art III, § 5 [emphasis added]; *see* 3 Rev Rec, 1894 NY Constitutional Convention at 987; *see Matter of Dowling*, 219 NY 44, 50 [1916]; *Schieffelin v Komfort*, 212 NY 520, 529 [1914]). Moreover, statutes may identify the class of persons entitled to challenge particular governmental action, relieving courts of the need to resolve the question under common law principles (*see Matter of Mental Hygiene Legal Serv. v Daniels*, 33 NY3d 44, 50 n 2 [2019]; *Society of Plastics Indus. v County of Suffolk*, 77 NY2d 761, 769 [1991]; *Wein v Comptroller of State of N.Y.*, 46 NY2d 394, 399 [1979]; *see e.g.* State Finance Law § 123) and, here, Unconsolidated Laws § 4221 likewise authorizes "any citizen" of the state to seek judicial review of a legislative act establishing electoral districts. We therefore turn to consideration of the merits of petitioners' challenges to the 2022 redistricting maps.

Petitioners first assert that, in light of the lack of compliance by the IRC and the legislature with the procedures set forth in the Constitution, the legislature's enactment of the 2022 redistricting maps contravened the Constitution. To conclude otherwise, petitioners contend, would be to render the 2014 amendments — touted as an important reform of the redistricting process — functionally meaningless. We agree.

Legislative enactments, including those implementing redistricting plans, are entitled to a "strong presumption of constitutionality" and redistricting legislation will be declared unconstitutional by the courts "'only when it can be shown beyond reasonable doubt that it conflicts'" with the Constitution after "'every reasonable mode of reconciliation of the statute with the Constitution has been resorted to, and reconciliation has been found impossible'" (*Matter of Wolpoff v Cuomo*, 80 NY2d 70, 78 [1992], quoting *Matter of Fay*, 291 NY 198, 207 [1943] [internal quotation marks omitted]; *see Cohen v Cuomo*, 19 NY3d 196, 201-202 [2012]). Nevertheless, invalidation of a legislative enactment is required when such act amounts to "'a gross and deliberate violation of the plain intent of the Constitution and a disregard of its spirit and the purpose for which express limitations are included therein'" (*Cohen*, 19 NY3d at 202, quoting *Matter of Sherrill v O'Brien*, 188 NY 185, 198 [1907]).

To determine whether the legislature's 2022 enactment of redistricting legislation comports with the Constitution, our starting point must be the text thereof. "In construing the language of the Constitution as in construing the language of a statute, . . . [we] look for the intention of the People and give to the language used its ordinary meaning" (*Matter of Sherrill*, 188 NY at 207; *see White v Cuomo*, — NY —, — 2022 NY Slip Op 01954, * 5 [2022]; *Burton v New York State Dept. of Taxation & Fin.*, 25 NY3d 732, 739 [2015]; *Matter of Carey v Morton*, 297 NY 361, 366 [1948]). Upon careful review of the plain language of the Constitution and the history pertaining to the adoption of the 2014 reforms, it is evident that the legislature and the IRC deviated from the constitutionally mandated procedure.

From a procedural standpoint, the Constitution — as amended in 2014 — requires that, every ten years commencing in 2020, an "independent redistricting commission" comprising 10 members — eight of whom are appointed by the majority and minority leaders of the senate and assembly and the remaining two by those eight appointees — shall be established (*see* NY Const, art III, § 5-b [a]). The members must be a diverse group of registered voters and cannot be (or recently have been) members of the state or federal legislature, statewide elected officials, state officers or legislative employees, registered lobbyists, or political party chairmen, or the spouses of state or federal elected officials (*see* NY Const, art III, § 5-b [b], [c]).

Under the Constitution, the IRC must make its draft redistricting plans available to the public and hold no less than 12 public hearings throughout the state regarding proposals for redistricting, ensuring transparency and giving New Yorkers a voice in the redistricting process (*see* NY Const, art III, § 4 [c]). After considering public comments and working together across party lines to compose new redistricting lines, the IRC must submit its approved plan and implementing legislation to the legislature no later than January 15th in a redistricting year (*see* NY Const, art III, § 4 [b]), with the caveat that, if the IRC is unable to muster the requisite number of votes for a single plan, it must provide the legislature with each plan that "garnered the highest number of votes in support of its approval by the [IRC]" (NY Const, art III, § 5-b [g]). If the legislature rejects the IRC's first plan, the Constitution requires the IRC to go back to the drawing board, work to reach consensus, and "prepare and submit to the legislature a second redistricting plan and the necessary implementing legislation" to the legislature within 15 days and in no case later than

February 28th (NY Const, art III, § 4 [b]). "If" the legislature fails to approve the second plan without amendment, the Constitution then directs that "each house shall introduce such implementing legislation" — a clear reference to the IRC's second plan — with any amendments each house of the legislature deems necessary (NY Const, art III § 4 [b]). As a further safeguard against one party dominating redistricting, the Constitution dictates that the number of votes required for the IRC and legislature to approve a plan differs depending on whether the legislature is controlled by one political party or control of the houses are split between the parties (*see* NY Const, art III, §§ 4 [b] [1] – [3]; 5-b [f] [1], [2]).

The Redistricting Reform Act of 2012, legislation enacted in conjunction with the 2012 constitutional resolution, further provides as a matter of statutory law that "[a]ny amendments by the senate or assembly to a redistricting plan submitted by the [IRC] shall not affect more than two percent of the population of any district contained in such plan" (L 2012, ch 17, § 3). As the sponsor of the legislation explained, "[i]f the [IRC's] second plan [was] also rejected . . . , each house may then amend *that plan* prior to approval except that such amendments . . . cannot affect more than two percent of the population of any district *in the commission's plan*," a limitation designed to "provide reasonable restrictions on the legislature's changes to the commission's plans" (Senate Introducer's Mem in Support, Bill Jacket, L 2012, ch 17, at 15 [emphasis added]).

The plain language of Article III, § 4 dictates that the IRC "*shall* prepare" and "*shall* submit" to the legislature a redistricting plan with implementing legislation, that IRC plan "*shall* be voted upon, without amendment" by the legislature, and — in the event the first plan is rejected — the IRC "*shall* prepare and submit to the legislature a second

redistricting plan and the necessary implementing legislation," which again "*shall* be voted upon, without amendment" (NY Const, art III, § 4 [b] [emphasis added]). "*If*" and only "if" that second plan is rejected, does the Constitution permit the legislature to introduce its own implementing legislation, "with any amendments" to the IRC plans deemed necessary that otherwise comply with constitutional directives (NY Const, art III, § 4 [b] [emphasis added]).

"In the construction of constitutional provisions, the language used, if plain and precise, should be given its full effect" and "[i]t must be presumed that its framers understood the force of the language used and, as well, the people who adopted it" (*People v Rathbone*, 145 NY 434, 438 [1895]). Our Constitution is "an instrument framed deliberately and with care, and adopted by the people as the organic law of the State" and, when interpreting it, we may "not allow for interstitial and interpretative gloss . . . by the other [b]ranches [of the government] that substantially alters the specified law-making regimen" set forth in the Constitution (*Matter of King v Cuomo*, 81 NY2d 247, 253 [1993]).

Article III, § 4 is permeated with language that, when given its full effect, permits the legislature to undertake the drawing of district lines *only* after two redistricting plans composed by the IRC have been duly considered and rejected.[7] Moreover, the text of section 4 contemplates that any redistricting act ultimately adopted must be founded upon a plan submitted by the IRC; in the event the IRC plan is rejected, the Constitution

[7] Indeed, the description on the 2014 ballot informed voters considering whether to support the constitutional amendments that "the legislature may only amend the redistricting plan . . . if the commission's plan is rejected twice by the legislature."

authorizes "amendments" to such plan, not the wholesale drawing of entirely new maps (NY Const, art III, § 4 [b]; *see* NY Assembly Debate on Assembly Bill A9557 Mar. 15, 2012 at 39 ["The Constitutional amendment allows the (l)egislature to *amend* the plan submitted by the independent redistricting commission *if* the (l)egislature has twice rejected submitted plans" (emphasis added)]).[8]

Despite clear constitutional language, the State respondents posit that it is wrong to interpret the 2014 constitutional amendments as requiring two separate IRC plans as a precondition to the legislature's exercise of its longstanding and historically unbridled authority to enact redistricting legislation.[9] They further rely on the 2021 legislation authorizing the legislature to move forward on redistricting even if the IRC fails to submit maps as permissibly filling a purported gap in the constitutional design. However, in

[8] Judge Rivera's contention that the IRC process was not violated because two sets of maps were simultaneously submitted by the IRC in the first round — one by the Democratic delegation and one by the Republican delegation — is remarkable. Under her view, this was the functional equivalent of the successive presentations required by the Constitution. Aside from being directly contrary to the text of the constitution, the intent of the People who adopted the 2014 reforms, and the relevant legislative history, such contention has not been advanced by any party before this Court, a reflection of its total lack of merit.

[9] In a reply brief submitted in the Appellate Division, one of the State respondents candidly acknowledged that the constitutional process was not followed here, asserting that "[e]veryone agrees" that the Constitution requires two rounds of IRC recommendations "and that the [l]egislature vote up or down on each Commission proposal without amendment before exercising its authority to make any amendments"; and "that nobody suggests that 'the process' is optional" (App Div reply brief for respondent-appellant Senate Majority Leader, at 2-3). Despite acknowledging the constitutional violation, however, they essentially view it as irrelevant because the legislature could ultimately have adopted its own maps through the amendment process following a properly completed IRC procedure. This view ignores the fact that procedural requirements matter and are imposed precisely because, as here, they safeguard substantive rights.

addition to being contrary to the text of the Constitution as we have explained, the State respondents' arguments are also belied by the purpose of the 2014 amendments and the relevant legislative history — including the legislature's own statements regarding the intent and effect of the 2014 constitutional reform effort.

Indeed, the State respondents studiously ignore events that gave rise to the 2014 amendments. During the previous redistricting cycle in 2012, the New York legislature was unable to reach agreement on legislation setting the congressional district lines and, as a result, a federal court ordered the adoption of a judicially-drafted congressional redistricting plan (*see Favors*, 2012 WL 928223, *2, 2012 US Dist LEXIS 36910, *10). While the 2012 legislature did agree on state senate and assembly maps, the proposed maps were widely criticized as a product of partisan gerrymandering, prompting the then-Governor to threaten to veto the plans absent a concrete legislative commitment to redistricting reform (*see* Micah Altman & Michael P. McDonald, *A Half-Century of Virginia Redistricting Battles: Shifting from Rural Malapportionment to Voting Rights to Public Participation*, 47 U Rich L Rev 771, 829 [2013]; Thomas Kaplan, *An Update on New York Redistricting*, NY Times, March 7, 2012; Thomas Kaplan, *An Update on New York Redistricting*, NY Times, March 9, 2012). Thus, as we have discussed, in conjunction with enactment of the 2012 redistricting acts (*see* L 2012, ch 16), the legislature affirmed its commitment to redistricting reform by passing the Redistricting Reform Act of 2012 (*see* L 2012, ch 17) and the first of the two concurrent resolutions proposing the constitutional amendments creating the IRC process (*see* 2012 NY Assembly Bill A9526 [Mar. 11, 2012]). Characterizing the legislature's 2012 senate and assembly district lines

as "significantly flawed," the Governor nevertheless approved the redistricting legislation that year in light of the legislature's demonstrated agreement to "permanent[ly]" and "meaningful[ly]" reform the redistricting process for future years and "provide transparency to a process [otherwise] cloaked in secrecy and largely immune from legal challenges to partisan gerrymandering" (Governor's Approval Mem, Bill Jacket, L 2012, ch 17 at 5; 2012 NY Legis Ann at 12-13).

As the surrounding context and history of the 2014 amendments illustrate, the constitutional amendments adopted by the two consecutive legislatures and the voters — from the provisions detailing the composition of the IRC to those setting forth the voting metrics — were carefully crafted to guarantee that redistricting maps have their origin in the collective and transparent work product of a bipartisan commission that is constitutionally required to pursue consensus to draw district lines. The procedural amendments — along with a novel *substantive* amendment of the State Constitution expressly prohibiting partisan gerrymandering, discussed further below — were enacted in response to criticism of the scourge of hyper-partisanship, which the United States Supreme Court has recognized as "incompatible with democratic principles" (*Arizona State Legislature v Arizona Independent Redistricting Comm'n*, 576 US at 791 [internal quotation marks, punctuation and citation omitted]).

As reflected in the legislative record, the IRC's fulfillment of its constitutional obligations was unquestionably intended to operate as a necessary precondition to, and limitation on, the legislature's exercise of its discretion in redistricting. The legislative record shows that the 2012 legislature — the drafters of the constitutional amendments —

intended to "comprehensively" reform and "implement historic changes to achieve a fair and readily transparent process" to "ensure that the drawing of legislative district lines in New York will be done by a bipartisan, independent body" — rather than entirely by the legislature itself (Assembly Mem in Support, 2012 NY Senate-Assembly Concurrent Resolution S6698, A9526; Sponsor's Mem, 2013 NY Senate Bill S2107). As the sponsors explained, the reforms were designed to "substantively and fundamentally" alter the redistricting process, allowing "[f]or the first time, both the majority and minority parties in the legislature [to] have an equal role in the process of drawing lines," with these "far-reaching" constitutional reforms touted as a template "for independent redistricting throughout the United States" (Assembly Mem in Support, 2013 NY Senate-Assembly Concurrent Resolution S2107, A2086).

The Senate debate indicates that the constitutional provision allowing the legislature to amend the second redistricting plan submitted by the IRC only after twice voting on and rejecting IRC plans was intended to encourage bipartisan participation by the legislature in the redistricting process. The Senate sponsor explained that "[o]n the third enactment, there could be amendments under this provision. But again, it would be the third time – not first time, not the second time, but the third time in order to get ultimately a product produced" (NY Senate Debate on AB2086, January 23, 2013 at 222). In other words, "[i]f there cannot be agreement, if the Governor vetoes the provision twice, . . . that third time the Legislature would be acting. But not until that time" (*id.* at 224) because "the intent of th[e] resolution [wa]s to have the Legislature act and vote on . . . a [second] plan" before undertaking any amendments of its own (*id.* at 226). Answering a charge that the IRC

would essentially be only "an advisory commission" since the legislature could ultimately reject both sets of IRC maps, the Senate sponsor explained that the IRC process was intended, in part, to impose consequences on the legislature for rejecting plans developed through a bipartisan process by forcing it to take a public position refusing to adopt district lines that were developed with an "enormous amount of citizen input" and effort (*id.* at 228).

It is no surprise, then, that the Constitution dictates that the IRC-based process for redistricting established therein "*shall* govern redistricting in this state *except* to the extent that a court is required to order the adoption of, or changes to, a redistricting plan as a remedy for a violation of law" (NY Const art III, § 4 [e] [emphasis added]). Contrary to the State respondents' contentions, the detailed amendments leave no room for legislative discretion regarding the particulars of implementation; this is not a scenario where the Constitution fails to provide "specific guidance" or is "silen[t] on the issue" (*Cohen*, 19 NY3d at 200, 202). Under the 2014 amendments, compliance with the IRC process enshrined in the Constitution is the *exclusive* method of redistricting, absent court intervention following a violation of the law, incentivizing the legislature to encourage and support fair bipartisan participation and compromise throughout the redistricting process.[10]

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[10] The State respondents and Judge Rivera assert that giving force to the constitutional language risks gamesmanship by minority members of the IRC, claiming such members could potentially derail the redistricting process by refusing to participate. In giving effect to the constitutional reforms endorsed by the People of this state, our decision does not leave the legislature hostage to that body as Judge Rivera contends. Legislative leaders appoint a majority of the IRC members and, in the event those members fail either to appear at IRC meetings or to otherwise perform their constitutional duties, judicial intervention in the form of a mandamus proceeding, political pressure, more meaningful attempts at

That the IRC process was intended to operate as a limitation on the legislature's power to compose district lines is further underscored by the Redistricting Reform Act of 2012 (*see* L 2012, ch 17). That legislation, adopted simultaneously with the 2012 constitutional resolution, instituted the two percent limitation on the legislature's authority (*see* L 2012, ch 17, § 3). In describing this particular reform, the Sponsor of the bill explained that "[i]f the legislature fails to pass" the IRC's second plan "it may then amend such plans and vote upon them as amended. However, any such amendments shall be limited . . . to affect no more than two percent of the population of any district in such plan" (Senate Introducer's Mem in Support, Bill Jacket, L 2012, ch 17, at 11). Thus, although the legislature retains the ultimate authority to enact districting maps upon completion of the IRC process, the constitutional reforms were clearly intended to promote fairness, transparency, and bipartisanship by requiring, as a precondition to redistricting legislation, that the IRC fulfill a substantial and constitutionally required role in the map drawing process.[11]

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compromise, and possibly even replacement of members who fail to faithfully perform their duties, are among the many courses of action available to ensure the IRC process is completed as constitutionally intended. The IRC may not be a panacea, but to accept the crabbed description of that body proffered by the State respondents and Judge Rivera would be to render the body nothing more than "window dressing" masquerading as meaningful reform.

[11] In 2022 — the very first time that the legislature had occasion to implement the IRC procedure and the two percent rule (L 2012, ch 17, § 3) — that provision was disregarded. The legislature wholly superseded the two percent rule by prefacing the 2022 redistricting legislation with language indicating that such districts were enacted as provided therein "notwithstanding any other provision of law to the contrary" and providing that the new legislation "shall supersede any inconsistent provision of law including but not limited to"

Indeed, recent events suggest that the legislature itself recognized that the Constitution did not permit it to proceed with redistricting absent compliance with the bipartisan IRC process. Apparently forecasting that the IRC would not comply with its constitutional obligations, in the summer of 2021 — before the IRC had even been given a chance to fulfill its constitutional role — the legislature attempted to amend the constitution to add language authorizing it to introduce redistricting legislation "[i]f . . . the redistricting commission fails to vote on a redistricting plan and implementing legislation by the required deadline" for any reason (2021 NY Senate-Assembly Concurrent Resolution S515, A1916). After New York voters rejected this constitutional amendment (among others) — and with the first redistricting cycle since the 2014 amendments on the horizon — the legislature attempted to fill a purported "gap" in constitutional language by *statutorily* amending the IRC procedure in the same manner (*see* L 2021, ch 633). In this Court, the State respondents attempt to rely on the 2021 legislation to justify the deviation from constitutional requirements. Needless to say, the bipartisan process was placed in the State Constitution specifically to insulate it from capricious legislative action and to ensure permanent redistricting reform absent further amendment to the constitution, which has not occurred. The 2021 legislation is unconstitutional to the extent that it permits the legislature to avoid a central requirement of the reform amendments (*see Matter of King*, 81 NY2d at 252 ["The (l)egislature must be guided and governed in this particular function by the Constitution, not by a self-generated additive"]).

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the two percent rule (L 2022, chs 13, 14, 15, 16). Despite this attempted end run, however, the 2012 redistricting reform legislation provides relevant evidence of the drafters' intent.

In sum, there can be no question that the drafters of the 2014 constitutional amendments and the voters of this state intended compliance with the IRC process to be a constitutionally required precondition to the legislature's enactment of redistricting legislation. In urging this Court to adopt their view that the IRC may abandon its constitutional mandate with no impact on the ultimate result and by contending that the legislature may seize upon such inaction to bypass the IRC process and compose its own redistricting maps with impunity, the State respondents ask us to effectively nullify the 2014 amendments. This we will not do. Indeed, such an approach would encourage partisans involved in the IRC process to avoid consensus, thereby permitting the legislature to step in and create new maps merely by engineering a stalemate at any stage of the IRC process, or even by failing to appoint members or withholding funding from the IRC. Through the 2014 amendments, the People of this state adopted substantial redistricting reforms aimed at ensuring that the starting point for redistricting legislation would be district lines proffered by a bipartisan commission following significant public participation, thereby ensuring each political party and all interested persons a voice in the composition of those lines. We decline to render the constitutional IRC process inconsequential in the manner requested by the State respondents, a result that would "violat[e] . . . the plain intent of the Constitution and . . . disregard [the] spirit and the purpose" of the 2014 constitutional amendments (*Cohen*, 19 NY3d at 202 [internal quotation marks and citation omitted]).

IV.

Having addressed the procedural violation, we turn to the substantive partisan gerrymandering claim. As a threshold matter, despite our invalidation of the maps on procedural grounds, we nevertheless must determine on the State respondents' cross appeal whether the courts below properly declared that the congressional map was also substantively unconstitutional.[12]

In addition to the procedural amendments, in 2014, the People also amended the New York State Constitution to include certain substantive limitations on redistricting, including an express prohibition on partisan gerrymandering, commanding that "[d]istricts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties" (NY Const, art III, § 4 [c]

[12] While we agree with Judge Troutman that this Court should not issue advisory opinions, her suggestion that no actual case or controversy is presented by the State respondents' appeal — here as of right on the substantial constitutional question of whether the Appellate Division erred in invalidating the congressional map on the ground of partisan gerrymandering — is quite extraordinary. Even if the State respondents were not otherwise entitled to review of the declaration that the apportionment legislation was infected by such invidious intent, there are substantial arguments before this Court concerning the proper remedy in the event of a constitutional violation — arguments that turn, in part, on whether the violation involved procedural or substantive constitutional provisions. The question of whether the congressional map amounts to a partisan gerrymander is also relevant to the issue of whether the primary election should be permitted to proceed on the maps drawn by the legislature, despite the determination of procedural unconstitutionality. Moreover, given our conclusion that new maps must be drawn in light of the procedural violation — a conclusion with which Judge Troutman agrees — resolution of the issue is critical to provide necessary guidance to inform the development of a new congressional map on remittal.

[5]).[13] This amendment was made in recognition that the practice of partisan gerrymandering "jeopardizes [t]he ordered working of our Republic, and of the democratic process" and, "[a]t its most extreme, the practice amounts to 'rigging elections,'" which violates "the most fundamental of all democratic principles — that 'the voters should choose their representatives, not the other way around'" (*Gill v Whitford*, — US — , 138 S Ct 1916, 1940 [2018], quoting *Arizona State Legislature*, 576 US at 824).

In this case, petitioners asserted that, along with being procedurally flawed, the 2022 congressional map enacted by the legislature violates the constitutional provision prohibiting partisan gerrymandering. To prevail on such claim, petitioners bore the burden of proving beyond a reasonable doubt that the congressional districts were drawn with a particular impermissible intent or motive — that is, to "discourage competition" or to "favor[] or disfavor[] incumbents or other particular candidates or political parties" (NY Const, art III, § 4 [c] [5]). Such invidious intent could be demonstrated directly or

[13] The 2014 constitutional amendments also forbid racial gerrymandering, in a provision that similarly prohibits an invidious intent or motive, requiring that district lines "shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of" the voting rights of racial or minority language groups (NY Const, art III, § 4 [c] [1]). Other requirements added that year directed certain results, namely, that redistricting, to the extent possible, maintain cores of existing districts, pre-existing political subdivisions — such as counties, cities, and towns — and communities of interest (*see* NY Const, art III, § 4 [c] [5]). These requirements supplement the longstanding constitutional constraints on redistricting embodied in the State Constitution requiring, to the extent practical, that districts "contain as nearly as may be an equal number of inhabitants," "consist of contiguous territory," and be "as compact in form as practicable" (NY Const, art III, § 4 [c] [2] – [4]), and those required by federal law — such as conformity with the "one person, one vote" principle (*Abrams v Johnson*, 521 US 74, 98 [1997]; *see Wesberry v Sanders*, 376 US 1, 8 [1964]) and with the federal Voting Rights Act (*see generally* 52 USC § 10301).

circumstantially through proof of a partisan process excluding participation by the minority party and evidence of discriminatory results (i.e., lines that impactfully and unduly favor or disfavor a political party or reduce competition).

Here, at the conclusion of the non-jury trial, Supreme Court — based on the partisan process, the map enacted by the legislature itself, and the expert testimony proffered by petitioners — found by "clear evidence and beyond a reasonable doubt that the congressional map was unconstitutionally drawn with political bias" to "significantly reduce[]" the number of competitive districts. The Appellate Division affirmed, similarly drawing an inference of invidious partisan purpose based on "evidence of the largely one-party process used to enact the 2022 congressional map, a comparison of the 2022 congressional map to the 2012 congressional map, and the expert opinion and supporting analysis of Sean P. Trende," finding that "the 2022 congressional map was drawn to discourage competition and favor democrats" (— AD3d at —, 2022 NY Slip Op 02648, * 4).

We reject respondents' assertion that the evidence was legally insufficient to establish an unconstitutional partisan purpose. Viewing the evidence in the light most favorable to petitioners and drawing every inference in their favor, there is a "valid line of reasoning and permissible inferences" which could possibly lead [a] rational [factfinder] to the conclusion reached by the [factfinder] on the basis of the evidence presented at trial" (*Cohen v Hallmark Cards*, 45 NY2d 493, 499 [1978]). Moreover, where, as here, this Court is presented with affirmed findings of fact in a civil case, our review is limited to whether there is record support for those findings (*see Matter of Rittersporn v Sadowski*,

48 NY2d 619 [1979]). There is record support in the undisputed facts and evidence presented by petitioners for the affirmed finding that the 2022 congressional map was drawn to discourage competition. Indeed, several of the State respondents' experts, who urged the court to draw the contrary inference, concededly did not take into account the reduction in competitive districts. Thus, we find no basis to disturb the determination of the courts below (*see Matter of Rittersporn*, 48 NY2d at 619).[14]

[14] Although purporting to treat the question as an issue of law, Judge Wilson impermissibly performs a weight of the evidence analysis, largely parroting the points in the State respondents' briefs. Tellingly, however, Judge Wilson repeatedly acknowledges that an inference of intent could rationally be drawn from proof in the record. Determining whether to draw such an inference when multiple inferences are possible is a quintessential function of a finder of fact and, here, the courts below — which, unlike this Court, possessed fact-finding authority — credited Trende's testimony. Contrary to Judge Wilson's contention, the burden of proof was not impermissibly shifted to the State respondents. As noted, respondents did not seek exclusion of Trende's testimony on the basis that his methodology or the computer algorithm on which he relied — drafted by a recognized expert and, according to Trende, a "state of the art" program repeatedly accepted by other courts — was insufficiently reliable. Although Trende did observe that the State respondents completely failed to refute any of his simulations with simulations of their own, he also responded substantively to the criticisms of his methodology. Trende explained that his map ensemble "perform[ed] comparably to the enacted plan in terms of compactness," "minority-majority districts," and county lines. He ran additional simulations, freezing municipalities kept intact by the enacted plan, freezing district cores, freezing every "ability-to-elect district," and even conceding the split in southeast Brooklyn to respondents. Trende testified that even when the simulations were run in a manner "incredibly generous" to the State respondents by "ced[ing] to [respondents] . . . a third of the districts drawn in New York," the simulations produced "the same basic output," showing the same cracking and packing patterns in the enacted maps. As even a short rendition of just some of the proof presented by petitioners demonstrates, Judge Wilson refuses to apply the proper standard of review, which — even in cases where the legal standard is proof beyond a reasonable doubt — requires that the evidence be viewed in the light most favorable to petitioners, the prevailing party at trial.

V.

Based on the foregoing, the enactment of the congressional and senate maps by the legislature was procedurally unconstitutional, and the congressional map is also substantively unconstitutional as drawn with impermissible partisan purpose, leaving the state without constitutional district lines for use in the 2022 primary and general elections.[15] The parties dispute the proper remedy for these constitutional violations, with the State respondents arguing no remedy should be ordered for the 2022 election cycle because the election process for this year is already underway. In other words, the State respondents urge that the 2022 congressional and senate elections be conducted using the unconstitutional maps, deferring any remedy for a future election.[16] We reject this invitation to subject the People of this state to an election conducted pursuant to an unconstitutional reapportionment.

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[15] Inasmuch as petitioners neither sought invalidation of the 2022 state assembly redistricting legislation in their pleadings nor challenge in this Court the Appellate Division's vacatur of the relief granted by Supreme Court with respect to that map, we may not invalidate the assembly map despite its procedural infirmity.

[16] The State respondents' reliance on the federal *Purcell* principle is misplaced (*see Purcell v Gonzalez*, 549 US 1 [2006]). The *Purcell* doctrine cautions *federal* courts against interfering with state election laws when an election is imminent (*see Republican National Committee v Democratic National Committee*, 589 US — , — , 140 S Ct 1205, 1207 [2020]) and does not limit state judicial authority where, as here, a *state* court must intervene to remedy violations of the State Constitution. Indeed, most recently the principle was cited to justify the United States Supreme Court's decision not to disturb a state court order requiring alteration of North Carolina's existing congressional maps for the upcoming 2022 primary (*Moore v Harper*, 595 US —, 142 S Ct 1089, 1089 [2022, Kavanaugh, J., concurring in denial of application for stay]).

"The power of the judiciary of a State to require valid reapportionment or to formulate a valid redistricting plan has not only been recognized by [the United States Supreme] Court but appropriate action by the States in such cases has been specifically encouraged" (*Scott v Germano*, 381 US 407, 409 [1965]; *see Growe*, 507 US at 33).[17] Indeed, our State Constitution both requires expedited judicial review of redistricting challenges (*see* NY Const, art III, § 5) — as occurred here — and authorizes the judiciary to "order the adoption of, or changes to, a redistricting plan" in the absence of a constitutionally-viable legislative plan (NY Const, art III, § 4 [e]). Where, as here, legislative maps have been determined to be unenforceable, we are left in the same predicament as if no maps had been enacted. Prompt judicial intervention is both necessary and appropriate to guarantee the People's right to a free and fair election.

We are cognizant of the logistical difficulties involved in preparing for and executing an election — and appreciate that rescheduling a primary election impacts administrative officials, candidates for public office, and the voters themselves. Like the courts below, however, we are not convinced that we have no choice but to allow the 2022 primary election to proceed on unconstitutionally enacted and gerrymandered maps. With judicial supervision and the support of a neutral expert designated a special master, there

[17] A number of other state courts have been called upon to intervene in redistricting just this year (*see League of Women Voters of Ohio v Ohio Redistricting Commn.*, 2022-Ohio-789, — NE3d — [2022]; *Harper v Hall*, 2022-NCSC-17, ¶ 6, 868 SE2d 499, 510 [2022]; *Johnson v Wisconsin Elections Commn.*, 2022 WI 19, ¶ 3, — NW2d — [2022]; *Carter v Chapman*, 270 A3d 444, 450 [Pa 2022]).

is sufficient time for the adoption of new district lines.[18] Although it will likely be necessary to move the congressional and senate primary elections to August, New York routinely held a bifurcated primary until recently, with some primaries occurring as late as September. We are confident that, in consultation with the Board of Elections, Supreme Court can swiftly develop a schedule to facilitate an August primary election, allowing time for the adoption of new constitutional maps, the dissemination of correct information to voters, the completion of the petitioning process, and compliance with federal voting laws, including the Uniformed and Overseas Citizens Absentee Voting Act (*see* 52 USC § 20302).

Finally, the State respondents' protest that the legislature must be provided a "full and reasonable opportunity to correct . . . legal infirmities" in redistricting legislation (NY Const, art III, § 5). The procedural unconstitutionality of the congressional and senate maps is, at this juncture, incapable of a legislative cure. The deadline in the Constitution

[18] Delaying a remedy until the next election would substantially undermine the People's efforts to temper partisan gerrymandering. Here, the legislature enacted maps within one week of the IRC's abdication—which itself came more than a month before the Constitution's outer end date for the IRC process—and petitioners commenced this proceeding on the same day. If there is insufficient time to order a remedy for the 2022 primary election under these circumstances, it is unlikely there would ever be sufficient time to challenge a redistricting plan and obtain relief before an upcoming primary election. Such a conclusion would be contrary to the Constitution, which contemplates that the IRC process may not be completed until February 28th (to be followed by legislative action) but nevertheless expressly authorizes expedited judicial review and modification or adoption of redistricting plans by the courts. Delaying a remedy in this election cycle — permitting an election to go forward on unconstitutional maps — would set a troubling precedent for future cases raising similar partisan gerrymandering claims, as well as other types of challenges, such as racial gerrymandering claims.

for the IRC to submit a second set of maps has long since passed.[19] Although the State respondents assert that, even following a constitutional violation, the legislature possesses exclusive jurisdiction and unrestricted power over redistricting, the Constitution explicitly authorizes judicial oversight of remedial action in the wake of a determination of unconstitutionality — a function familiar to the courts given their obligation to safeguard the constitutional rights of the People under our tripartite form of government. Thus, we endorse the procedure directed by Supreme Court to "order the adoption of . . . a redistricting plan" (NY Const, art III, § 4 [e]) with the assistance of a neutral expert, designated a special master, following submissions from the parties, the legislature, and any interested stakeholders who wish to be heard.[20]

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[19] To the extent the 2022 redistricting legislation, which we invalidate here, purported to render any court order "tentative" for a period of 30 days (L 2022, ch 13, § 3, [5] [i]) such a limitation on judicial authority appears inconsistent with (among other things) the constitutional provision authorizing judicial review without limitation and requiring "disposition" of the claim by Supreme Court within 60 days. The Constitution does not contemplate an advisory order. In any event, here, due to the procedural constitutional violations and the expiration of the outer February 28th constitutional deadline for IRC action, the legislature is incapable of unilaterally correcting the infirmity.

[20] While accusing this Court of "step[ping] out of its judicial role" (Troutman, J. dissenting in part op, at 2), Judge Troutman crafts a remedy that is neither consistent with the constitutional text nor requested by any of the parties to this proceeding. She proposes that the legislature should be directed to adopt one of the two plans submitted by the IRC and already rejected by the legislature (although she does not specify which one). Judge Troutman's position is incongruous; she agrees that the legislature lacked authority to enact redistricting legislation absent a second submission from the IRC but, paradoxically, she suggests that we should now order the legislature to enact redistricting legislation despite their inability to cure the procedural violation. Moreover, although Judge Troutman posits that the People would not approve of a court-ordered redistricting map that is, in fact, exactly what the People have approved in the State Constitution as a remedy by declaring that the IRC "process . . . shall govern . . . except to the extent that a court is required to order the adoption of, or changes to, a redistricting plan as a remedy for a violation of law"

Nearly a century and a half ago, we wrote that "[t]he Constitution is the voice of the people speaking in their sovereign capacity, and it must be heeded" (*Matter of New York El. R.R. Co.*, 70 NY 327, 342 [1877]). Thirty years later, we relied on that fundamental principle to conclude that "[a] legislative apportionment act cannot stand as a valid exercise of discretionary power by the legislature when it is manifest that the constitutional provisions have been disregarded . . . [because] [a]ny other determination by the courts might result in the constitutional standards being broken down and wholly disregarded" (*Matter of Sherrill v O'Brien*, 188 NY at 198). Today, we again uphold those constitutional standards by adhering to the will of the People of this State and giving meaningful effect to the 2014 constitutional amendments.

We therefore remit the matter to Supreme Court which, with the assistance of the special master and any other relevant submissions (including any submissions any party wishes to promptly offer), shall adopt constitutional maps with all due haste. Accordingly, the Appellate Division order should be modified, with costs to petitioners, in accordance with this opinion and, as so modified affirmed.

(NY Const, art. III, § 4 [e]). Just as puzzling, Judge Wilson begins his dissent with a nonsensical advisory opinion, indicating that although he concludes no violation of the constitution occurred, he nonetheless agrees with Judge Troutman's proposed remedy – a solution to a problem that, in his view, does not exist.

TROUTMAN, J. (dissenting in part):

I agree with the majority that petitioners have standing, and I further agree with the majority's holding that the 2022 congressional and state senate redistricting plans (2022 plans) were not enacted by the legislature in compliance with the constitutional process.

However, I dissent as to the majority's advisory opinion on the substantive issue of whether the plans constitute political gerrymandering and as to the remedy.

The majority correctly concludes that sections 4, 5, and 5-b of article III of the State Constitution, as ratified by the citizens of the State, provide the exclusive process for redistricting (*see* NY Const, art III, § 4 [e]). This process requires, among other things, that any redistricting plan to be voted on by the legislature must be initiated by the Independent Redistricting Committee (IRC) (*see* § 4 [b]). Once this Court holds that the 2022 plans were unconstitutionally enacted and must be stricken on that threshold basis, it should not then step out of its judicial role to further opine on the purely academic issue of whether the 2022 congressional map failed to comply with the substantive requirements of section 4 (c) (5). The 2022 plans, which the majority concludes are void ab initio, are no longer substantively at issue, nor can the majority seriously claim them to be so. Furthermore, although the majority purports to provide "necessary guidance to inform the development of a new congressional map on remittal" (majority op at 24 n 12), the majority's opinion provides no such guidance. Its conclusion, based on affirmed findings of fact that the congressional map was drawn with partisan intent, is not illuminating in the least because the majority does not engage in the kind of careful district-specific analysis that might provide any practical guidance to an actual mapmaker, nor could it on this record (*cf.* Wilson dissenting op at 12-25). By opining on this academic issue, the majority renders "an inappropriate advisory opinion" by "prospectively declar[ing] the [redistricting] invalid on additional . . . constitutional grounds" (*T.D. v New York State Off. of Mental Health*, 91 NY2d 860, 862 [1997]; *see Self-Insurer's Assn. v State Indus. Commn.*, 224 NY

13, 16 [1918] [Cardozo, J.] ["The function of the courts is to determine controversies between litigants . . . They do not give advisory opinions. The giving of such opinions is not the exercise of the judicial function"]).

Given the procedural violation flowing from the breakdown in the constitutional process, we must fashion a remedy that matches the error.[1] The Constitution contemplates that a court may be "required to order the adoption of . . . a redistricting plan as a remedy for a violation of law" (NY Const, art III, § 4 [e]). In so ordering, where a court finds that redistricting legislation violates article III, "the legislature shall have a full and reasonable opportunity to correct the law's legal infirmities" (§ 5). Consistent with these provisions, this Court should order the legislature to adopt either of the two plans that the IRC has already approved pursuant to section 5-b (g). Those plans show significant areas of bipartisan consensus among the IRC commissioners. The boundaries of the districts of Upstate New York, in particular, are nearly identical between the two plans and similar to those in the procedurally infirm plan enacted by the legislature (*see Matter of Harkenrider v Hochul*, — AD3d —, 2022 NY Slip Op 02648, *7 [4th Dept April 21, 2022] [Whalen, P.J. & Winslow, J., dissenting in part]). Given the existence of these IRC-approved plans, there is no need for a redistricting plan to be crafted out of whole cloth and adopted by a court. Rather, the legislature should be ordered to adopt one of the IRC-approved plans on a strict timetable, with limited opportunity to make amendments thereto. As part of our judicially crafted remedy, we could order that any amendments to either plan "shall not

[1] The majority seems unwilling to grasp this concept (majority op at 31-32 n 20).

affect more than [2%] of the population of any district contained in such plan" (Legislative Law former § 94). In other words, the legislature would be bound by its own self-imposed restrictions, which were in effect at the time these plans were first presented for legislative approval.

Such a remedy not only adheres more closely to the constitutional redistricting process, but it discourages political gamesmanship. Throughout this proceeding, respondents have asserted that the legislature has near-plenary authority to adopt a redistricting plan, whereas petitioners have sought to take the process out of the hands of the legislature and to place it into the hands of the judiciary. It is of course disputed why the constitutional process broke down, but it is readily apparent that the IRC's bipartisan commissioners failed to fulfill their constitutional duty. None of the parties is entitled to the resolution that he or she seeks.

In addition, this remedy allows the legislature to enact a plan that minimizes the impact on the reliance interests of both the voters and candidates. Petitions have been circulated, citizens have contributed monetary donations to the candidates of their choice, and eligible voters have had the opportunity to educate themselves on the candidates who are campaigning for their votes, all in reliance on the procedurally infirm redistricting plan enacted by the legislature. Of course, entrenched candidates have the party apparatus to support them in the event that further redistricting causes excessive upset to the current plan. In such a circumstance, outside candidates, upstart candidates, and independent candidates, who lack the resources of the well-heeled, will be disadvantaged most, leaving

the voters who support them without suitable options. The legislature, duly elected by the citizens of this State, is in the best position to take these considerations into account.

Yet, the remedy ordered by the majority takes the ultimate decision-making authority out of the hands of the legislature and entrusts it to a single trial court judge. Moreover, it may ultimately subject the citizens of this State, for the next 10 years, to an electoral map created by an unelected individual, with no apparent ties to this State, whom our citizens never envisioned having such a profound effect on their democracy. That is simply not what the people voted for when they enacted the constitutional provision at issue. Although the IRC process is not perfect, it is preferable to a process that removes the people's representatives entirely from the process. The majority states that it "decline[s] to render the constitutional IRC process inconsequential in the manner requested by the State respondents" (majority op at 23); however, the majority does just that by crafting a remedy that cuts the legislature out of the process. The citizens of the State are entitled to a resolution that adheres as closely to the constitutional process as possible. By ordering the legislature to enact redistricting legislation duly initiated by the IRC, this Court could afford the legislature its "full and reasonable" opportunity while honoring the constitutional process ratified by the people.

WILSON, J. (dissenting):

I agree with Judge Troutman that Article III, Section 5 of the Constitution means that the majority's referral of this matter to a special referee is not allowable, and I further agree that her proposed solution of requiring the Legislature to act on the Independent

Redistricting Commission ("IRC") maps that have been submitted, though novel, would be acceptable in the unusual circumstances presented here. I also fully concur in Judge Rivera's dissenting opinion, and I do not view Judge Rivera's opinion as necessarily inconsistent with Judge Troutman's proposed remedy. Therefore, I address the merits of the claim that the 2022 redistricting itself violates the Constitution. It does not.

The burden a plaintiff must meet to overturn legislative action as violative of the New York Constitution is extraordinarily high. We have often (though not always) described that burden as proving unconstitutionality "beyond a reasonable doubt" (*Matter of Wolpoff v Cuomo*, 80 NY2d 70, 78 [1992]; *but see Matter of City of Utica*, 91 NY2d 964 [1998] [upholding a state statute's constitutionality without reference to the beyond a reasonable doubt standard]; *Matter of Sherrill v O'Brien*, 188 NY 185, 198 [1907] ["A legislative apportionment act cannot stand as a valid exercise of discretionary power by the legislature when it is manifest that the constitutional provisions have been disregarded"]; *Matter of Whitney*, 142 NY 531, 533 [1894] [upholding the apportionment of Kings County into assembly districts because, although flawed, "the division has seemed to us a reasonable approach to equality, and under all the circumstances of the case a substantial obedience to the writ"]). Both Supreme Court and the Appellate Division described the test that way. Thus, to prevail, the petitioners need to have proved beyond a reasonable doubt that the Legislature's 2022 Congressional and State Senatorial districts were "drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties" (NY Const, art III, § 4 [c] [5]). It is important to

pay close attention to the wording of the Constitution. It does not prohibit the creation (or maintenance) of districts that are highly partisan in one direction or the other. Indeed, both in New York and around the rest of the nation, voters tend to cluster in geographic areas that reflect party affiliation. As a simple example, rural areas in New York and in the United States generally tend to have much higher concentrations of Republican voters than do urban areas. What the Constitution prevents is purposefully drawing districts to discourage competition or favor particular parties or candidates.

After a review of the record, I am certain that the petitioners failed to satisfy the "beyond a reasonable doubt" standard. By that, I do not mean to say that I know the Legislature did not draw some districts in a way that violated our State Constitution; rather, the evidence here does not prove that to be the case at the level of certainty required to invalidate the 2022 redistricting as unconstitutional. Perhaps with a different record, petitioners could make such a showing, but they have failed to do so here.

The question before us, then, is whether the petitioners introduced sufficient evidence to discharge their very high burden of proving that the Legislature adopted gerrymandered district lines in violation of the Constitution. That is unequivocally a question of law, and thus within the heartland of our Court's power of review (*see Glenbriar Co. v Lipsman*, 5 NY3d 388, 392 [2005]; *see also People v Jin Cheng Lin*, 26 NY3d 701, 719 [2016] [noting that whether "the proof (does not meet) the reasonable doubt standard" is "a matter of law" (alterations in original)]; *People v Tarsia*, 50 NY2d 1, 13 [1980] [evaluating "the total evidence" as to whether "the proof was insufficient as a matter

of law to support the affirmed findings that defendant's inculpatory statements . . . were voluntary"]; *People v Anderson*, 42 NY2d 35, 39 [1977] ["(W)hether the proof met the reasonable doubt standard at all is a matter of law"]; *People v Leonti*, 18 NY2d 384, 389 [1966] ["(W)hether the evidence adduced meets the standard required is one of law for our review"]). The majority incorrectly treats this as an unreviewable question of fact, characterizing Supreme Court's finding that the 2022 congressional map was drawn to discourage competition as a factual "determination" that has "record support" and thus should not be "disturb[ed]" (majority op at 26-27)—a distinct, and here inapt, standard (*see Stiles v Batavia Atomic Horseshoes, Inc.*, 81 NY2d 950, 951 [1993]).

Indeed, it is remarkably inaccurate to suggest that our Court is without power to review the Appellate Division's ruling on the partisan gerrymander claim. This case is before us as an appeal as of right based on CPLR 5601 (b). This case satisfies the conditions for an appeal as of right because the question presented—whether a congressional map, *i.e.*, a legislative enactment, is constitutionally invalid—is a question of law that is reviewable by this court (*see Cayuga Indian Nation of New York v Gould*, 14 NY3d 614, 635 [2010] ["(A) query concerning the scope and interpretation of a statute or a challenge to its constitutional validity" is a "pure question of law"]).

Petitioners' evidence falls into three basic categories. First, petitioners primarily rely on the testimony of Sean P. Trende, an elections analyst and doctoral candidate at Ohio State University. At best, Mr. Trende's results are incomplete and inconclusive, but they are also legally insufficient to meet the above standard. Second, petitioners rely on the

projected loss of four Republican Congressional seats (out of eight that currently exist). The difficulty with that proof is that it assumes that factors unrelated to how the districts were drawn have not caused the result. Third, petitioners contend that the 2022 redistricting was accomplished through the complete exclusion of Republican members of the Legislature from the process and a failed attempt by Democrats to further amend the Constitution, followed by the enactment of a statute. I view that as their best argument in support of their gerrymander claim but one that, without more, does not meet the high bar for invalidating the Legislature's 2022 redistricting plan.

I

The petitioners, Supreme Court, and the Appellate Division plurality each relied heavily on the testimony of Mr. Trende. Mr. Trende's testimony is based on simulations in which a computer algorithm uses demographic data, takes parameters set by the user, and draws districting maps for the region (in this case, New York State) specified by the user. This is the first time Mr. Trende has testified in a case in which he prepared redistricting simulations of any kind. Instead of using the Markov Chain Monte Carlo simulation algorithm, which has been regularly used in redistricting cases, Mr. Trende used a new simulation algorithm developed by Dr. Kosuke Imai, a Harvard professor, along with publicly available political and demographic data at the census block and precinct levels. Dr. Imai's new algorithm appeared in an unpublished paper that had yet to be peer-reviewed. In that paper, Dr. Imai reported that he had tested the reliability of his new model

by applying it to a 50-precinct map and running 10,000 simulations. By comparison, New York State has more than 140,000 precincts; uncontroverted evidence (including from Mr. Trende) establishes that the complexity of producing a working algorithm increases as the number of precincts increases.

In brief, Dr. Imai's algorithm draws possible maps, starting from a blank page, but taking into account parameters the user sets. For example, a user can specify to avoid splitting a county (or city) into different districts, though sometimes splitting is inevitable and may be accomplished in myriad ways. By running thousands of simulations and comparing them to what the Legislature has done, the model allows for measurement of the difference in party breakdown between the collection of simulated maps and the legislatively drawn map. The model can produce summary statistics showing, for example, that, when compared to the legislative map, the simulated maps distribute voters of one party or another (here, Republicans) in a way that concentrates a lot of them into some districts where Republicans would likely have won elections anyway, thus removing them from districts where Democrats might have faced a close election. In simple terms, Mr. Trende concluded that the legislative map consolidated Republican voters into a few Republican-leaning districts and spread Democratic voters in an efficient fashion. Of course, the model cannot tell you *why* the Legislature drew the districts that way, but, provided that a scientific method is proven to be reliable, the data entered is of good quality, the parameters chosen are correct, and the results are robust (*i.e.*, not susceptible to material swings in output when parameters are varied within reasonable ranges for those

parameters), the law allows intent to be inferred from results in a variety of areas (*e.g.*, *People v Guzman*, 60 NY2d 403, 412 [1983] [discriminatory intent inferred from underrepresentation in Grand Jury selection]; *303 W. 42nd St. Corp. v Klein*, 46 NY2d 686, 695 [1979] [discriminatory intent inferred from "a convincing showing of a grossly disproportionate incidence of nonenforcement against others similarly situated in all relevant respects save for that which furnishes the basis of the claimed discrimination"]).

Again, Article III, Section 4 of the Constitution states that "[d]istricts shall not be drawn *to* discourage competition or *for the purpose of* favoring or disfavoring incumbents or other political candidates or other political parties" (emphasis added). The prohibition, then, is against drawing maps *with the intention to* discourage competition or favor or disfavor incumbents, political candidates, or political parties. In other words, if a given map ends up discouraging competition or favoring a political party, that map does not necessarily run afoul of the Constitution's prohibition. Instead, an *intent* to discourage competition or to favor that political party must be shown for the map to violate the Constitution.

Staten Island provides a good example to keep in mind, one to which I will return later. Staten Island is traditionally Republican. It does not have quite enough people in it to constitute an entire congressional district, but it forms the vast portion of Congressional District 11, both in the 2010 districting and the Legislature's 2022 districting, with the added voters coming from Brooklyn. No one suggests that, by keeping Staten Island intact within a single congressional district instead of splitting it across two districts with more

Brooklynites, the Legislature in 2010 or 2022 did so with the intent to advantage Republicans. If you split Staten Island into two different congressional districts and added enough Brooklynites to fill out those districts, each of the districts would have more Brooklynites than Staten Islanders, and the strength of the Republican voting of Staten Island would be diluted. The two new districts might be more competitive—*i.e.*, closer to 50/50 than District 11 is or has been—but it is sufficient, to reject a claim of intent to advantage Republicans by keeping Staten Island whole within a single district, to say that it is an island and people there live in communities that are distinct from those in Brooklyn. Again, the *why* is important, not the *what*.

Mr. Trende's testimony and analysis were legally insufficient to bear on the question of intent for three reasons. First, the New York Constitution *requires* the consideration of several specifically identified factors when creating congressional districts, with some additional factors required for State Senatorial districts. Thus, Mr. Trende's results at most show that if we amended the New York Constitution to strike out those factors, he could conclude the Legislature acted with intent to disfavor Republicans or reduce competition. Second, close examination of districts in the real world, as compared to those hidden in thousands of hypothetical unseen maps, further exposes the unreliability of Mr. Trende's conclusions. Finally, the novelty of Dr. Imai's algorithm and the opacity of Mr. Trende's implementation of it create very substantial doubt as to his conclusions. The method is novel and not peer reviewed. Mr. Trende did not attempt the established Markov Chain Monte Carlo simulation to compare it to his results, nor did he provide the model, inputs,

data sets, or output maps that formed the basis for his analysis. Indeed, neither he nor anyone has seen the algorithm-produced maps underlying his analysis. We are being asked to determine unconstitutionality based on shadows.

New York's Constitution requires that the following factors be considered when drawing congressional districts:

1. Compliance with "the federal constitution and statutes" (NY Const, art III, § 4 [c]);
2. "whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to or have the purpose of, nor shall they result in, the denial or abridgement of such rights" (*id*. § 4 [c] [1]);
3. "Districts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice" (*id*.);
4. "Each district shall consist of contiguous territory" (*id*. § 4 [c] [3]);
5. "Each district shall be as compact in form as practicable" (*id*. § 4 [c] [4]);
6. "Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties" (*id*. § 4 [c] [5]);
7. Consideration of "the maintenance of cores of existing districts" (*id*.); and
8. Consideration of the maintenance of "pre-existing political subdivisions, including counties, cities and towns, and of communities of interest" (*id*.).

For senatorial districts, the Constitution adds requirements that "senate districts not divide counties or towns, as well as the 'block-on-border' and 'town on border' rules" (*id*. § 4 [c] [6]).

Mr. Trende admittedly did not attempt to have his simulations account for several of the constitutionally required factors listed above. For that reason alone, his simulations do not provide evidence of the Legislature's intent to disfavor Republicans or reduce competition. Putting aside all other methodological and implementation problems, a proper comparison would ask: what would an unbiased mapmaker (the algorithm) do if given the same constitutional requirements as the Legislature has? Instead, Mr. Trende has attempted to answer a different question: what would an unbiased mapmaker do if it lacked some of the constitutional requirements the Legislature is required to follow?

This is not merely a conceptual problem, which is readily seen by identifying the constitutional factors Mr. Trende omitted. First, under the Equal Protection Clause and the federal Voting Rights Act ("VRA"), the composition of congressional districts must not discriminate on the basis of race or color (52 USC § 10301; US const, amend XIV, § 1). New York's Constitutional requirements, listed as items 2 and 3 above, represent similar protections not just on the basis of race, but language as well. Mr. Trende gave no instruction to his algorithm to take any consideration of those constitutional requirements for drawing districts. Mr. Trende noted that his "simulated maps are not drawn with any racial data available to the simulation"—that is, the simulation could not even take race into account in drawing districts if Mr. Trende had specified that as a parameter. Likewise,

nothing in the record suggests that Mr. Trende's simulation used any data concerning the language of inhabitants, and he made no claim to have done so.

Faced with criticism that he had omitted consideration of factors 1 through 3 above, Mr. Trende responded generally that, "every one of Respondent's experts could readily demonstrate that . . . fixing the purported omissions might lead this Court to arrive at different conclusions," which, as explained below, attempts to shift the burden of proof onto respondents. He then explained his omission on the ground that "there is no evidence proffered by any party of racially polarized voting in New York City or in particularized boroughs, nor is there any evidence that any single minority group can form a reasonably compact majority in a district." Besides lacking any evidentiary support, his assertion is patently and commonly understood to be wrong. Looking just to last year's New York City mayoral election, Curtis Sliwa, the Republican nominee, "scored 44% of the vote in precincts where more than half of residents are Asian — surpassing his 40% of votes in white enclaves, 20% in majority-Hispanic districts and 6% in majority-Black districts" (Rong Xiaoqing et al., Chinese Voters Came Out in Force for the GOP in NYC, Shaking Up Politics, The City [Nov 11, 2021], https://www.thecity.nyc/politics/2021/11/11/22777346/chinese-new-yorkers-voted-for-sliwa-gop-republicans). In the same election, now-Mayor Eric Adams "dominated" the "Black Bloc," a "63 percent non-Hispanic Black and 23 percent college-educated swath of Brooklyn and Queens," where Adams grew up and where he won "63 percent of first-place votes" (Nathaniel Rakich, How Eric Adams Won The New York City Mayoral Primary,

FiveThirtyEight [Aug 25, 2021], https://fivethirtyeight.com/features/how-eric-adams-won-the-new-york-city-mayoral-primary/).

Mr. Trende attempted to make some account of the omission of the federal and state protections for racial minority voting rights by "freezing" certain census blocks in nine districts to remove them from his analysis, explaining that those districts are "plausible candidates for protection under the VRA or the State Constitution." Even assuming that his choice of districts is sound, his results demonstrate the importance of his omission of constitutionally required factors: his "frozen" simulations produced results that "ma[ke] Petitioner's case more difficult." Specifically, those "plausible" protections for minority voters produced results that "accept[] the Legislature's decision to pair Yorktown with Yonkers in the Sixteenth District, and to crack Republican-leaning areas in Midwood and Sheepshead Bay between the Ninth and Eighth districts." In other words, by including even a rough proxy for protection of minorities, he admits that some of what he described as gerrymandering is explainable instead by protection of minority voting rights. Mr. Trende's utter lack of consideration of the constitutional requirement to consider protection of non-English language groups inherently means his simulations do not show what an unbiased mapmaker would do if that constitutional command mattered.

Likewise, Mr. Trende completely neglected considering keeping "communities of interest" together (item 8 above), as the Constitution requires. Keeping in mind that differences in party affiliation within a district do not matter unless they were created with the *intent* to disadvantage a party or candidate or to reduce competition, Mr. Trende ignored

that the IRC—composed in equal parts of persons appointed by Democrats and Republicans—reached agreement on keeping together many communities of interest. For example, both sets of IRC maps (one produced by the Democratic faction and the other by the Republican faction) agreed that the Southern Tier of New York should be unified in a district. The Southern Tier is a strip of eight counties along upstate New York's southern edge, the part of the state that shares a border with Pennsylvania.[1] Those counties are grouped as a region in New York State's materials on economic development (*see* New York State, Empire State Development: Southern Tier, https://esd.ny.gov/regions/southern-tier [last accessed Apr 26, 2022]). Indeed, the region has a storied history of being a manufacturing powerhouse, though the region also faced struggles within the past decade due to a decline in manufacturing and uncertain economic development (Susanne Craig, New York's Southern Tier, Once a Home for Big Business, Is Struggling, NY Times [Sept 29, 2015], https://www.nytimes.com/2015/09/30/nyregion/new-yorks-southern-tier-once-a-home-for-big-business-is-struggling.html). Those counties are more Republican than Democratic; in a show of how culturally distinct the region is, hundreds of residents in the Southern Tier in 2015 rallied in support of seceding from the state of New York (*id.*). One Republican lawmaker even applauded the fact that the maps proposed by the Democratic and Republican commissioners to the IRC both kept the Southern Tier intact (Rick Miller,

[1] The Southern Tier has long been recognized as a cohesive political unit (*see* Warren Moscow, GOP Held Strong in Southern Tier, NY Times [Oct 16, 1946], https://timesmachine.nytimes.com/timesmachine/1946/10/16/107146657.html?pageNumber=31).

Southern Tier Congressional District Essentially Maintained in NY Redistricting Maps, Olean Times Herald [Jan 4, 2022], https://www.oleantimesherald.com/news/southern-tier-congressional-district-essentially-maintained-in-ny-redistricting-maps/article_56c5d543-6c8a-55d3-a3de-e662bdb0f6dd.html). For upstate New York, the Democratic Commissioners and the Republican Commissioners agreed that there should be three Republican-leaning districts: one uniting the Southern Tier, one uniting the North Country, and one by Lake Ontario. The Commissioners from the two parties also agreed that there should be Democratic-leaning districts in the four urban areas in upstate New York: in and around Albany, Syracuse, Rochester, and Buffalo. The result of those bipartisan decisions by the IRC demonstrates that those districts (broadly, all of upstate New York, about which the IRC had no substantial disagreements) should have been excluded from Mr. Trende's simulations. But even though the Southern Tier and the other upstate counties and cities were bipartisanly districted as "communities of interest," Mr. Trende made no effort to keep the Southern Tier, or other communities of interest, intact in his model. Indeed, Mr. Trende "didn't pay any attention to what any of those [IRC] commissioners [had] done in their proposals," had not read any of the testimony before the IRC, and did not know whether there was any testimony before the IRC about communities of interest.

Instead, he told Supreme Court that such communities are too difficult to code, even though he also acknowledged that in a redistricting exercise he undertook for Virginia, he and his co-researcher accounted for communities of interest. Mr. Trende did not do any sort of proxy analysis as he did for race, and because neither he nor anyone else ever looked

at the 10,000 maps his simulation drew, he has no idea what his algorithm did to the Southern Tier or any other upstate areas. But Dr. Imai's own data provides some insight.

Mr. Trende used Dr. Imai's model and data. The record includes four sample maps from a set of 5,000 simulations for New York prepared by Dr. Imai himself. Two of the sample maps from Dr. Imai's simulations broke up the North Country. All three of the sample maps broke up the Southern Tier. None of Dr. Imai's sample maps maintained Democratic-leaning districts around all of Albany, Syracuse, Rochester, and Buffalo. Those samples strongly suggest that Mr. Trende's conclusions about intentional gerrymandering depend on comparison to maps that would have broken up congressional districts arrived at by bipartisan consensus. Of course, had Mr. Trende looked at his own maps, or even turned them over for respondents to examine, we would be able to know how many of his "less gerrymandered" simulations were incompatible with districting actually arrived at bipartisanly, with regard for the constitution's directions.[2] Instead, it is

[2] Mr. Trende's decision not to examine his own maps and not to permit anyone else to see them poses a separate reliability issue. Dr. Imai's algorithm generates huge numbers of redundant maps, which should be weeded out before analysis is conducted. Mr. Trende himself did so when working on a redistricting map for Maryland. There, he completed three sets of 250,000 simulations. He then eliminated the duplicates, which ranged from 220,000 to 160,000 for each of his sets—that is, 64% to 88% of the maps produced were duplicates that he discarded (*Szeliga v Lamone*, Nos. C-02-CV-21-00173, Slip Op at 99, 102-104). Furthermore, New York State is significantly larger than Maryland; whereas Maryland only has 8 congressional districts, New York has 26 congressional districts. Mr. Trende acknowledged that that the more precincts are involved, the more complicated it becomes to accurately use redistricting simulations to draw conclusions. Yet, in spite of acknowledging that using simulations for New York would be more difficult than for Maryland, Mr. Trende inexplicably generated only 10,000 simulations for New York and subsequently failed to check even that small set for duplicates.

clear that, just as with the racial and language protections in the constitution, Mr. Trende's exclusion of communities of interest has made his analysis legally irrelevant: at most, it answers what an unbiased mapmaker would do if that mapmaker was told to disregard protection of racial minorities, language minorities and communities of interest.

One final example from Dr. Imai's work illustrates the unsoundness of Mr. Trend's conclusions. His conclusions are based on comparing the algorithm-drawn simulated districts, which purportedly are "less gerrymandered," against the Legislature's redistricting plan. Because neither we nor Mr. Trende knows what his "less gerrymandered" maps look like, we cannot know whether they are sensible maps that should be included in such a comparison. But because Dr. Imai, using the same data and same model, displayed some sample maps, we can observe the kind of maps Mr. Trende has relied on for his conclusions. Sample Plan 1 from Dr. Imai's simulation placed Schuyler County and Franklin County into the same congressional district. Schuyler County is near upstate New York's southern border with Pennsylvania, and Franklin County is one of the northernmost counties in New York, on the border with Canada—that is, those two counties are on opposite sides of upstate New York. Their county seats are 262 miles away via highway (Google, Google Maps Driving Directions for Driving from Watkins Glen, New York to Malone, New York, https://perma.cc/L3KH-DN5B [last accessed Apr 26, 2022]). In essence, what Mr. Trende is showing is that the partisan imbalance of some congressional districts could be reduced by radically rejiggering them

in a way that no human mapmaker (or resident of either of those counties) would think remotely sensible. Interesting though it may be, it is legally irrelevant.

Apart from the omitted constitutional requirements, the creation of districts requires balancing among the different constitutional requirements. Some are relatively inflexible—such as districts of equal population (*see Baker v Carr*, 369 US 186 [1962]), compliance with the VRA or, for senatorial districts, the "block-on-block" rule; others, such as compactness or protection of communities of interest, allow for an exercise of judgment in how to balance them. Mr. Trende made no explicit decision in how to balance the factors he did include, was uninformative about what balance was implied, and did not vary the relative weights of his parameters to determine the robustness of his conclusions. For instance, Mr. Trende included a parameter for the compactness of districts, which the constitution instructs should be considered. When asked how he valued compactness, he testified to selecting a value of "1" in Dr. Imai's model because he knew that "the other choices don't work well." He agreed that the compactness parameter could be set at less than 1, or more than 1, but provided no explanation for what the settings meant, how much priority a change in setting gave to compactness versus any other factor, or even what was meant by other values not working well—which may simply mean that when he tested for robustness of the parameter, he found that changing the relative weight given to compactness resulted in statistics that did not support his conclusions or that the model ceased to function, neither of which should give us confidence sufficient to hold the redistricting unconstitutional.

Similarly, Mr. Trende said that Dr. Imai's model allowed an "on" or "off" switch on whether to split counties. He put that switch "on," even though New York map drawers must balance county preservation with other considerations—effectively meaning he gave county integrity a superpriority over other constitutional factors. Nothing in the Constitution requires the Legislature to prefer county integrity over any other factor, or even to give the same priority to county integrity for every county. Rather, the Constitution gives the Legislature flexibility in weighting many of the required considerations differently in different circumstances, but Mr. Trende implicitly assigned fixed and universal relative weights to every one of those that he included. Faced with the potential for differently weighting parameters, responsible modelers alter the parameters within reasonable bounds to see whether the alterations make a difference. When the difference is not great, models are robust; when they are great, models are lacking in probative value (*see, e.g.,* Amariah Becker et al., Computational Redistricting and the Voting Rights Act, 20 Election L J 407, 430 & n 31 [2021]). When nobody tests for robustness, invalidating districts as unconstitutional beyond a reasonable doubt is sheer guesswork.

Respondents pointed out the many deficiencies in Mr. Trende's model. In addition to the examples explained in detail above, Mr. Trende repeatedly and improperly answered in a way that attempted to shift the burden of proof from petitioners onto respondents. For instance, in response to respondents' assertion that his failure to consider all the relevant constitutional considerations undermined the validity of his methodology, Mr. Trende asserted that "[e]very one of Respondents' experts is more than capable of either re-running

the relevant simulation algorithm that I employed or executing a competing algorithm" and "[i]f there are indeed important communities of interest to be protected, however, any of Respondents' experts could program a simulation that respected those communities of interest and potentially harm Petitioners' case." On cross-examination, he reiterated that "if there is something that [the respondents'] experts believe . . . is missing that makes a difference -- they think makes a difference, they can do it."

The lower courts erroneously acceded to Mr. Trende's burden shifting, which itself is a legal error requiring reversal (*Harkenrider v Hochul*, --- AD3d ---, 2022 NY Slip Op 02648, *7 [4th Dept 2022] [Whalen, P.J., dissenting]).[3] Proof beyond a reasonable doubt is an exacting standard: a party bearing that burden must remove all reasonable doubt, which is not met by saying that the opponent has the ability to disprove an assertion. Faulting the respondents for the petitioners' failure to account for constitutionally required redistricting criteria improperly reverses the burden of proof; it is the *petitioner*'s burden to prove unconstitutional partisan intent beyond a reasonable doubt.

In short, the factors set out in the Constitution must be considered during redistricting with flexibility in the relative weighting on a case-by-case basis. Maintaining the Southern Tier as a community of interest may be powerfully important; maintaining the Upper West Side as one may not be. Mr. Trende acknowledged that his algorithm

[3] For example, Supreme Court noted that Mr. Trende "did not include every constitutional consideration"—which should render his evidence legally insufficient. Supreme Court explained away that deficiency by saying that "[n]one of Respondents' experts attempted to draw computer generated maps using all the constitutionally required considerations," a clear example of improper burden shifting.

cannot undertake that balancing, and to his credit explained that "the more that you adequately control all of the variables that the actual mapmakers actually used, the more you can infer intent, and the less you adequately control for those variables, the less you can infer intent" to gerrymander. Because Mr. Trende's analysis omitted constitutionally required factors and fixed implicit weights for others without allowing for flexibility, all his analysis demonstrates, at best, is that if our Constitution read very differently, he could find an intent to gerrymander. That conclusion is orthogonal to the issue here.[4]

II

Apart from Mr. Trende's opinion, the Appellate Division plurality concluded that the "'application of simple common sense' from the enacted map itself and its likely effects on particular districts" supports petitioners' argument that the legislative districts were intentionally created to disfavor a party or candidate or render certain districts less competitive (2022 NY Slip Op 02648, *5 [citations omitted]). There are three significant problems with that conclusion. First, as noted above, for the great majority of

[4] The error in the majority's sole, footnoted response, contending that I have performed a weight of the evidence analysis (majority op at 27 n 14), can be illustrated as follows: Mr. Trende uses a Ouija board to determine that the districts have been gerrymandered, and, when communicating with the spirits in the netherworld, directs them to the provisions in North Carolina's constitution instead of New York's. The lower courts rely on that evidence to hold that the New York Legislature has engaged in gerrymandering. According to the majority, the New York Court of Appeals could not conclude an error of law has been made. The majority is right about one thing: I disagree that my job is so limited.

congressional (and senatorial) districts, the Republican and Democratic factions of the IRC substantially agreed as to the district boundaries, and the legislative plan does not deviate materially in the case of those districts. Of course, that does not resolve the question for districts on which the IRC factions disagreed or for which the Legislature's plan was materially different, but it should remove most districts from the dispute.

Second, the Appellate Division relied on the following observation: "under the 2012 congressional map there were 19 elected democrats and 8 elected republicans and under the 2022 congressional map there were 22 democrat-majority and 4 republican-majority districts" (2022 NY Slip Op 02648, *3). The majority acknowledged that, standing alone or even in conjunction with the lack of Republican input into, or vote for, the 2022 map, the evidence would not be strong enough to surmount the high standard for invalidating the 2022 redistricting as unconstitutional. However, the mere change in the number of majority Democratic and Republican districts says nothing about *why* those changes occurred or about intent. The inference that the change is nefarious ignores important undisputed data.

The 2012 districts are obsolete and not a relevant source of comparison. Population and registration shifts demonstrate that New York's voting populace has changed in the Democrats' favor. In the past ten years, Democratic voter registration has outstripped Republican voter registration ten-to-one: Democratic voter registration increased by more than one million people statewide between April 2012 and February 2021, whereas Republican voter registration increased by less than 100,000 people during the same

period. Similarly, over the decade, Democrat-leaning counties have increased in population, whereas Republican-leaning counties have decreased in population. It is unsurprising that such drastic shifts would occur in just a ten-year time horizon; that's why the Constitution requires decennial redistricting (NY Const, art III, § 4 [a]).

The characterization of the outgoing 2012 map as having 19 Democrat-leaning and eight Republican-leaning districts—in comparison to the four Republican-leaning districts in the 2022 map—is misleading because it disregards the changes of the last decade. To start, it is undisputed that one Republican seat under the 2012 map, former District 22, was eliminated due to substantial population shifts and New York's loss of a congressional seat. But more importantly, it is undisputed that, based on the 2020 census data, the 2012 map would also produce only four Republican-leaning districts.

Third, and most importantly, it is undisputed that the 2022 legislative redistricting was slightly *more* favorable for Republicans than the array of simulated "unbiased" maps produced by Mr. Trende's simulation. The Appellate Division contended that, by "boldly asserting" that the Democratically created 2022 plan tended to favor Republicans more than Mr. Trende's supposedly neutral maps, "respondents have created a further inference that they acted with a partisan purpose favoring democrats" (2022 NY Slip Op 02648, *4). That claim confuses intent with effect. I return to Staten Island to illustrate the point.

Staten Island has historically been treated as a community of interest and not split into different congressional districts. If Staten Island is to be kept that way (wholly within District 11), it needs to include voters from somewhere else because Staten Island does not

have enough people to make up a full congressional district. Because of contiguity requirements, that must be Brooklyn. The 2012 map of District 11 included all of Bay Ridge (which is just north of the Verrazano Bridge) and Bath Beach, a few blocks of Bensonhurst, and Gravesend (all south of the bridge). The Legislature's 2022 redistricting keeps Bay Ridge to the north (itself a community of interest) with Staten Island, but instead of then going south, it drops out Bath Beach, the bit of Bensonhurst and Gravesend, and goes north and incorporates Sunset Park and a small bit of Park Slope.

Among the thousands of comments sent to the IRC after it publicly released its draft report for comments, looking just at the Richmond and Kings County submissions (https://nyirc.gov/storage/archive/Kings_Richmond_Redacted.pdf), numerous letters asked the IRC to keep various groups together. Among those is a letter from OCA-NY (formerly known as the Organization of Chinese Americans), a "non-profit, non-partisan organization dedicated to protecting the rights of Asian Americans in New York City." That letter urged the IRC that, with regard to District 11, which contained Staten Island, "Bensonhurst and Bath Beach should NOT be with Staten Island. . . . Staten Island does not share a similar concentration of Asians, nor the culture of Asian businesses as Bath Beach/Bensonhurst, nor do residents in Bath Beach/Bensonhurst travel on a regular basis to Staten Island and vice versa." Justin Wood, a Staten Islander, asked the IRC to "counter decades of artificial gerrymandering" by "extend[ing] NY11 northward into Bay Ridge and Sunset Park to unify linguistic and ethnic communities with shared interests." Karen Zhou, the past president of Homecrest Community Services, wrote the

IRC noting that "Sunset Park, Bensonhurst, Homecrest, Sheepshead Bay, Dyker Heights, Bath Beach and Gravesend . . . [have] an interconnection bounded by common culture, language and socioeconomic factors," further requesting that Bensonhurst and Homecrest be "together in one Congressional district . . . [to] ensur[e] communities of interest are not ignored or neglected."

District 11 has been made less Republican by paying attention to unifying Asian American communities (which relates to the racial, language and community of interest requirements in the Constitution), for which the comments to the IRC were uniformly supportive. Because of contiguity requirements, there was nowhere to go but further north. The Appellate Division's observation that the reduction in Republican-leaning districts (or in the strength of the Republican lean) demonstrates an *intent* to gerrymander rather than an attempt to pay attention to the Constitution is unsupportable. Data tells you effect only. But the record before the IRC shows that various members of the Asian American community—and one Staten Islander—urged the IRC to go north instead of south specifically to serve the ends of the VRA and the constitutional provision requiring weight be given to communities of interest. The algorithmic comparators on which the lower courts relied, by omitting considerations required by the Constitution, gave zero weight to those considerations, effectively saying that the Asian American community does not matter. That, in turn, leads to an unfounded inference that the 2022 redistricting was *intended* to disadvantage Republicans, when, in the case of Staten Island, it was intended

to protect Asian American voting rights and community interests, as the Constitution requires.

III

The remaining evidence on which petitioners rely to demonstrate that the 2022 redistricting was done with intent to disfavor Republicans or make certain districts less competitive relates to procedural issues concerning the 2021 legislation, a failed 2021 constitutional amendment, and the creation of the 2022 districts in a three-day period after the IRC failed to deliver a revised report. Unlike the prior two factors, these are not legally irrelevant. As the Appellate Division concluded, however, as to petitioners' arguments on the process pursued to enact the 2022 map and its projected loss of Republican seats: without more and even with every reasonable inference taken in petitioner's favor, they do not meet the standard to declare the 2022 redistricting plan unconstitutional (2022 NY Slip Op 02648, *3).

First, petitioners claimed that Democrats unilaterally drafted the 2022 redistricting map without any input or involvement from Republicans. The Appellate Division plurality further pointed to the "largely one-party process used to enact the 2022 congressional map" as partial support for its conclusion that petitioners met their burden of proving an inferred intent to favor the Democratic party (2022 NY Slip Op 02648, *3). That the process was dominated by one party, however, is a result of the current political reality of the Legislature. Put another way, the Legislature reflects the current choice of the people as

to who will best represent their interests. Indeed, even had the IRC not shirked its duty, the Democratic supermajority in both houses could have rejected all IRC plans and then, consistent with the Constitution, adopted a plan without any Republican support. That result would be "partisan" in a sense, but not in the sense that would be necessary to show an intent to violate the Constitution. That the vote was along party lines could just as well suggest that the Republicans wanted to prevent a redistricting map that corrected past gerrymandering favoring Republicans (or an electoral shift that diminished their chances) as it could that Democrats sought to exclude Republicans for their party's benefit.

Next, petitioners contend that the (Democratically controlled) Legislature, in June 2021, passed legislation providing for the possibility that the IRC might not vote on any redistricting plans, which the Governor signed in November 2021, and that the statute provides evidence of partisan intent to gerrymander because it provides that the Legislature will conduct the redistricting in that eventuality. As with the above claim, the statute's adoption is not particularly probative as to intent. It is equally possible that the Legislature, seeing the possibility of electoral chaos in the event that the IRC failed to act as required, clarified that the outcome would be the same as if the IRC produced plans that the Legislature rejected. The fact that the statute was passed without Republican support might suggest a future intent by Democrats to gerrymander. It might suggest an intent by Republicans to oppose any measures that would correct existing imbalances. Or it might suggest that legislators simply sought to provide for something not contemplated by the Constitution.

Finally, petitioners point to a failed attempt by Democrats to further amend the Constitution as supporting an inference that the Democrats intended to favor a political party through the 2022 map. In November 2021, the Legislature proposed a constitutional amendment to the voters. Under that proposed constitutional amendment—if the IRC failed to vote on any redistricting plan or plans by the date required—the Commission would submit to the Legislature all plans in its possession, completed and in draft form, and the data upon which those plans were based (2021 SB 515 § 5-b [g-1]). If the IRC so failed in voting and had to submit its plans to the Legislature, that failure would require the Legislature to create its own redistricting plan, to be enacted by the Governor (*id.* § 4-b). The proposed constitutional amendment also included other changes, including increasing the number of state senators (*id.* § 2), establishing a timeline for 2022 redistricting (*id.* § 4 [b]), and requiring that incarcerated people be re-numerated to their last place of residence for the purpose of drawing redistricting lines (*id.* § 4 [c] [6]). On one hand, the petitioners argue that the voters' rejection of the amendment shows that the voters would also have disapproved of the statute, and that both the failed amendment and statute were part of a plan by Democrats to bypass the IRC. On the other hand, as with the statute, it is perfectly feasible that Democrats worried that the IRC process would break down and wanted to clarify what should occur in that instance for the sake of election efficiency and integrity.

Taking all of this together, and taking every inference in favor of petitioners, one could colorably believe that the Legislature was attempting to position itself to be able to draw legislative districts unfettered by the IRC if the IRC deadlocked. As the Appellate

Division concluded, however, that evidence, standing alone, does not prove intent to gerrymander beyond a reasonable doubt (2022 NY Slip Op 02648, *3).

IV

I agree with the principles underlying the majority's opinion. Election districts should not be created for the purpose of disadvantaging political opponents. Nor should they be created to disadvantage racial or ethnic minorities, or constructed in ways that minimize the responsiveness of elected officials to their constituents by, for example, splitting cities or communities of interest apart. I also do not rule out that, with a sound analysis, these plaintiffs or others could prove that the 2022 legislative plan violated the Constitution, at least in some districts. My disagreements are threefold:

- I read the constitutional provision as Judge Rivera does—leaving the redistricting authority ultimately in the hands of the Legislature;
- I am convinced these petitioners have not adduced legally sufficient evidence to demonstrate gerrymandering; and
- given my first two disagreements, I believe the majority's remedy inappropriately strips from the Legislature the right clearly provided in Article III, Section 5: "In any judicial proceeding relating to redistricting . . . [i]n the event that a court finds such a violation, the legislature shall have a full and reasonable opportunity to correct the law's legal infirmities." This case is such a proceeding. As the majority

says, "[t]he Constitution is the voice of the people speaking in their sovereign capacity, and it must be heeded" (majority op at 32, quoting *Matter of New York El. R.R. Co.*, 70 NY 327, 342 [1877]). Why, then, does the majority not heed the Constitution's command that the Legislature must be given a "full and fair opportunity" to address the legal infirmities identified in this judicial proceeding?

RIVERA, J. (dissenting):

I would reverse the Appellate Division judgment because petitioners failed to establish that the legislature violated the state's redistricting procedures or constitutional mandates. The legislature acted within its authority by adopting the redistricting legislation

challenged here after the Independent Redistricting Commission (IRC) chose not to submit a redistricting plan by the second constitutional deadline. Thus, there is no procedural error rendering the redistricting legislation *void ab initio*. Petitioners' claim of a substantive violation based on gerrymandering is also without merit as their evidence fell far short of proving that the legislature's congressional map was unconstitutional beyond a reasonable doubt.

I.

In interpreting a constitutional provision, the primary role of this Court is to give effect to its unambiguous text and the intent of the People in adopting the provision (*see White v Cuomo*, — NY3d —, —, 2022 NY Slip Op 01954, *5 [2022]). This appeal requires that we interpret Article III, §§ 4 and 5 of the New York Constitution. Under section 4, the IRC shall prepare decennially a redistricting plan to establish State Assembly and Senate and federal congressional districts and submit such plan and implementing legislation to the legislature for its consideration, without amendment (*see* NY Const, art III, § 4 [b]). If the legislature fails to approve the proposed legislation, the IRC shall prepare and submit a second redistricting plan and necessary implementing legislation for consideration (*see id.*). If the legislature fails to approve the second plan, the legislature shall approve its own implementing legislation (*see id.*). Section 4 (e) acknowledges that the redistricting procedure may not be followed where "a court is required to order the adoption of, or changes to, a redistricting plan as a remedy for a violation of law." Section 5 further provides that upon a judicial finding that a redistricting law violates Article III, such law shall be "invalid in whole or in part," and that "the legislature shall have a full and

reasonable opportunity to correct the law's legal infirmities." Here, the IRC initially submitted two redistricting plans by the first deadline. The legislature failed to approve either. When the IRC chose not to make another submission by the second deadline, the legislature drafted and approved redistricting implementing legislation which the Governor signed.[1]

Petitioners, residents of several New York districts, claim that the legislature avoided the exclusive redistricting process set forth in sections 4 and 5 by enacting redistricting legislation in the absence of an IRC submission by the second deadline, because a second IRC submission is a constitutional requirement that triggers the legislature's authority to act. Petitioners further claim that the redistricting legislation is the product of intentional gerrymandering by the democratic members of the State legislature, in violation of section 4 (c) (5) of article III of the Constitution. As I discuss, petitioners are wrong as a matter of law on their procedural challenge and have failed to prove their gerrymandering allegation.

II.

[1] Contrary to the majority's view, the IRC was not required to submit a different set of second plans. Indeed, the lead Republican IRC Commissioner noted that the Republican members of the IRC had considered agreeing to submit the same plans during the second round, but he concluded that "he would prefer for the Legislature to begin its process then postpone it one week with presumably voting down maps that he claims have not changed" (Joshua Solomon, *Independent Redistricting Commission Comes to a Likely Final Impasse*, Times Union [Jan. 24, 2022], https://www.timesunion.com/state/article/Independent-Redistricting-Commission-comes-to-a-16800357.php).

There is no procedural error of constitutional magnitude warranting invalidation of the legislature's redistricting implementing legislation. That conclusion is supported by either of two analytic paths.

A.

By one view, the process followed by the legislature here does not violate the text or purpose of article III because the IRC in fact submitted two plans, albeit all at once, in furtherance of the purpose of section 4, and, in any case, the legislature is not bound to approve an IRC plan as drafted.[2] Under that view, the legislature acted appropriately on the unique facts of this case. First, the Constitution does not mandate legislative adoption of any IRC-proposed implementing legislation; the legislature may opt to reject the IRC submissions and proceed to draft implementing legislation, which would then be submitted to the Governor for action (*see* NY Const, art III, § 4 [b]).[3] That is exactly what happened here. Second, the Constitution requires that in the event that more than one draft plan receives an equal number of IRC member votes for approval, above the votes garnered for any other plan, the IRC must submit all of those plans to the legislature in accordance with section 4 (b) of article III of the Constitution (*see id.* § 5-b [g]). Thus, if the IRC fails to

[2] The majority incorrectly asserts that the legislature's alleged violation of the constitutional procedure is undisputed (*see* majority op at 2). In fact, respondents have maintained that the IRC, not the legislature, is at fault here.

[3] Several of the states cited by the majority (*see* majority op at 4 n 2) have adopted redistricting commissions which are not subject to legislative approval (*see e.g.* Cal Const, art XXI, § 2; Colo Const, art V, § 48; Mich Const, art 4, § 6; *see generally* Loyola Law School, *All About Redistricting: National Summary*, https://redistricting.lls.edu/national-overview/?colorby=Institution&level=Congress&cycle=2020 [last visited Apr. 27, 2022]).

garner a majority vote, the IRC is empowered to submit more than one redistricting plan and implementing legislation for the legislature's consideration. That is also what happened here. Third, nothing in the Constitution expressly prohibits the legislature from acting if the IRC chooses not to submit yet another plan after the legislature has considered and failed to approve all the plans with the highest number of IRC votes. The Constitution is simply silent on how to address the IRC's choice to forego submission of a redistricting plan and implementing legislation before the second deadline. Nor does the constitutional framework command that the legislature remain idle in the face of an IRC decision not to submit a plan despite section 4 (b)'s mandatory language setting forth deadlines for submission. The Constitution requires the legislature approve redistricting legislation, upon consideration of one IRC plan and, if necessary, a second plan. The legislature did exactly that, reviewing two IRC plans and determining not to approve either, but instead adopting legislation which it maintains wholly comports with the Constitution.[4] The majority's decision leaves the legislature hostage to the IRC, and thus incentivizes political gamesmanship by the IRC members—the exact scenario the majority claims it avoids by interpreting the second IRC submission as a mandatory predicate to legislative action (*see* majority op at 20).

[4] The majority, in claiming that my view ignores the constitutional text and purpose (*see* majority op at 16 n 8), ignores that under the unique facts here, we must harmonize the constitutional process with the overriding intent of the amendment—to create a process for public, bipartisan input in redistricting to provide the legislature with background data and options for redistricting. The majority view rests on a distinction without a difference; had the IRC merely submitted the competing plans in succession, and if the legislature had not approved either, the majority would conclude, as I do, that there was no procedural error.

The majority claims that upholding the legislative action here would undermine the redistricting process adopted by the 2014 constitutional amendment and thwart the purpose of the amendment (*see id.* at 23). That is only true if we ignore the salutary aspects of the entire redistricting process and how it informs the legislature's decisions. Under the Constitution, the IRC is tasked with drafting proposed districts that are contiguous, compact, and equipopulous, while considering the maintenance of cores of existing districts and political subdivisions, and avoiding line-drawing that denies or abridges the rights of communities of interest, including racial and minority language groups, or the formation of districts that favor or disfavor political candidates or parties (*see* NY Const, art III, § 4 [c]). The goal of fair, non-gerrymandered line drawing is furthered, in part, by a robust public hearing and comment process that allows the IRC to consider diverse viewpoints when preparing its redistricting plan (*see id.*). In turn, the legislature benefits from this same process when it considers the IRC's draft plan. Here, in accordance with the Constitution, the legislature considered both of the plans submitted by the IRC, fully aware of the public process that preceded the approval of both plans by a concededly split IRC membership. Unfortunately, like the IRC, the legislature could not agree on only one of those plans. When the IRC chose not to make a submission by the second deadline—of a plan that would be subject to legislative amendment, unlike the two plans submitted by the first deadline—nothing in the Constitution prohibited the legislature from drafting and approving redistricting legislation that it determined was in compliance with the constitutional mandates set forth in article III.

The majority also concludes that the legislature may only may "amend[]" redistricting plans submitted by the IRC (*see* majority op at 14, quoting NY Const, art III, § 4 [b]). The extent of the legislature's authority to redraw the IRC's proposed maps, however, is not before us since that did not occur here. Moreover, the majority's interpretation ignores that legislative plans may include "*any* amendments" that are "deem[ed] necessary" (NY Const, art III, § 4 [b]), giving the legislature significant discretion to reject the IRC's proposals. Likewise, the two percent rule—which the majority seems to interpret as a constitutional requirement (*see* majority op at 21 n 11)—is also not properly before us, and in any case, that statutory rule applies only when the IRC submits a plan by the second deadline, which concededly it did not do. In sum, the majority is incorrect that the legislature's authority to approve redistricting legislation is subject to the two percent rule after it decides not to approve the first IRC plan as drafted because that legislative authority can only be triggered after the IRC submits a plan pursuant to the second deadline.

Even assuming the majority is correct that the Constitution provides the legislature with express and exclusive choices—either approve, as drafted, the IRC implementing legislation submitted by the first or the second constitutional deadlines, or don't approve either and amend and approve bicamerally the second submission which is then presented to the governor for action—the majority correctly concedes that the legislature is not required to adopt, without change, the IRC recommendations (*see* majority op at 13-14). Instead, the legislature must exercise its constitutional duty to ensure that New York's

district lines comply with the constitutional factors set forth in Article III and do not otherwise violate federal or state law (*see* NY Const, art III, § 4 [c]; Voting Rights Act of 1965, 52 USC § 10101 *et seq.*, as added by Pub L 89-110, 79 US Stat 437). As this Court has made clear, redistricting is a complex and intricate task, involving a "[b]alancing" of "myriad requirements imposed by both the State and the Federal Constitution," which is ultimately "entrusted to the legislature" (*Matter of Wolpoff v Cuomo*, 80 NY2d 70, 79 [1992]; *see Matter of Schneider v Rockefeller*, 31 NY2d 420, 431 [1972] ["The gerrymandering is . . . rather deep in the 'political thicket'"]). Thus, and contrary to the majority's conclusion (*see* majority op at 18-19), the legislature was not required to ignore its constitutional duty because the IRC "abandon[ed] its constitutional mandate" (*id.* at 23). And, despite the majority rhetoric about redistricting reform—that the IRC process was designed to "incentiviz[e] the legislature to encourage and support fair bipartisan participation and compromise throughout the redistricting process" (*id.* at 20)—it is the majority's interpretation of the Constitution that effectively places the redistricting process at the mercy of the IRC, which cannot be what the People of the State of New York intended when they approved the amendment and even though the Constitution does not mandate legislative approval of any IRC plan. Indeed, recognition that the legislature retains the ultimate authority to enact a redistricting plan does not, as the majority posits, "render the 2014 amendments . . . functionally meaningless" (*id.* at 11); it merely confirms that the legislature must step in when the IRC fails in its task.

B.

Even if the plain text of the Constitution did not support the legislative action taken here, there is an alternative analytic basis for rejecting the petitioners' procedural argument. The constitution is silent as to how to respond when the IRC does not submit a plan in accordance with Article III, as in this case where the IRC chooses not to make a second deadline submission. Notably, petitioners did not sue the IRC to secure compliance with what they and the majority maintain is the "*exclusive* method of redistricting" (majority op at 20). Nor have petitioners requested the courts to adopt either of the IRC plans even though petitioners, like the majority, claim that the IRC's submissions are a constitutional predicate to legislative action (*see id.* at 21).

However, the legislature anticipated just such a failure in the IRC process by passage of an amendment to the Redistricting Reform Act of 2012 (L 2012, ch 17), which provides that "if the commission does not vote on any redistricting plan or plans, for any reason, by the date required for submission of such plan and the commission submitted to the legislature . . . all plans in its possession, both completed and in draft form, and the data upon which such plans are based, each house shall introduce such implementing legislation with any amendments each house deems necessary"(*see* Redistricting Reform Act § 3 [c],

as amended by L 2021, ch 633, § 1).[5] That statute, having been properly enacted, controls and provided the legislature with the authority to act as it did here.[6]

III.

Turning to petitioners second claim, that the legislative plan is an unlawful gerrymander, we review this challenge, like other constitutional attacks on redistricting plans, de novo and not, as the majority suggests, under a deferential standard of review (*see Matter of Wolpoff*, 80 NY2d at 78 ["(W)e examine the balance struck by the (l)egislature in its effort to harmonize competing Federal and State requirements"]; *Matter of Schneider*, 31 NY2d at 427 ["Our duty is . . . to determine whether the legislative plan substantially complies with the Federal and State Constitutions"]). Thus, petitioners are held to the highest burden in our law—one generally enshrined in criminal law—proof beyond a reasonable doubt:

> "A strong presumption of constitutionality attaches to the redistricting plan and we will upset the balance struck by the Legislature and declare the plan unconstitutional 'only when it can be shown beyond reasonable doubt that it conflicts with the fundamental law, and that until every reasonable mode of reconciliation of the statute with the Constitution has been

[5] The majority's discussion of the legislative history of the 2014 amendment is incomplete (*see* majority op at 18-20). Several legislators and commentators recognized, prior to adoption, that—contrary to the views of its sponsors—the amendment did not guarantee that the IRC would follow the constitutional process (*see e.g.* NY Senate Debate on Assembly Bill A2086, Jan. 23, 2013 at 252 [warning that an evenly-divided IRC might "foster gridlock"]).

[6] The statute's two percent rule would also control. If failure to comply with that rule were the sole alleged problem with the legislature's redistricting plan, the courts could mandate compliance as a targeted and narrow remedy rather than reject the entire redistricting plan as the majority does, thus creating confusion for candidates and their supporters, and necessitating the adoption of new deadlines (*see* majority op at 29-30; Troutman dissenting op at 4).

> resorted to, and reconciliation has been found impossible'" (*Matter of Wolpoff*, 80 NY2d at 78, quoting *Matter of Fay*, 291 NY 198, 207 [1943]; *accord Cohen v Cuomo*, 19 NY3d 196, 201-202 [2012]).

Upon review of the record before us, I conclude that petitioners failed to meet their heavy burden. As three justices concluded below, and as Judge Wilson explains, other than the petitioners' expert analysis alleging gerrymandering, the petitioners' other evidence cannot satisfy their burden of proof (*see Matter of Harkenrider*, — AD3d at —, 2022 NY Slip Op 02648, *4 [plurality]; Wilson dissenting op at 25-28).[7] I have already discussed why there was no constitutional procedural violation, but even if there had been, the legislature's approval of a redistricting plan in the absence of a second IRC submission does not establish intentional gerrymandering. This case does not rest on "the credibility issue routinely seen in battle-of-the-experts cases," but rather turns on petitioners' expert evidence and its "probative force . . . regardless of respondents' opposition" (*id.* at —, 2022 NY Slip Op 02648, *8 [Whalen, P.J., and Winslow, J., dissenting in part]). For reasons discussed at length in Judge Wilson's thorough and compelling analysis of petitioner's evidence and gerrymandering claim, which I fully join, petitioners failed to carry their burden. In sum, petitioners relied on an expert who failed to account for several

[7] With respect to one of those alleged grounds, the majority is incorrect to the extent that it suggests that the legislature did not consider Republican views (*see* majority op at 6 n 3). As Judge Troutman and Judge Wilson explain in their dissents, the legislature enacted a plan that includes similar Upstate boundaries as the two IRC plans actually submitted to the legislature (*see* Troutman dissenting op at 3; Wilson dissenting op at 12-14). As for the other ground—that the legislature's redistricting differs from the 2012 district lines—the purpose of redistricting is to address demographic changes and so it is no surprise that population shifts in New York State would result in a different redistricting map in accordance with constitutional requirements (*see* Wilson dissenting op at 21-22).

constitutional requirements and who used an untested, unverified algorithm (*see* Wilson dissenting op at 5-6; *cf. People v Wakefield*, — NY3d —, —, 2022 NY Slip Op 02771, *15-19 [2022, Rivera, J., concurring in result]). No district line drawer could do so and still comply with the Constitution.

I dissent.

Order modified, with costs to petitioners, in accordance with the opinion herein and, as so modified, affirmed. Opinion by Chief Judge DiFiore. Judges Garcia, Singas and Cannataro concur. Judge Troutman dissents in part in an opinion, in which Judge Wilson concurs in part in a dissenting opinion, in which Judge Rivera concurs in part. Judge Rivera dissents in a separate dissenting opinion, in which Judge Wilson concurs.

Decided April 27, 2022

Exhibit 5

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STATE OF NEW YORK
SUPREME COURT : COUNTY OF STEUBEN

Index No. E2022-0116CV

TIM HARKENRIDER, GUY C. BROUGHT, LAWRENCE CANNING, PATRICIA CLARINO, GEORGE DOOHER, JR., STEVEN EVANS, LINDA FANTON, JERRY FISHMAN, JAY FRANTZ, LAWRENCE GARVEY, ALAN NEWPHEW, SUSAN ROWLEY, JOSEPHINE THOMAS, and MARIANNE VOLANTE,

Petitioners,

-against-

PRELIMINARY ORDER

GOVERNOR KATHY HOCHUL, LIEUTENANT GOVERNOR AND PRESIDENT OF THE SENATE BRIAN A. BENJAMIN, SENATE MAJORITY LEADER AND PRESIDENT PRO TEMPORE OF THE SENATE ANDREA STEWART-COUSINS, SPEAKER OF THE ASSEMBLY CARL HEASTIE, NEW YORK STATE BOARD OF ELECTIONS, and THE NEW YORK STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,

Respondents.

PRESENT: Hon. Patrick F. McAllister
Acting Supreme Court Justice

The Court of Appeals Opinion dated April 27, 2022 declared the recently enacted Congressional and State Senate redistricting maps to be unconstitutional and further directed this Court to have an independent special master develop both new Congressional and State Senate maps. This court appointed Dr. Jonathan Cervas to serve as the special master. Based on the current time pressure and after consulting with special master Cervas and the State Board of Elections this court is issuing the following preliminary order with regard to when the redistricting maps will be completed; when the primary for the Congressional and State Senate will be held; and when the military and other overseas ballots will need to be mailed. A further more detailed order will follow with regard to ballot access and other issues.

This order will only pertain to the Congressional and State Senate primary elections. It will be up to the Legislature to determine whether or not to continue the June primary for all

other offices or whether the Legislature will want to change the currently scheduled June primary to coincide with the Congressional and State Senate primary.

NOW, therefore, upon consideration of all papers and proceedings heretofore had herein, and after due deliberation, it is

ORDERED that the new 2022 impartial redistricting maps for the Congressional and State Senate districts to be prepared by Special Master Dr. Jonathan Cervas will be available by May 20, 2022; and it is further

ORDERED that the 2022 primary for the Congressional and State Senate elections will be held on Tuesday, August 23, 2022; and it is further

ORDERED that the deadline for military and overseas ballots to be mailed will be July 8, 2022.

Dated: April 29, 2022

Hon. Patrick F. McAllister
Acting Supreme Court Justice

ENTER

Exhibit 6

STATE OF NEW YORK

S. 8172--A A. 9039--A

SENATE - ASSEMBLY

January 30, 2022

IN SENATE -- Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state law, in relation to creation of congressional districts; and to repeal article 7 of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 7 of the state law is REPEALED and a new article 7 is added to read as follows:

ARTICLE 7
CONGRESSIONAL DISTRICTS

Section 110. Present congressional districts.
111. New congressional districts.
112. Separability of congressional districts.

110. Present congressional districts. The congressional districts of this state, as existing immediately before the effective date of this article, shall continue to be the congressional districts of the state until the expiration of the terms of the representatives in congress then in office, except for the purpose of an election of representatives in congress for full terms beginning at such expirations.

111. New congressional districts. Notwithstanding any other provision of law to the contrary, the congressional districts of this state from and after the effective date of this article, shall consist as follows:

1. Congressional District 1.
Within Suffolk County
All of East Hampton town

EXPLANATION--Matter in italics (underscored) is new; matter in brackets is old law to be omitted.

LBD14150-03-2

All of Riverhead town
All of Shelter Island town
All of Shinnecock Reservation
All of Southold town
Within Nassau County
Within Oyster Bay town:
Tract: 519601
Tract: 519602
Tract: 519702
Tract: 519703
Tract: 519704
Tract: 519801
Tract: 519802
Tract: 520100
Within Suffolk County
Within Babylon town:
Tract: 122300
Tract: 122405
Tract: 122406
Tract: 122407
Tract: 122408
Tract: 122501
Tract: 122502
Tract: 122602
Tract: 122603
Tract: 122604
Tract: 122605
Tract: 122704
Tract: 122705
Tract: 122706
Tract: 122707
Tract: 122801
Tract: 122802
Tract: 122901
Tract: 123101
Tract: 123102
Tract: 123201
Tract: 123203
Tract: 123204
Tract: 123303
Tract: 123304
Tract: 123401
Tract: 123403
Tract: 123404
Within Brookhaven town:
Tract: 158001
Tract: 158009
Tract: 158010
Tract: 158011
Tract: 158012
Tract: 158013
Tract: 158014
Tract: 158015
Tract: 158016
Tract: 158017
Tract: 158102

Tract: 158103
Tract: 158107
Tract: 158108
Tract: 158114
Tract: 158117
Tract: 158118
Tract: 158119
Tract: 158205
Tract: 158206
Tract: 158207
Tract: 158208
Tract: 158209
Tract: 158304
Tract: 158306
Tract: 158309
Tract: 158310
Tract: 158315
Tract: 158317
Tract: 158318
Tract: 158319
Tract: 158320
Tract: 158322
Tract: 158324
Tract: 158325
Tract: 158326
Tract: 158327
Tract: 158328
Tract: 158329
Tract: 158401
Tract: 158402
Tract: 158403
Tract: 158407
Tract: 158408
Tract: 158409
Tract: 158410
Tract: 158411
Tract: 158412
Tract: 158705
Tract: 158708
Tract: 158710
Tract: 159700
Within Huntington town:
Tract: 112102
Tract: 112104
Tract: 112204
Tract: 112211
Tract: 112212
Tract: 112213
Tract: 112215
Tract: 112216
Tract: 112217
Tract: 112218
Tract: 112219
Tract: 112220
Within Islip town:
Tract: 145601

Tract: 145602
Tract: 145603
Tract: 145604
Tract: 145605
Tract: 145701
Tract: 145702
Tract: 145703
Tract: 145705
Tract: 145706
Tract: 145804
Tract: 145901
Tract: 145904
Tract: 145905
Tract: 146001
Tract: 146002
Tract: 146004
Tract: 146102
Tract: 146105
Tract: 146106
Tract: 146201
Tract: 146202
Tract: 146203
Tract: 146204
Tract: 146300
Tract: 146403
Tract: 146404
Tract: 146703
Tract: 201200
Within Smithtown town:
Tract: 135002
Tract: 135003
Tract: 135005
Tract: 135209
Tract: 135303
Tract: 135305
Tract: 135306
Tract: 135401
Tract: 135402
Within Southampton town:
Tract: 190403
Tract: 190404
Tract: 190405
Tract: 190603
Tract: 190706
Tract: 190708
Tract: 190710
Tract: 190711
Tract: 190712
Tract: 190713
Tract: 190714
Tract: 190801
Tract: 190802
Within Nassau County
Within Oyster Bay town:
Tract: 520002 Block: 1018
Within Suffolk County

Within Babylon town:
Tract: 122902 Blocks: 1000-1016 2000-2014
Tract: 123001 Blocks: 1000-1037 2000-2039 3000-3032
Tract: 123002 Blocks: 1000-1053 2004-2007 2031 3000-3025 3034-3035 3043-3044 3049
Tract: 123500 Blocks: 1000-1013 2000-2030
Tract: 123701 Blocks: 1000-1011 1013-1026 1032 2003-2035 2043-2044 3000-3043
Tract: 123900 Blocks: 2003-2004 2011 3004-3012 3021-3029 3035-3036 3045
Within Brookhaven town:
Tract: 158111 Blocks: 1000-1019 2003-2007 2015
Tract: 158112 Blocks: 1000-1013 1017-1018 2000-2016
Tract: 158116 Blocks: 1000-1016 2000-2018 2020
Tract: 158120 Blocks: 1000-1011 2000-2022
Tract: 158505 Blocks: 1005 1007
Tract: 158511 Blocks: 3000-3001 3005-3006
Tract: 158715 Block: 1003
Tract: 990100 Blocks: 0038-0045 0049
Within Huntington town:
Tract: 111900 Blocks: 3015-3016
Within Islip town:
Tract: 145803 Blocks: 1000-1007 2000-2014 3000-3008 3011-3014
Tract: 145810 Block: 3038
Tract: 145903 Blocks: 1000-1032 2000-2016 2018-2043 3000-3020 4000-4019
Tract: 146005 Blocks: 1000-1040 1043-1045 1047 2000-2026 3000-3026
Tract: 146103 Blocks: 2001-2002 2009-2010 2012-2017 2020-2024 2026-2029 2033-2036
Tract: 146206 Blocks: 1000-1012 2000
Tract: 146402 Block: 1003
Tract: 146706 Blocks: 2017-2033
Tract: 147100 Blocks: 1006-1009 1022-1024
Tract: 147202 Blocks: 1021-1022
Tract: 147301 Blocks: 2001-2003
Within Smithtown town:
Tract: 134909 Blocks: 1019-2025
Tract: 135004 Blocks: 2005-2035
Tract: 145803 Blocks: 3009-3010
Within Southampton town:
Tract: 190402 Block: 1044
Tract: 190604 Blocks: 1000-1023 2000-2027 3000-3018 3022-3027 3030-3032
Tract: 190709 Blocks: 1011-1012 2000-2030 3000-3042
Tract: 990100 Blocks: 0017-0020
2. Congressional District 2.
Within Suffolk County
All of Poospatuck Reservation
Within Nassau County
Within Hempstead town:
Tract: 408600
Tract: 408700
Tract: 408800
Tract: 408900
Tract: 409000
Tract: 409100

Tract: 409200
Tract: 409300
Tract: 409400
Tract: 409500
Tract: 409600
Tract: 409700
Tract: 415500
Tract: 416000
Tract: 416100
Tract: 522700
Within Oyster Bay town:
Tract: 519900
Tract: 520001
Tract: 520200
Tract: 520300
Tract: 520401
Tract: 520402
Tract: 520501
Tract: 520502
Tract: 520600
Tract: 520700
Tract: 520800
Tract: 520900
Tract: 521000
Tract: 521100
Tract: 521200
Tract: 521301
Tract: 521302
Tract: 521400
Tract: 521500
Tract: 521601
Tract: 521602
Tract: 521700
Tract: 521801
Tract: 521802
Tract: 521902
Tract: 522000
Tract: 990302
Within Suffolk County
Within Babylon town:
Tract: 123600
Tract: 123703
Tract: 123704
Tract: 123801
Tract: 123802
Tract: 124001
Tract: 124002
Tract: 124101
Tract: 124102
Tract: 124200
Tract: 124301
Tract: 124302
Tract: 124401
Tract: 124402
Tract: 124500
Tract: 124601

Tract: 124602
Within Brookhaven town:
Tract: 158502
Tract: 158506
Tract: 158509
Tract: 158510
Tract: 158512
Tract: 158513
Tract: 158514
Tract: 158604
Tract: 158605
Tract: 158606
Tract: 158607
Tract: 158608
Tract:158609
Tract: 158707
Tract: 158709
Tract: 158711
Tract: 158712
Tract: 158713
Tract: 158714
Tract: 158802
Tract: 158803
Tract: 158805
Tract: 158806
Tract: 158901
Tract: 158902
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Tract: 159107
Tract: 159108
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Tract: 159201
Tract: 159203
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Tract: 159415
Tract: 159416
Tract: 159509
Tract: 159510
Tract: 159512
Tract: 159513
Tract: 159514
Tract: 159515
Tract: 159516

Tract: 159517
Tract: 159518
Tract: 159602
Tract: 159603
Tract: 159604
Within Islip town:
Tract: 145807
Tract: 145808
Tract: 145809
Tract: 146205
Tract: 146500
Tract: 146607
Tract: 146608
Tract: 146611
Tract: 146612
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Tract: 147602
Tract: 147701
Tract: 147702
Tract: 147802
Tract: 147803
Tract: 147804
Tract: 147901
Tract: 147902
Within Smithtown town:
Tract: 135403
Within Southampton town:
Tract: 190502
Tract: 190503
Tract: 190504
Tract: 190605
Tract: 190606
Within Nassau County

Within Hempstead town:
Tract: 416900 Block: 1003
Within Oyster Bay town:
Tract: 519000 Blocks: 1011-1013 1016-1022 2000-2015 3000-3010 4000-4010 5003-5012 6001-6004 6006-6015
Tract: 519100 Blocks: 1016-1022 2000-2009 3000-3012 4000-4014 5000-5010 6000-6015
Tract: 519200 Blocks: 1011 1013-1018 2003-2011 3000-3013 4000-4015 5000-5014 6000-6011
Tract: 519300 Blocks: 3013-3016 3018-3022 4015 4017-4024
Tract: 520002 Blocks: 1000-1017 1019-1023 2000-2015 3000-3008 4000-4026
Within Suffolk County
Within Babylon town:
Tract: 122902 Blocks: 3000-3011
Tract: 123001 Blocks: 2040-2042
Tract: 123002 Blocks: 2000-2003 2008-2030 2032-2050 3021 3026-3033 3036-3042 3045-3048
Tract: 123500 Blocks: 3000-3013 4000-4012 5000-5024
Tract: 123701 Blocks: 1012 1027-1031 2000-2002 2036-2042 2045
Tract: 123900 Blocks: 1000-1035 2000-2002 2005-2010 2012-2026 3000-3003 3013-3020 3030-3034 3037-3044
Tract: 990100 Block: 0030
Within Brookhaven town:
Tract: 158111 Blocks: 2000-2002 2008-2014 2016-2017
Tract: 158112 Blocks: 1014-2026
Tract: 158116 Block: 2019
Tract: 158120 Blocks: 2023-2024
Tract: 158505 Blocks: 1000-1004 1006 1008 1009-1023 2000-2019 3000-3002
Tract: 158511 Blocks: 1000-1019 2000-2024 3002-3004 3007-3022
Tract: 158715 Blocks: 1000-1002 1004-1012 2000-2012
Tract: 159511 Blocks: 1000-1031 2000-2014 2016 2021-2026 3000-3025 4000-4020
Tract: 990100 Blocks: 0025-0028 0031
Within Islip town:
Tract: 145810 Blocks: 1000-1005 2000-2024 3000-3037
Tract: 145903 Blocks: 2017 4020-4021
Tract: 146005 Blocks: 1041-1042 1046
Tract: 146103 Blocks: 1000-1039 2000 2003-2008 2011 2018-2019 2025 2030-2032 2037-2040
Tract: 146206 Blocks: 2001-2031
Tract: 146402 Blocks: 1000-1002 1004-1034 2000-2008 3000-3012
Tract: 146706 Blocks: 1000-1020 2000-2016 2034
Tract: 147100 Blocks: 1000-1005 1010-1021 1025-1043 2000-2033 3000-3053
Tract: 147202 Blocks: 1000-1020 1023-1033 2000-2012
Tract: 147301 Blocks: 1000-1044 2000 2004-2022
Tract: 990100 Block: 0029
Within Southampton town:
Tract: 190402 Blocks: 1000-1043 1045-1051 2000-2032
Tract: 190604 Blocks: 3019-3021 3028-3029
Tract: 990100 Blocks: 0021-0024
3. Congressional District 3.
Within Nassau County
All of Glen Cove city

Within Westchester County
All of Pelham town
All of Rye city
All of Rye town
Within Bronx County
Within Bronx Borough:
Tract: 011800
Tract: 013800
Tract: 015800
Tract: 016000
Tract: 016200
Tract: 016400
Tract: 027401
Tract: 027402
Tract: 051601
Tract: 051602
Within Nassau County
Within North Hempstead town:
Tract: 300100
Tract: 300300
Tract: 300400
Tract: 300500
Tract: 300600
Tract: 300700
Tract: 300800
Tract: 300902
Tract: 301000
Tract: 301101
Tract: 301102
Tract: 301200
Tract: 301300
Tract: 301400
Tract: 301500
Tract: 301600
Tract: 301700
Tract: 301800
Tract: 301900
Tract: 302000
Tract: 302101
Tract: 302102
Tract: 302200
Tract: 302502
Tract: 990100
Within Oyster Bay town:
Tract: 517400
Tract: 517500
Tract: 517600
Tract: 517701
Tract: 517705
Tract: 517801
Tract: 517802
Tract: 517901
Tract: 517902
Tract: 518000
Tract: 518100
Tract: 518201

Tract: 518203
Tract: 518204
Tract: 518300
Tract: 518400
Tract: 518501
Tract: 518502
Tract: 518600
Tract: 518700
Tract: 518800
Tract: 518900
Tract: 519400
Tract: 519500
Tract: 981100
Tract: 982100
Tract: 990301
Within Queens County
Within Queens Borough:
Tract: 099900
Tract: 147900
Tract: 148300
Tract: 150701
Tract: 150702
Tract: 152901
Tract: 152902
Tract: 155101
Tract: 155103
Tract: 155104
Tract: 156700
Tract: 157101
Tract: 157102
Tract: 157901
Tract: 157902
Tract: 157903
Tract: 161700
Tract: 162100
Within Suffolk County
Within Huntington town:
Tract: 110101
Tract: 110103
Tract: 110104
Tract: 110200
Tract: 110300
Tract: 110401
Tract: 110402
Tract: 110501
Tract: 110502
Tract: 110601
Tract: 110602
Tract: 110801
Tract: 110803
Tract: 110901
Tract: 110902
Tract: 111001
Tract: 111002
Tract: 111101
Tract: 111102

Tract: 111103
Tract: 111201
Tract: 111202
Tract: 111300
Tract: 111401
Tract: 111402
Tract: 111503
Tract: 111504
Tract: 111506
Tract: 111507
Tract: 111508
Tract: 111601
Tract: 111602
Tract: 111701
Tract: 111703
Tract: 111704
Tract: 111801
Tract: 111802
Tract: 111803
Tract: 111804
Tract: 112001
Tract: 112002
Tract: 112103
Within Smithtown town:
Tract: 134702
Tract: 134703
Tract: 134704
Tract: 134902
Tract: 134906
Tract: 134907
Tract: 134908
Tract: 135101
Tract: 135102
Tract: 135103
Tract: 135104
Tract: 135201
Tract: 135205
Tract: 135208
Tract: 135500
Within Westchester County
Within Mamaroneck town:
Tract: 007000
Tract: 007100
Tract: 007200
Tract: 007300
Tract: 005600
Tract: 005702
Tract: 005703
Tract: 005704
Tract: 005800
Tract: 005901
Tract: 005902
Tract: 006000
Within Bronx County
Within Bronx Borough:
Tract: 013000 Blocks: 1000-1005 1009 3000-3001 3005-3009 4006-4008

Tract: 018400 Blocks: 1000-1006 2000-2002 2006-2007 2010
Tract: 026400 Blocks: 1000-1008
Tract: 027600 Blocks: 0002 1000-1004 1015 1020-1021 1023-1027
Tract: 045600 Blocks: 3000-3025
Tract: 050400 Blocks: 0001-0005
Tract: 050400 Blocks: 1000 1005-1009 1011 1013-1014 1017-1020
Within Nassau County
Within North Hempstead town:
Tract: 300901 Blocks: 1000-1016 2000-2015 3000-3013 3018-3024
Tract: 302300 Blocks: 1000-1019 2000-2003 2005-2013 3000-3020
Tract: 302400 Blocks: 1000-1008 1011-1012 2001-2005 3000-3014 4000-4008 4010
Tract: 302501 Blocks: 1000-1004 2000-2009 2018-2022
Tract: 303101 Blocks: 1000-1006 3000-3012
Within Oyster Bay town:
Tract: 519000 Blocks: 1000-1010 1014-1015 5000-5002 6000 6005
Tract: 519100 Blocks: 1000-1015 1023
Tract: 519200 Blocks: 1000-1012 2000-2002
Tract: 519300 Blocks: 1000-1049 2000-2018 3000-3012 3017 3023-3030 4000-4014 4016 5000-5024
Within Queens County
Within Queens Borough:
Tract: 055400 Blocks: 2000-2002 2007
Tract: 056000 Blocks: 1000-1005 1007-1008
Tract: 056200 Blocks: 1000-1011
Tract: 056400 Blocks: 1000-1001 1003 1013
Tract: 098700 Block: 0001
Tract: 099100 Blocks: 0001 1000 2000 3000-3004 3006-3014 3016 4000 4021-4022 5013
Tract: 099703 Blocks: 1000-1008 2000-2003 3000-3004 3006-3007
Tract: 099704 Blocks: 1000-1001 2000-2001 4000
Tract: 099705 Blocks: 0001-0002 1000-1006
Tract: 101700 Blocks: 6000-6005
Tract: 109300 Blocks: 0001 2000 2015 2017
Tract: 111300 Blocks: 0001 1000-1001
Tract: 130100 Blocks: 1000-1009 1011 2000-2003 3000-3010 4000-4005
Tract: 138502 Blocks: 1000-1003 1007-1015 1020-1021 1025
Within Suffolk County
Within Huntington town:
Tract: 111900 Blocks: 1000-1027 2000-2009 3000-3014 3017-3026 4000-4021 5000-5007 6000-6014
Tract: 990100 Blocks: 0048 0053-0055
Within Smithtown town:
Tract: 134909 Blocks: 1000-1018 1020-1023 3000-3017
Tract: 135004 Blocks: 1000-1017 2000-2004
Tract: 990100 Blocks: 0046-0047 0050-0051
Within Westchester County
Within Mamaroneck town:
Tract: 006900 Blocks: 1000-1025 2000-2008 2010-2016 3000-3038 4000-4006 5000-5009
Within New Rochelle city:
Tract: 006100 Blocks: 1000-1009 1011 2000-2011 3011-3012
Tract: 006302 Blocks: 1011 1015-1018 2001-2004
Tract: 006500 Blocks: 3007-3011 3019-3021 4008-4009
4. Congressional District 4.
Within Nassau County

All of Long Beach city
Within Hempstead town:
Tract: 404300
Tract: 404400
Tract: 404500
Tract: 404700
Tract: 405301
Tract: 405302
Tract: 405500
Tract: 405600
Tract: 405700
Tract: 405800
Tract: 405900
Tract: 406001
Tract: 406002
Tract: 406100
Tract: 406201
Tract: 406202
Tract: 406300
Tract: 406400
Tract: 406501
Tract: 406600
Tract: 406701
Tract: 406702
Tract: 406801
Tract: 406802
Tract: 406900
Tract: 407000
Tract: 407101
Tract: 407102
Tract: 407201
Tract: 407203
Tract: 407204
Tract: 407301
Tract: 407302
Tract: 407401
Tract: 407402
Tract: 407501
Tract: 407502
Tract: 407600
Tract: 407700
Tract: 407801
Tract: 407802
Tract: 407900
Tract: 408000
Tract: 408100
Tract: 408200
Tract: 408300
Tract: 408400
Tract: 408500
Tract: 410100
Tract: 410200
Tract: 410600
Tract: 410700
Tract: 411200
Tract: 411302

Tract: 411400
Tract: 411500
Tract: 411700
Tract: 411800
Tract: 411901
Tract: 411902
Tract: 412000
Tract: 412100
Tract: 412200
Tract: 412301
Tract: 412302
Tract: 412400
Tract: 412500
Tract: 412600
Tract: 412700
Tract: 412800
Tract: 412900
Tract: 413001
Tract: 413002
Tract: 413100
Tract: 413200
Tract: 413300
Tract: 413400
Tract: 413500
Tract: 413600
Tract: 413700
Tract: 413803
Tract: 413804
Tract: 413900
Tract: 414001
Tract: 414002
Tract: 414100
Tract: 414201
Tract: 414202
Tract: 414301
Tract: 414303
Tract: 414304
Tract: 414400
Tract: 414501
Tract: 414502
Tract: 414600
Tract: 414700
Tract: 414800
Tract: 414900
Tract: 415000
Tract: 415101
Tract: 415102
Tract: 415201
Tract: 415202
Tract: 415300
Tract: 415401
Tract: 415402
Tract: 415600
Tract: 415700
Tract: 415802
Tract: 416201

Tract: 416202
Tract: 416300
Tract: 990400
Tract: 980100
Within Nassau County
Within North Hempstead town:
Tract: 302600
Tract: 302700
Tract: 302800
Tract: 302900
Tract: 303000
Tract: 303102
Tract: 303203
Tract: 303204
Tract: 303301
Tract: 303302
Tract: 303400
Tract: 303500
Tract: 303600
Tract: 303700
Tract: 303800
Tract: 303900
Tract: 304001
Tract: 304002
Tract: 304100
Tract: 304202
Tract: 304203
Tract: 304204
Within Hempstead town:
Tract: 404600 Blocks: 1000-1013 2000-2011 2013-2014 3000-3009 4000-4013
Tract: 404800 Blocks: 1000-1023 1025 2000-2009 2013-2018 3006 3008
Tract: 405200 Blocks: 4003 4015-4016
Tract: 405400 Blocks: 1000-1022 2000-2013 3000-3001 3005 3013-3014 3016 4000-4013 5000-5012 6000-6011
Tract: 409900 Blocks: 2036-2037
Tract: 410000 Blocks: 1000-1008 1013 3000-3030
Tract: 410500 Blocks: 1000-1016 2000-2015 3000-3003 3011-3020 3022-3024 3027-3028 5000-5008 5010-5011 5022
Tract: 410800 Blocks: 1000-1021 2000-2026 3000-3013 4000-4002 4005-4009 4012-4032
Tract: 410900 Blocks: 3000-3010 4000-4019
Tract: 411000 Block: 1000
Tract: 411301 Blocks: 1000-1009 1018-1021 1025-1026 2000-2014 3000-3016
Tract: 411600 Blocks: 1000-1013 2000-2030 3000-3016 3020 3022-3033 4000-4013 5000-5009
Tract: 416900 Blocks: 1000-1002 1004-1117 2000-2032 3000-3026
Within North Hempstead town:
Tract: 300901 Blocks: 3014-3017
Tract: 302300 Blocks: 2004 2014
Tract: 302400 Blocks: 1009-1010 1013-1025 2000 2006-2014 4009 5000-5020
Tract: 302501 Blocks: 1005-1019 2010-2017 2023-2026
Tract: 303101 Blocks: 1007-1014 2000-2013 3013-3025
5. Congressional District 5.

Within Nassau County
Within Hempstead town:
Tract: 404901
Tract: 404902
Tract: 405000
Tract: 405100
Tract: 409800
Tract: 410300
Tract: 410400
Tract: 411100
Within Queens County
Within Queens Borough:
Tract: 010000
Tract: 010200
Tract: 010400
Tract: 010600
Tract: 010800
Tract: 012000
Tract: 012200
Tract: 013200
Tract: 014201
Tract: 014202
Tract: 014400
Tract: 014800
Tract: 015000
Tract: 015200
Tract: 015400
Tract: 015600
Tract: 015801
Tract: 015802
Tract: 016400
Tract: 016600
Tract: 016800
Tract: 017000
Tract: 017200
Tract: 017400
Tract: 017600
Tract: 017800
Tract: 018000
Tract: 018200
Tract: 018401
Tract: 018402
Tract: 018600
Tract: 018800
Tract: 019000
Tract: 019200
Tract: 019400
Tract: 019600
Tract: 019800
Tract: 020200
Tract: 020400
Tract: 020600
Tract: 020800
Tract: 021200
Tract: 021602
Tract: 024000

Tract: 024600
Tract: 025401
Tract: 025402
Tract: 025800
Tract: 026000
Tract: 026200
Tract: 026400
Tract: 026600
Tract: 027000
Tract: 027200
Tract: 027400
Tract: 027600
Tract: 027800
Tract: 028000
Tract: 028200
Tract: 028400
Tract: 028801
Tract: 028802
Tract: 028803
Tract: 029400
Tract: 030600
Tract: 032000
Tract: 032800
Tract: 033000
Tract: 033401
Tract: 033403
Tract: 033404
Tract: 033405
Tract: 035200
Tract: 035800
Tract: 036600
Tract: 036800
Tract: 037600
Tract: 038400
Tract: 039400
Tract: 039800
Tract: 040000
Tract: 040200
Tract: 040400
Tract: 041400
Tract: 042400
Tract: 042600
Tract: 043200
Tract: 043400
Tract: 044000
Tract: 044400
Tract: 044601
Tract: 044602
Tract: 046000
Tract: 046200
Tract: 046400
Tract: 046600
Tract: 046800
Tract: 047000
Tract: 047200
Tract: 047600

Tract: 047801
Tract: 047802
Tract: 048000
Tract: 048200
Tract: 048400
Tract: 049201
Tract: 049202
Tract: 049600
Tract: 050000
Tract: 050201
Tract: 050202
Tract: 050400
Tract: 050600
Tract: 050800
Tract: 051000
Tract: 051200
Tract: 051600
Tract: 051800
Tract: 052000
Tract: 052200
Tract: 052400
Tract: 052600
Tract: 052800
Tract: 053000
Tract: 053200
Tract: 053401
Tract: 053601
Tract: 053800
Tract: 054000
Tract: 054200
Tract: 054800
Tract: 055600
Tract: 055800
Tract: 056600
Tract: 056800
Tract: 058000
Tract: 058200
Tract: 059000
Tract: 059200
Tract: 059400
Tract: 059600
Tract: 059800
Tract: 060000
Tract: 060600
Tract: 060800
Tract: 061000
Tract: 061200
Tract: 061400
Tract: 061601
Tract: 061602
Tract: 061800
Tract: 062000
Tract: 062200
Tract: 062400
Tract: 062600
Tract: 063000

Tract: 063200
Tract: 063800
Tract: 064600
Tract: 065000
Tract: 065401
Tract: 065402
Tract: 065600
Tract: 066000
Tract: 066401
Tract: 066402
Tract: 066403
Tract: 066404
Tract: 068000
Tract: 068200
Tract: 069000
Tract: 069400
Tract: 071600
Tract: 078800
Tract: 079000
Tract: 079200
Tract: 081400
Tract: 081800
Tract: 083800
Tract: 084000
Tract: 084601
Tract: 084602
Tract: 089201
Tract: 089202
Tract: 091602
Tract: 091603
Tract: 091604
Tract: 091800
Tract: 092200
Tract: 092800
Tract: 093401
Tract: 093402
Tract: 093800
Tract: 094201
Tract: 094202
Tract: 094203
Tract: 095400
Tract: 096400
Tract: 097202
Tract: 097204
Tract: 097205
Tract: 097206
Tract: 097207
Tract: 099200
Tract: 099801
Tract: 099802
Tract: 100801
Tract: 100803
Tract: 100804
Tract: 101002
Tract: 101003
Tract: 101004

1 Tract: 103201
2 Tract: 103202
3 Tract: 107201
4 Tract: 107202
5 Tract: 127700
6 Tract: 990100
7 Within Nassau County
8 Within Hempstead town:
9 Tract: 404600 Block: 2012
10 Tract: 404800 Blocks: 1024 2010-2012 2019-2020 3000-3005 3007
11 3009-3021 4000-4031
12 Tract: 405200 Blocks: 1000-1017 2000-2018 3000-3017 4000-4002
13 4004-4014 4017-4023
14 Tract: 405400 Blocks: 3002-3004 3006-3012 3015
15 Tract: 409900 Blocks: 1000-1008 2000-2035 3000-3020 4000-4012
16 5000-5012 6000-6007
17 Tract: 410000 Blocks: 1009-1012 2000-2009
18 Tract: 410500 Blocks: 3004-3010 3021 3025-3026 4000-4018 5009
19 5012-5021 6000-6015
20 Tract: 410800 Blocks: 4003-4004 4010-4011
21 Tract: 410900 Blocks: 1000-1007 2000-2016
22 Tract: 411000 Blocks: 1001-1019 2000-2007 3000-3014 4000-4016
23 5000-5021
24 Tract: 411301 Blocks: 1010-1017 1022-1024
25 Tract: 411600 Blocks: 3017-3019 3021
26 Within Queens County
27 Within Queens Borough:
28 Tract: 006201 Block: 1010
29 Tract: 006202 Blocks: 6004 7000 7007-7009
30 Tract: 009400 Blocks: 1000 1006
31 Tract: 009600 Blocks: 1000-1005 2000-2003 2005-2008
32 Tract: 009800 Blocks: 1000-1005 2000-2002
33 Tract: 011000 Blocks: 2000-2001
34 Tract: 011800 Blocks: 1000-1002
35 Tract: 012400 Blocks: 1000-1005 2000 2003-2005
36 Tract: 013000 Blocks: 1003-1007 2000
37 Tract: 013400 Blocks: 4000-4002
38 Tract: 013800 Blocks: 2003-2007
39 Tract: 014000 Blocks: 1000-1010 2001-2003 2005-2007
40 Tract: 021400 Blocks: 1001 2000-2001 2007-2011 3000-3017
41 Tract: 023200 Block: 2002
42 Tract: 023600 Blocks: 1004 2000-2003
43 Tract: 023800 Blocks: 1001 2000-2003 3000-3001 4000-4003
44 Tract: 044800 Blocks: 1005-1006
45 Tract: 045400 Blocks: 1000-1005
46 Tract: 045600 Blocks: 1000-1001
47 Tract: 045800 Blocks: 1000 1009-1010
48 Tract: 055200 Blocks: 1001-1021 2000-2011
49 Tract: 055400 Blocks: 1000-1005 2003-2006
50 Tract: 056000 Blocks: 1006 1009-1011 2000-2008
51 Tract: 056200 Block: 1012
52 Tract: 056400 Blocks: 1002 1004-1012
53 Tract: 086400 Blocks: 1000-1005 2003 2005
54 Tract: 088400 Blocks: 0001-0003 1005 1007-1010 1012-1021 2000-2011
55 3000-3012 4000-4012 5000-5012 6000-6011 7000-7008 8000-8010
56 Tract: 124700 Block: 3010

Tract: 126700 Blocks: 1000-1002 1004 1008-1009

6. Congressional District 6.

Within Queens County

Within Queens Borough:

Tract: 013600
Tract: 021601
Tract: 021603
Tract: 022001
Tract: 022002
Tract: 023000
Tract: 024700
Tract: 026502
Tract: 026902
Tract: 045000
Tract: 045200
Tract: 045700
Tract: 045900
Tract: 047100
Tract: 047300
Tract: 047500
Tract: 047900
Tract: 048100
Tract: 048301
Tract: 048302
Tract: 048500
Tract: 048900
Tract: 049301
Tract: 049302
Tract: 049500
Tract: 049700
Tract: 049900
Tract: 050500
Tract: 050700
Tract: 051100
Tract: 051300
Tract: 051500
Tract: 051700
Tract: 052100
Tract: 052500
Tract: 053100
Tract: 057900
Tract: 058100
Tract: 058700
Tract: 059900
Tract: 060100
Tract: 060300
Tract: 060701
Tract: 061301
Tract: 061302
Tract: 061900
Tract: 062100
Tract: 062300
Tract: 062500
Tract: 062700
Tract: 063301
Tract: 063302

1 Tract: 063500
2 Tract: 063700
3 Tract: 063900
4 Tract: 064101
5 Tract: 064500
6 Tract: 065501
7 Tract: 065702
8 Tract: 065703
9 Tract: 065900
10 Tract: 066100
11 Tract: 066301
12 Tract: 066302
13 Tract: 066501
14 Tract: 066701
15 Tract: 066900
16 Tract: 067100
17 Tract: 067700
18 Tract: 067900
19 Tract: 068300
20 Tract: 068700
21 Tract: 069300
22 Tract: 069500
23 Tract: 069701
24 Tract: 069702
25 Tract: 070300
26 Tract: 070700
27 Tract: 070900
28 Tract: 071100
29 Tract: 071303
30 Tract: 071304
31 Tract: 071305
32 Tract: 071306
33 Tract: 071701
34 Tract: 071702
35 Tract: 071900
36 Tract: 072100
37 Tract: 072300
38 Tract: 072900
39 Tract: 073100
40 Tract: 073700
41 Tract: 073900
42 Tract: 074100
43 Tract: 074300
44 Tract: 074500
45 Tract: 074700
46 Tract: 074900
47 Tract: 075701
48 Tract: 075702
49 Tract: 076901
50 Tract: 076902
51 Tract: 077300
52 Tract: 077500
53 Tract: 077902
54 Tract: 077903
55 Tract: 077904
56 Tract: 077905

Tract: 077906
Tract: 077907
Tract: 077908
Tract: 079300
Tract: 079701
Tract: 079702
Tract: 079900
Tract: 080301
Tract: 080302
Tract: 080900
Tract: 083700
Tract: 084500
Tract: 084901
Tract: 084902
Tract: 085300
Tract: 085500
Tract: 085700
Tract: 085900
Tract: 086100
Tract: 086300
Tract: 086500
Tract: 087100
Tract: 099701
Tract: 104700
Tract: 105900
Tract: 108500
Tract: 109700
Tract: 109900
Tract: 112300
Tract: 112900
Tract: 113300
Tract: 113900
Tract: 114100
Tract: 114700
Tract: 115100
Tract: 115500
Tract: 115700
Tract: 115900
Tract: 116100
Tract: 116301
Tract: 116302
Tract: 116700
Tract: 117100
Tract: 117500
Tract: 118100
Tract: 118500
Tract: 118700
Tract: 118900
Tract: 119100
Tract: 119300
Tract: 119500
Tract: 119900
Tract: 120100
Tract: 120300
Tract: 120500
Tract: 120701

1 Tract: 120702
2 Tract: 121100
3 Tract: 121500
4 Tract: 122300
5 Tract: 122702
6 Tract: 122703
7 Tract: 122704
8 Tract: 124100
9 Tract: 125700
10 Tract: 126500
11 Tract: 128300
12 Tract: 129102
13 Tract: 129103
14 Tract: 129104
15 Tract: 133300
16 Tract: 133900
17 Tract: 134100
18 Tract: 134701
19 Tract: 134702
20 Tract: 136700
21 Tract: 137700
22 Tract: 138501
23 Tract: 139900
24 Tract: 140300
25 Tract: 140901
26 Tract: 140902
27 Tract: 141700
28 Tract: 142900
29 Tract: 143500
30 Tract: 144100
31 Tract: 144700
32 Tract: 145101
33 Tract: 145102
34 Tract: 145900
35 Tract: 146300
36 Tract: 146700
37 Tract: 147100
38 Tract: 012800 Block: 1000
39 Tract: 013000 Blocks: 1000-1002
40 Tract: 013400 Blocks: 1000-1001 2000-2006 3000-3003
41 Tract: 013800 Blocks: 1000-1003 2000-2002
42 Tract: 014000 Blocks: 2000 2004
43 Tract: 021400 Blocks: 1000 2002-2006
44 Tract: 023200 Blocks: 1000-1001 2000-2001 3000-3008
45 Tract: 023600 Blocks: 1000-1003
46 Tract: 023800 Block: 1000
47 Tract: 024300 Blocks: 1000-1002 1014 3000-3004 3007-3011 4000-4013
48 Tract: 024500 Blocks: 3000-3001 3005
49 Tract: 024900 Blocks: 1000-1008 2000-2004 3000-3002 3004-3005
50 Tract: 025900 Blocks: 2002-2003
51 Tract: 026100 Blocks: 4004-4007
52 Tract: 026300 Blocks: 2000-2006 3000-3002
53 Tract: 026501 Blocks: 1000-1002 2004-2006
54 Tract: 026700 Blocks: 2000-2005 3004-3007
55 Tract: 027101 Blocks: 1002 2000 3000
56 Tract: 038302 Blocks: 1021 1032 1034-1066 1068-1088 1090-1091

Tract: 043701 Block: 2004
Tract: 043702 Block: 1000
Tract: 044800 Blocks: 1000-1004 2000-2003
Tract: 045400 Blocks: 2000-2007
Tract: 045600 Blocks: 1002-1016
Tract: 045800 Blocks: 1001-1008
Tract: 046100 Blocks: 1001-1006 2004
Tract: 046700 Blocks: 4001-4003
Tract: 046901 Blocks: 1000-1001 2000-2001 3001
Tract: 055200 Block: 1000
Tract: 057700 Blocks: 1000-1003 2002-2004
Tract: 058300 Blocks: 1000-1003 2000-2003
Tract: 058500 Blocks: 1000-1003 2000-2004 3000 3002-3004
Tract: 059300 Blocks: 1000-1005 2000-2005
Tract: 059501 Block: 1000
Tract: 059502 Blocks: 1000-1001 1006-1007
Tract: 064102 Blocks: 1000-1011 1014-1018
Tract: 086900 Blocks: 1000-1019 2001-2004 2008-2017
Tract: 088902 Blocks: 1001-1003 2000-2004 3000-3003 4000-4002
Tract: 088903 Blocks: 1000-1001 1004-1014 2000-2001 2004-2005 3000-3002
Tract: 099703 Blocks: 3005 3008-3009
Tract: 099704 Blocks: 1002 3000-3004 5000-5001
Tract: 099705 Blocks: 1007-1018
Tract: 101700 Blocks: 1000-1002 1005-1010 2000-2009 3009-3011 5000-5012
Tract: 103300 Blocks: 2006-2007 3001-3009 4000-4008
Tract: 109300 Blocks: 1000-1015 2001-2014 2016 3000-3013
Tract: 111300 Blocks: 1002-1013 2000-2008 3000-3011
Tract: 124700 Blocks: 1000-1013 2000-2011 3000-3009
Tract: 126700 Blocks: 1003 1005-1007 2000-2005 3000-3007
Tract: 130100 Block: 1010
Tract: 138502 Blocks: 1004-1006 1016-1019 1022-1024 1026-1027
7. Congressional District 7.
Within Kings County
Within Brooklyn Borough:
Tract: 000100
Tract: 000301
Tract: 000501
Tract: 000502
Tract: 000700
Tract: 001300
Tract: 001501
Tract: 002100
Tract: 002300
Tract: 002901
Tract: 003101
Tract: 004500
Tract: 004700
Tract: 004900
Tract: 005100
Tract: 005900
Tract: 006300
Tract: 006700
Tract: 008500
Tract: 018300

Tract: 018501
Tract: 018700
Tract: 019100
Tract: 019500
Tract: 021100
Tract: 023500
Tract: 025500
Tract: 025700
Tract: 028501
Tract: 038900
Tract: 039100
Tract: 039300
Tract: 039500
Tract: 039700
Tract: 039900
Tract: 040100
Tract: 040300
Tract: 040500
Tract: 040700
Tract: 040900
Tract: 041100
Tract: 041300
Tract: 041500
Tract: 041700
Tract: 041900
Tract: 042100
Tract: 042300
Tract: 042500
Tract: 042700
Tract: 042900
Tract: 043100
Tract: 043300
Tract: 043500
Tract: 043700
Tract: 043900
Tract: 044100
Tract: 044300
Tract: 044500
Tract: 044700
Tract: 044901
Tract: 044902
Tract: 045300
Tract: 047700
Tract: 048100
Tract: 048500
Tract: 048900
Tract: 049100
Tract: 049301
Tract: 049302
Tract: 049500
Tract: 049700
Tract: 049900
Tract: 050100
Tract: 050300
Tract: 050500
Tract: 050700

Tract: 050900
Tract: 051100
Tract: 051300
Tract: 051500
Tract: 051900
Tract: 052300
Tract: 052500
Tract: 052700
Tract: 052900
Tract: 053101
Tract: 053102
Tract: 053300
Tract: 053500
Tract: 053700
Tract: 053900
Tract: 054300
Tract: 054500
Tract: 054700
Tract: 054900
Tract: 055100
Tract: 055300
Tract: 055500
Tract: 059300
Tract: 114201
Tract: 114202
Tract: 114600
Tract: 116800
Tract: 117000
Tract: 117201
Tract: 117202
Tract: 117400
Tract: 117601
Tract: 117602
Tract: 117800
Tract: 118000
Tract: 118201
Tract: 118202
Tract: 118400
Tract: 118600
Tract: 118800
Tract: 119000
Tract: 119800
Tract: 120200
Tract: 123700
Within New York County
Within Manhattan Borough:
Tract: 000201
Tract: 000202
Tract: 001001
Tract: 001002
Tract: 001200
Tract: 001401
Tract: 001402
Tract: 002000
Tract: 002201
Tract: 002202

Tract: 002400
Tract: 002601
Tract: 002602
Tract: 002800
Tract: 003001
Tract: 003601
Within Queens County
Within Queens Borough:
Tract: 000200
Tract: 000400
Tract: 000600
Tract: 000800
Tract: 001000
Tract: 001200
Tract: 001400
Tract: 001600
Tract: 001800
Tract: 002000
Tract: 002200
Tract: 002400
Tract: 002600
Tract: 002800
Tract: 003000
Tract: 003200
Tract: 003400
Tract: 003600
Tract: 003800
Tract: 004001
Tract: 004002
Tract: 004200
Tract: 004401
Tract: 005000
Tract: 005200
Tract: 005400
Tract: 005800
Tract: 008600
Tract: 008800
Tract: 011200
Tract: 011400
Tract: 011600
Tract: 012601
Tract: 012602
Tract: 053501
Tract: 053502
Tract: 053901
Tract: 053902
Tract: 054500
Tract: 054700
Tract: 054900
Tract: 055100
Tract: 055300
Tract: 055500
Tract: 055700
Tract: 055900
Tract: 056100
Tract: 056500

Tract: 056700
Tract: 058900
Tract: 059100
Tract: 062900
Within Kings County
Within Brooklyn Borough:
Tract: 000900 Blocks: 1000-1003 1009 2001-2002
Tract: 001100 Blocks: 1000-1003 1007-1010
Tract: 001502 Blocks: 1000-1010 1013-1014 1017-1018
Tract: 003300 Blocks: 2000-2004 2008-2011
Tract: 003500 Blocks: 1001-1002
Tract: 005301 Blocks: 1000-1014 2004 2010-2013 2015
Tract: 005302 Blocks: 2000-2001 3000 3005
Tract: 006500 Blocks: 1000-1001 2000-2001 3001 4001 5001 6001-6002 7001
Tract: 019300 Blocks: 1000-1003 2000-2001 3000-3002
Tract: 024100 Blocks: 1000-1006
Tract: 025300 Blocks: 1000-1001 2000-2001 3000-3001
Tract: 025901 Blocks: 1001-1002
Tract: 026100 Blocks: 4000-4001 5000-5001
Tract: 051700 Blocks: 1001-1004 2001-2004
Tract: 055700 Blocks: 1000-1002 2001-2003 2008-2013
Tract: 058901 Block: 2004
Tract: 058902 Blocks: 1000 1002
Tract: 059100 Blocks: 1000-1001 2000-2001 3000-3004 4002
Tract: 114400 Blocks: 1000 1002 1006
Tract: 119200 Blocks: 1000-1001 3000-3002
Tract: 119600 Blocks: 1000-1002 1009
Tract: 120803 Blocks: 1000-1001 1005-1011
Tract: 122000 Blocks: 1000-1007 1009
Within New York County
Within Manhattan Borough:
Tract: 000500 Blocks: 2000-2003 2007
Tract: 000600 Blocks: 0001-0002 2002 2004-2006 3000-3002 4000-4001 5000-5001 6000-6003
Tract: 000700 Block: 9000
Tract: 000800 Blocks: 0001-0002 6027-6029
Tract: 000900 Blocks: 0002 2000-2001
Tract: 001502 Block: 8000
Tract: 001800 Blocks: 1000 2000-2007 3000-3004 4000-4001 5000-5005 7000-7003
Tract: 003002 Blocks: 1000-1002 2002-2003 5000 6000-6001 7000-7002
Tract: 003400 Block: 1001
Tract: 003400 Blocks: 2000-2001
Tract: 004100 Blocks: 1000-1005 6000 6004-6005
Tract: 004300 Blocks: 1000 2000-2001 3006
Within Queens County
Within Queens Borough:
Tract: 006201 Blocks: 1000-1009 2000 3000-3001
Tract: 006202 Blocks: 1000-1009 2000-2006 3000-3005 4000-4004 5000-5005 6000-6003 7001-7006
Tract: 009400 Blocks: 1001-1005 2000-2004
Tract: 009600 Block: 2004
Tract: 009800 Blocks: 2003-2005
Tract: 011000 Blocks: 1000-1004 2002-2006
Tract: 011800 Blocks: 1003-1004 2000-2004

Tract: 012400 Blocks: 2001-2002 2006
Tract: 012800 Blocks: 1001-1005 2000-2003
Tract: 013000 Blocks: 2001-2005
Tract: 021900 Block: 1017
Tract: 057700 Blocks: 2000-2001 2005-2007 3000-3003
Tract: 058300 Blocks: 3000-3003
Tract: 058500 Blocks: 3001 3005-3006
Tract: 059300 Blocks: 1006 2006-2008
Tract: 059501 Blocks: 1001-1005 2000-2005
Tract: 059502 Blocks: 1002-1005 1008-1009 2000-2011
Tract: 064102 Blocks: 1012-1013 2000-2002 2004 2006
Tract: 088400 Blocks: 1000-1004 1006 1011
8. Congressional District 8.
Within Kings County
Within Brooklyn Borough:
Tract: 003102
Tract: 017900
Tract: 018100
Tract: 019700
Tract: 019900
Tract: 020100
Tract: 022700
Tract: 022900
Tract: 023100
Tract: 023300
Tract: 024300
Tract: 024500
Tract: 024700
Tract: 024900
Tract: 025100
Tract: 025902
Tract: 026300
Tract: 026500
Tract: 026700
Tract: 026900
Tract: 027100
Tract: 027300
Tract: 027500
Tract: 027700
Tract: 027900
Tract: 028100
Tract: 028300
Tract: 028502
Tract: 028700
Tract: 028900
Tract: 029100
Tract: 029300
Tract: 029500
Tract: 029700
Tract: 029900
Tract: 030100
Tract: 030300
Tract: 030700
Tract: 030800
Tract: 031402
Tract: 032600

Tract: 032800
Tract: 033000
Tract: 033600
Tract: 034000
Tract: 034200
Tract: 034800
Tract: 035000
Tract: 035200
Tract: 035400
Tract: 035601
Tract: 035602
Tract: 036001
Tract: 036002
Tract: 036200
Tract: 036400
Tract: 036501
Tract: 036502
Tract: 036600
Tract: 036700
Tract: 036900
Tract: 037000
Tract: 037100
Tract: 037300
Tract: 037401
Tract: 037402
Tract: 037500
Tract: 037700
Tract: 037900
Tract: 038100
Tract: 038200
Tract: 038300
Tract: 038500
Tract: 038700
Tract: 038800
Tract: 039000
Tract: 039200
Tract: 039400
Tract: 056600
Tract: 056800
Tract: 057000
Tract: 057200
Tract: 057400
Tract: 057600
Tract: 057800
Tract: 058000
Tract: 058200
Tract: 058400
Tract: 058600
Tract: 058800
Tract: 059000
Tract: 059200
Tract: 059402
Tract: 059403
Tract: 059404
Tract: 059600
Tract: 059800

Tract: 060000
Tract: 060600
Tract: 060800
Tract: 061002
Tract: 061003
Tract: 061004
Tract: 061200
Tract: 061600
Tract: 062000
Tract: 062200
Tract: 062600
Tract: 062800
Tract: 063200
Tract: 065200
Tract: 065400
Tract: 065800
Tract: 066000
Tract: 066200
Tract: 066600
Tract: 067000
Tract: 067200
Tract: 067400
Tract: 067600
Tract: 067800
Tract: 068000
Tract: 068200
Tract: 068600
Tract: 068800
Tract: 069000
Tract: 069200
Tract: 069601
Tract: 069602
Tract: 069800
Tract: 070000
Tract: 070201
Tract: 070202
Tract: 070203
Tract: 070601
Tract: 070602
Tract: 072000
Tract: 072800
Tract: 073000
Tract: 073600
Tract: 090800
Tract: 092200
Tract: 094402
Tract: 095400
Tract: 095600
Tract: 095800
Tract: 096000
Tract: 096200
Tract: 096400
Tract: 096600
Tract: 096800
Tract: 097000
Tract: 097400

Tract: 098200
Tract: 098400
Tract: 098600
Tract: 098800
Tract: 099000
Tract: 099200
Tract: 099400
Tract: 099600
Tract: 099800
Tract: 100400
Tract: 100600
Tract: 100800
Tract: 101000
Tract: 101200
Tract: 101400
Tract: 101600
Tract: 101800
Tract: 102000
Tract: 102200
Tract: 102400
Tract: 102600
Tract: 102801
Tract: 102802
Tract: 103401
Tract: 103402
Tract: 105801
Tract: 105804
Tract: 107001
Tract: 107002
Tract: 107003
Tract: 107800
Tract: 109800
Tract: 110400
Tract: 110600
Tract: 111000
Tract: 111600
Tract: 111800
Tract: 112000
Tract: 112200
Tract: 112400
Tract: 112600
Tract: 112800
Tract: 113000
Tract: 113200
Tract: 113400
Tract: 115000
Tract: 115200
Tract: 115600
Tract: 115800
Tract: 116000
Tract: 116200
Tract: 116400
Tract: 116600
Tract: 119400
Tract: 120000
Tract: 120801

1 Tract: 120802
2 Tract: 121000
3 Tract: 121400
4 Tract: 003300 Blocks: 1000-1001
5 Tract: 003500 Blocks: 1000 1003-1004 2000-2002
6 Tract: 012902 Block: 2000
7 Tract: 016100 Block: 2000
8 Tract: 016300 Blocks: 1000 4000-4001
9 Tract: 020300 Blocks: 1000-1003 2000-2001
10 Tract: 022100 Blocks: 1000-1003 2000-2002
11 Tract: 025300 Blocks: 3002-3003
12 Tract: 025901 Blocks: 1000 1003
13 Tract: 026100 Blocks: 1000-1001 2000-2002 3000-3001 4002
14 Tract: 029400 Blocks: 1009-1010
15 Tract: 030400 Blocks: 0001 1006-1009
16 Tract: 030500 Blocks: 1000-1003 1006-1007
17 Tract: 030900 Blocks: 1000-1007 2000
18 Tract: 031100 Blocks: 1000-1003 3000-3003
19 Tract: 031300 Blocks: 1000-1003 4000-4003
20 Tract: 031401 Blocks: 0001 2001-2002 3000-3011 4000
21 Tract: 031500 Blocks: 1000-1003 4000-4003
22 Tract: 034700 Block: 1000
23 Tract: 036300 Blocks: 1000-1003
24 Tract: 038600 Blocks: 1000-1009 2000-2001 2004-2010
25 Tract: 039600 Blocks: 1000-1003 2000 2002-2004
26 Tract: 039800 Blocks: 1000 1009-1011
27 Tract: 041401 Blocks: 2000-2001
28 Tract: 041402 Blocks: 1004-1005 2003-2004
29 Tract: 041600 Blocks: 1003-1004 2000-2002
30 Tract: 055600 Blocks: 1002-1003 2001 3002-3004
31 Tract: 055800 Blocks: 1001-1002 2003-2005
32 Tract: 056000 Blocks: 1001-1003 2001
33 Tract: 056200 Blocks: 1002-1003 2002-2003
34 Tract: 063600 Blocks: 1004-1005
35 Tract: 063800 Blocks: 2001-2003
36 Tract: 064800 Blocks: 2000-2003
37 Tract: 065000 Blocks: 1002-1003 2000-2007
38 Tract: 065600 Blocks: 1000-1002 2000-2003
39 Tract: 072200 Blocks: 1000-1008 2000-2004
40 Tract: 072400 Blocks: 1000-1002 2000-2001 2006-2007
41 Tract: 072600 Block: 1011
42 Tract: 073200 Blocks: 1000-1001 1005 2000
43 Tract: 090600 Blocks: 1000-1001 2000-2003 3000
44 Tract: 091000 Blocks: 4000-4005
45 Tract: 091600 Blocks: 3002-3003 4003
46 Tract: 091800 Blocks: 2000 2007
47 Tract: 092000 Blocks: 1001 2002-2003 3000-3001 3005-3011 4000-4002
48 Tract: 092800 Blocks: 1001-1003 2002-2005 3000-3001
49 Tract: 093000 Blocks: 1000-1002 2000-2006
50 Tract: 093400 Blocks: 2002-2003 2005-2007
51 Tract: 094401 Blocks: 2002-2005 2007 3002-3003 4000-4001
52 Tract: 095000 Blocks: 1000-1006 2001-2004
53 Tract: 114400 Blocks: 1001 1003-1005 1007-1020 2000-2005 3000-3005
54 4000-4005
55 Tract: 119200 Blocks: 1002-1003 2000-2004 3003-3005
56 Tract: 119600 Blocks: 1003-1008 2000-2005 3000-3005 4000-4005

Tract: 120803 Blocks: 1002-1004 1012-1013
Tract: 122000 Blocks: 1008 1010-1016 2000-2029
Tract: 990100 Blocks: 0001-0004
9. Congressional District 9.
Within Kings County
Within Brooklyn Borough:
Tract: 021300
Tract: 021500
Tract: 021700
Tract: 021900
Tract: 027000
Tract: 029800
Tract: 030600
Tract: 031701
Tract: 031702
Tract: 031900
Tract: 032100
Tract: 032300
Tract: 032500
Tract: 032700
Tract: 032900
Tract: 033100
Tract: 033300
Tract: 033500
Tract: 033701
Tract: 033702
Tract: 033900
Tract: 034100
Tract: 034300
Tract: 034500
Tract: 034901
Tract: 034902
Tract: 035101
Tract: 035102
Tract: 035301
Tract: 035302
Tract: 035500
Tract: 035701
Tract: 035702
Tract: 035900
Tract: 036100
Tract: 040000
Tract: 040200
Tract: 040400
Tract: 040600
Tract: 040800
Tract: 041000
Tract: 041200
Tract: 041800
Tract: 042000
Tract: 042200
Tract: 042400
Tract: 042600
Tract: 042800
Tract: 043000
Tract: 043200

Tract: 043400
Tract: 043600
Tract: 043800
Tract: 044000
Tract: 044200
Tract: 044400
Tract: 044600
Tract: 044800
Tract: 045000
Tract: 045200
Tract: 045400
Tract: 045600
Tract: 045800
Tract: 046000
Tract: 046201
Tract: 046202
Tract: 048000
Tract: 048200
Tract: 048400
Tract: 049000
Tract: 049200
Tract: 049400
Tract: 050600
Tract: 050801
Tract: 050803
Tract: 050804
Tract: 051001
Tract: 051002
Tract: 051200
Tract: 051400
Tract: 051601
Tract: 051602
Tract: 051800
Tract: 052000
Tract: 052600
Tract: 052800
Tract: 053000
Tract: 053200
Tract: 053400
Tract: 053800
Tract: 054200
Tract: 054400
Tract: 054600
Tract: 054800
Tract: 055000
Tract: 055200
Tract: 055400
Tract: 056400
Tract: 064000
Tract: 064200
Tract: 064400
Tract: 064600
Tract: 073400
Tract: 073800
Tract: 074000
Tract: 074200

Tract: 074400
Tract: 074600
Tract: 074800
Tract: 075000
Tract: 075200
Tract: 075400
Tract: 075600
Tract: 075800
Tract: 076000
Tract: 076200
Tract: 076400
Tract: 076600
Tract: 076800
Tract: 077000
Tract: 077200
Tract: 077400
Tract: 077600
Tract: 078000
Tract: 078200
Tract: 078400
Tract: 078601
Tract: 078602
Tract: 078801
Tract: 078802
Tract: 079001
Tract: 079002
Tract: 079201
Tract: 079202
Tract: 079400
Tract: 079601
Tract: 079602
Tract: 079801
Tract: 079802
Tract: 080000
Tract: 080200
Tract: 080400
Tract: 080600
Tract: 080800
Tract: 081000
Tract: 081400
Tract: 081600
Tract: 081800
Tract: 082000
Tract: 082200
Tract: 082400
Tract: 082600
Tract: 082800
Tract: 083000
Tract: 083200
Tract: 083400
Tract: 083600
Tract: 083800
Tract: 084000
Tract: 084600
Tract: 084800
Tract: 085000

Tract: 085200
Tract: 085400
Tract: 085600
Tract: 085800
Tract: 086000
Tract: 086200
Tract: 086400
Tract: 086600
Tract: 086800
Tract: 087000
Tract: 087200
Tract: 087401
Tract: 087600
Tract: 087800
Tract: 088001
Tract: 088002
Tract: 088200
Tract: 088400
Tract: 088600
Tract: 088800
Tract: 089000
Tract: 089200
Tract: 089400
Tract: 089600
Tract: 089800
Tract: 090000
Tract: 090200
Tract: 091200
Tract: 092400
Tract: 093200
Tract: 093600
Tract: 093800
Tract: 094600
Tract: 152200
Tract: 017700 Block: 1013
Tract: 020500 Blocks: 1000-1001 2000-2001 3000-3001
Tract: 020700 Blocks: 1000-1001
Tract: 022100 Blocks: 1004-1005 2000-2002 3000-3002
Tract: 024600 Blocks: 1000-1002 2001-2002 3000-3002
Tract: 025400 Blocks: 1000-1002 2000-2003 3003
Tract: 025600 Blocks: 1000-1005 2003
Tract: 025800 Blocks: 1000-1002 2000-2002
Tract: 026600 Blocks: 1000-1002 2002
Tract: 026800 Blocks: 1000-1001 2000-2003 4000-4001
Tract: 027200 Blocks: 1000-1001 2000-2001 3000
Tract: 029600 Block: 1000
Tract: 030000 Blocks: 1001 2000-2001 3000-3001 4000-4001 5000-5001 6000
Tract: 030200 Blocks: 1002-1003 2000-2002 3000-3002
Tract: 030400 Blocks: 1000-1005 1010 2001-2004 3000-3008
Tract: 030500 Blocks: 1004-1005 1008 2000-2002 3000-3002 4000-4002
Tract: 030900 Blocks: 2001-2002
Tract: 031100 Blocks: 1004 2000-2002
Tract: 031300 Blocks: 2000-2002 3000-3002
Tract: 031401 Blocks: 1000-1005 2000 5000-5001 6000-6001
Tract: 031500 Blocks: 2000-2001 3000-3001

Tract: 034700 Blocks: 1001-1002 2000-2001 3000-3001
Tract: 036300 Blocks: 1004-1006 2000-2003 3000-3004 4000-4001
Tract: 038600 Blocks: 2002-2003
Tract: 039600 Block: 2001
Tract: 039800 Blocks: 1001-1008 2000-2005
Tract: 041401 Blocks: 1000-1003 2002
Tract: 041402 Blocks: 1000-1003 2000-2002
Tract: 041600 Blocks: 1000-1007
Tract: 046800 Blocks: 1002-1005
Tract: 048800 Blocks: 1000 1003 2000 3000-3001
Tract: 049600 Blocks: 1000-1001
Tract: 055600 Blocks: 1000-1001 2000 3000-3001
Tract: 055800 Blocks: 1000 2000-2002
Tract: 056000 Blocks: 1000 2000 3000-3001
Tract: 056200 Blocks: 1000-1001 2000-2001
Tract: 063600 Blocks: 1000-1003
Tract: 063800 Blocks: 1000-1003 2000
Tract: 064800 Blocks: 1000-1004
Tract: 065000 Blocks: 1000-1001
Tract: 065600 Block: 1003
Tract: 072200 Block: 2005
Tract: 072400 Blocks: 2002-2005
Tract: 072600 Blocks: 1000-1010 1012-1018
Tract: 073200 Blocks: 1002-1004 1006 2001-2005
Tract: 090600 Block: 2004
Tract: 091000 Blocks: 1000-1001 2000 3000
Tract: 091600 Blocks: 1000-1002 2000-2003 3000-3001 4000-4002
Tract: 091800 Blocks: 1000-1005 2001-2006
Tract: 092000 Blocks: 1000 2000-2001 3002-3004
Tract: 092800 Blocks: 1000 2000-2001
Tract: 093000 Block: 1003
Tract: 093400 Blocks: 1000-1004 2000-2001 2004
Tract: 094401 Blocks: 1000-1001 2000-2001 2006 3000-3001
Tract: 095000 Block: 2000
10. Congressional District 10.
Within Kings County
Within Brooklyn Borough:
Tract: 003700
Tract: 005303
Tract: 009402
Tract: 010401
Tract: 010402
Tract: 010601
Tract: 010602
Tract: 010801
Tract: 010802
Tract: 011400
Tract: 011600
Tract: 011800
Tract: 012801
Tract: 013200
Tract: 017100
Tract: 017400
Tract: 017600
Tract: 017800
Tract: 018000

Tract: 018200
Tract: 018400
Tract: 018600
Tract: 018800
Tract: 019000
Tract: 019200
Tract: 019400
Tract: 019600
Tract: 019800
Tract: 020000
Tract: 020200
Tract: 020400
Tract: 020600
Tract: 020800
Tract: 021000
Tract: 021200
Tract: 021400
Tract: 021600
Tract: 021800
Tract: 022000
Tract: 022200
Tract: 022400
Tract: 022600
Tract: 022800
Tract: 023000
Tract: 023200
Tract: 023400
Tract: 023600
Tract: 023800
Tract: 024000
Tract: 024200
Tract: 024400
Tract: 024800
Tract: 025000
Tract: 025200
Tract: 026000
Tract: 026200
Tract: 026400
Tract: 027400
Tract: 027600
Tract: 027800
Tract: 028400
Tract: 028800
Tract: 029000
Tract: 047000
Tract: 047200
Tract: 047400
Tract: 047600
Tract: 047800
Tract: 048600
Tract: 049800
Tract: 050001
Tract: 050002
Tract: 050202
Tract: 050401
Tract: 050402

Within New York County
Within Manhattan Borough:
Tract: 000100
Tract: 001300
Tract: 001501
Tract: 001600
Tract: 002100
Tract: 002500
Tract: 002700
Tract: 002901
Tract: 002902
Tract: 003900
Tract: 006900
Tract: 007500
Tract: 007900
Tract: 009901
Tract: 009902
Tract: 009903
Tract: 011700
Tract: 012102
Tract: 012901
Tract: 012902
Tract: 013501
Tract: 013502
Tract: 014700
Tract: 015101
Tract: 015102
Tract: 015302
Tract: 015501
Tract: 015502
Tract: 015900
Tract: 016300
Tract: 016700
Tract: 017100
Tract: 017300
Tract: 017500
Tract: 017700
Tract: 017900
Tract: 018100
Tract: 018300
Tract: 018500
Tract: 018700
Tract: 019100
Tract: 019500
Tract: 019900
Tract: 020101
Tract: 020300
Tract: 020500
Tract: 020701
Tract: 031703
Tract: 031704
Tract: 031900
Within Kings County
Within Brooklyn Borough:
Tract: 000900 Blocks: 1004-1008 2000 2003-2004
Tract: 001100 Blocks: 1004-1006 1011

1 Tract: 005102 Blocks: 1011-1012 1015-1016
2 Tract: 001801 Blocks: 0001-0002
3 Tract: 001802 Block: 0001
4 Tract: 003300 Blocks: 2005-2007
5 Tract: 003900 Blocks: 1000-1003 2000 3000
6 Tract: 004300 Blocks: 1000 2001 4000-4005
7 Tract: 005301 Blocks: 0002 2000-2003 2005-2009 2014 2016-2018
8 Tract: 005302 Blocks: 0002 0004 1000-1013 2002-2013 3001-3004
9 Tract: 006500 Blocks: 3000 4000 5000 6000 6003 7000 7002-7006
10 Tract: 006901 Blocks: 2000-2001
11 Tract: 006902 Blocks: 2000-2002
12 Tract: 007500 Blocks: 1003 2004 5000-5002
13 Tract: 007700 Blocks: 3002-3006 3009-3012 4000-4003
14 Tract: 009002 Block: 1001
15 Tract: 009202 Blocks: 2000-2001
16 Tract: 009401 Blocks: 1001 2000-2001
17 Tract: 009800 Blocks: 3000-3001
18 Tract: 010000 Blocks: 1000-1001 2000-2001
19 Tract: 010200 Blocks: 1000-1002 2002
20 Tract: 011000 Blocks: 1000-1002 1005-1007 2000-2001
21 Tract: 011200 Blocks: 1001-1006 2000-2001 3000-3001 4001
22 Tract: 012000 Blocks: 1000-1005 1007-1012
23 Tract: 012901 Blocks: 1000-1001 2000-2001 4000-4001
24 Tract: 012902 Blocks: 2001-2006
25 Tract: 014000 Blocks: 1000-1001
26 Tract: 014800 Block: 1000
27 Tract: 015900 Blocks: 5000-5002 5004 6000
28 Tract: 016100 Blocks: 1000-1003 3000-3001 4000-4001
29 Tract: 016300 Blocks: 2000-2002 3000-3001 4000
30 Tract: 016600 Blocks: 1000-1001 2000-2002
31 Tract: 016800 Blocks: 0001 1002-1005 1007-1009
32 Tract: 016900 Blocks: 1000-1001
33 Tract: 017000 Blocks: 1000-1002 2000-2001 3000
34 Tract: 017200 Blocks: 1000-1007 2000-2002 2004-2005
35 Tract: 017500 Block: 1001
36 Tract: 017700 Blocks: 1000-1012 1014
37 Tract: 020300 Blocks: 1004-1005 2002
38 Tract: 020500 Blocks: 1002 2002 3002
39 Tract: 020700 Blocks: 2000-2002 3000-3001
40 Tract: 024600 Block: 2000
41 Tract: 025400 Blocks: 3000-3002
42 Tract: 025600 Blocks: 2000-2002
43 Tract: 025800 Blocks: 3000-3002
44 Tract: 026600 Blocks: 2000-2001 3000-3002
45 Tract: 026800 Blocks: 3000-3003
46 Tract: 027200 Blocks: 3001-3002
47 Tract: 028000 Blocks: 1000-1004 2000-2005
48 Tract: 028200 Blocks: 1000-1005 2000-2003 3000-3001
49 Tract: 028600 Blocks: 0002 1000-1003 2000 3000 4000-4002 5000-5002
50 Tract: 029200 Blocks: 1000-1002 2000-2003 3000-3003
51 Tract: 029400 Blocks: 1000-1008
52 Tract: 029600 Blocks: 1001-1002 2000-2002 3000-3002 4000-4001
53 Tract: 030000 Block: 1000
54 Tract: 030200 Blocks: 1000-1001 2000
55 Tract: 030400 Block: 2000
56 Tract: 046400 Blocks: 1000-1002 2000-2002

Tract: 046800 Blocks: 1000-1001
Tract: 048800 Blocks: 1001-1002 2001
Tract: 049600 Blocks: 1002-1004 2000-2002 3000-3004
Tract: 150200 Blocks: 1000-1004 2000-2006 3009-3012
Within New York County
Within Manhattan Borough:
Tract: 000500 Blocks: 0001-0004 1000-1031 2004-2006
Tract: 000600 Blocks: 1000-1002 2000-2001 2003
Tract: 000700 Blocks: 0001 1000-1005 2000 3000 4000-4004 5000-5001 6000-6002 7000-7008 8000-8002
Tract: 000800 Blocks: 1000-1001 2000 3000 4000 5000-5003 6000-6026
Tract: 000900 Blocks: 0001 1000-1023
Tract: 001502 Blocks: 0001 1000-1004 2000-2007 3000-3003 4000-4006 5000 6000-6001 7000-7002
Tract: 001800 Blocks: 1001-1004 5006 6000-6001
Tract: 003100 Blocks: 1001-1003 1011-1012 2000-2010
Tract: 003300 Blocks: 1007 1011-1012 2000-2003 2010 2013-2019 3002-3004
Tract: 003700 Blocks: 0001-0004 1000-1018 3009-3010 3014-3015
Tract: 004100 Blocks: 2000-2002 3000-3002 4000-4002 5000 5002-5005
Tract: 004500 Blocks: 1007 1009-1011
Tract: 004700 Block: 2010
Tract: 008300 Blocks: 3000-3003
Tract: 008900 Blocks: 3000-3001 4000-4001
Tract: 009300 Blocks: 3000 4000 5000-5001 6000-6001 7000
Tract: 009700 Blocks: 2000-2002
Tract: 010300 Blocks: 1000-1011
Tract: 011100 Blocks: 2000-2008 3000-3007
Tract: 011500 Blocks: 2000-2008
Tract: 012700 Blocks: 3000-3001 4000-4002
Tract: 013300 Blocks: 3000-3001 4000-4001
Tract: 013900 Blocks: 1000 2000 3000-3001
Tract: 014300 Blocks: 1005-1007 1012-1014
Tract: 014500 Blocks: 1000-1002 2000
Tract: 014900 Blocks: 1000-1003
Tract: 015700 Blocks: 5000 6000 7000-7001 8000-8001
Tract: 016100 Blocks: 1000-1002 5000 6000
Tract: 016500 Blocks: 2000 3000 4000 5000
Tract: 016900 Blocks: 1000 3000-3001 4000-4001
Tract: 019701 Blocks: 1001-1002
11. Congressional District 11.
All of Richmond County
Within Kings County
Within Brooklyn Borough:
Tract: 000200
Tract: 001803
Tract: 001804
Tract: 002000
Tract: 002200
Tract: 003000
Tract: 003400
Tract: 003600
Tract: 003800
Tract: 004100
Tract: 004400
Tract: 004600

Tract: 005000
Tract: 005201
Tract: 005202
Tract: 005400
Tract: 005601
Tract: 005602
Tract: 005800
Tract: 006000
Tract: 006200
Tract: 006400
Tract: 006600
Tract: 006800
Tract: 007000
Tract: 007100
Tract: 007200
Tract: 007400
Tract: 007600
Tract: 007800
Tract: 008000
Tract: 008200
Tract: 008400
Tract: 008600
Tract: 008800
Tract: 009001
Tract: 009201
Tract: 009600
Tract: 010100
Tract: 011700
Tract: 011901
Tract: 011902
Tract: 012100
Tract: 012200
Tract: 012600
Tract: 012700
Tract: 013000
Tract: 013100
Tract: 013300
Tract: 013400
Tract: 013500
Tract: 013600
Tract: 013700
Tract: 013800
Tract: 013900
Tract: 014101
Tract: 014102
Tract: 014200
Tract: 014300
Tract: 014500
Tract: 014700
Tract: 014901
Tract: 014902
Tract: 015000
Tract: 015100
Tract: 015200
Tract: 015300
Tract: 015400

Tract: 015500
Tract: 015700
Tract: 016000
Tract: 016200
Tract: 016400
Tract: 016500
Tract: 016700
Tract: 001801 Blocks: 1000-1010 2000-2003
Tract: 001802 Blocks: 1000-1011
Tract: 003900 Blocks: 2001-2002 3001-3002
Tract: 004300 Blocks: 2000 2002 3000-3003
Tract: 005301 Block: 0001
Tract: 005302 Blocks: 0001 0003
Tract: 006901 Blocks: 1000-1001
Tract: 006902 Blocks: 1000-1003
Tract: 007500 Blocks: 1000-1002 2000-2003 3000-3006 4000-4001
Tract: 007700 Blocks: 1000-1004 2000-2005 3000-3001 3007-3008 3013
Tract: 009002 Blocks: 1000 1002-1003
Tract: 009202 Blocks: 1000-1001
Tract: 009401 Block: 1000
Tract: 009800 Blocks: 1000-1001 2000-2001 4000-4001
Tract: 010000 Blocks: 3000-3001 4000-4001
Tract: 010200 Blocks: 2000-2001 3000-3001
Tract: 011000 Blocks: 1003-1004 2002-2003
Tract: 011200 Blocks: 1000 4000
Tract: 012000 Block: 1006
Tract: 012901 Blocks: 3000-3002
Tract: 012902 Blocks: 1000-1001
Tract: 014000 Blocks: 1002-1003 2000-2007
Tract: 014800 Blocks: 1001-1002 2000-2003
Tract: 015900 Blocks: 1000-1002 2000-2002 3000-3001 4000-4001 5003 6001-6004
Tract: 016100 Blocks: 4002-4004
Tract: 016600 Blocks: 1002-1006 2003-2006
Tract: 016800 Blocks: 1000-1001 1006
Tract: 016900 Blocks: 2000-2001 3000-3003 4000-4001 5000-5001
Tract: 017000 Blocks: 2002-2003 3001-3003
Tract: 017200 Block: 2003
Tract: 017500 Block: 1000
Tract: 028000 Block: 0001
Tract: 028200 Block: 0001
Tract: 028600 Block: 0001
Tract: 029200 Block: 1000
Tract: 029400 Block: 1000
Tract: 030400 Block: 0002
Tract: 150200 Blocks: 3000-3008
Tract: 990100 Blocks: 0005-0008
12. Congressional District 12.
Within Kings County
Within Brooklyn Borough:
Tract: 056100
Tract: 056301
Tract: 056302
Tract: 056500
Tract: 056900
Tract: 057100

Tract: 057300
Tract: 057500
Tract: 057901
Tract: 057902
Within New York County
Within Manhattan Borough:
Tract: 003602
Tract: 003800
Tract: 004001
Tract: 004002
Tract: 004200
Tract: 004400
Tract: 004800
Tract: 004900
Tract: 005000
Tract: 005200
Tract: 005400
Tract: 005501
Tract: 005502
Tract: 005600
Tract: 005700
Tract: 005800
Tract: 005900
Tract: 006000
Tract: 006100
Tract: 006200
Tract: 006300
Tract: 006400
Tract: 006500
Tract: 006600
Tract: 006700
Tract: 006800
Tract: 007001
Tract: 007002
Tract: 007100
Tract: 007200
Tract: 007300
Tract: 007400
Tract: 007600
Tract: 007700
Tract: 007800
Tract: 008000
Tract: 008100
Tract: 008200
Tract: 008400
Tract: 008601
Tract: 008602
Tract: 008603
Tract: 008700
Tract: 008800
Tract: 009000
Tract: 009100
Tract: 009200
Tract: 009400
Tract: 009500
Tract: 009600

Tract: 009800
Tract: 010000
Tract: 010100
Tract: 010200
Tract: 010400
Tract: 010601
Tract: 010602
Tract: 010801
Tract: 010802
Tract: 010803
Tract: 010900
Tract: 011000
Tract: 011201
Tract: 011202
Tract: 011203
Tract: 011300
Tract: 011401
Tract: 011402
Tract: 011600
Tract: 011800
Tract: 011900
Tract: 012000
Tract: 012101
Tract: 012200
Tract: 012400
Tract: 012500
Tract: 012601
Tract: 012602
Tract: 012800
Tract: 013000
Tract: 013100
Tract: 013201
Tract: 013202
Tract: 013203
Tract: 013400
Tract: 013601
Tract: 013602
Tract: 013603
Tract: 013604
Tract: 013700
Tract: 013800
Tract: 014000
Tract: 014200
Tract: 014401
Tract: 014402
Tract: 014601
Tract: 014602
Tract: 014801
Tract: 014802
Tract: 015001
Tract: 015002
Tract: 015200
Tract: 015301
Tract: 015401
Tract: 015402
Tract: 015403

Tract: 015601
Tract: 015602
Tract: 015801
Tract: 015802
Tract: 016001
Tract: 016002
Tract: 023802
Tract: 023803
Tract: 023804
Tract: 024000
Within Queens County
Within Queens Borough:
Tract: 000101
Tract: 000102
Tract: 000103
Tract: 000701
Tract: 000702
Tract: 001901
Tract: 001903
Tract: 002500
Tract: 003302
Tract: 003700
Tract: 003900
Tract: 004300
Tract: 004500
Tract: 004700
Tract: 007500
Tract: 007700
Tract: 008500
Tract: 008700
Within Kings County
Within Brooklyn Borough:
Tract: 051700 Blocks: 1000 2000
Tract: 055700 Blocks: 2000 2004-2007
Tract: 058901 Blocks: 1000-1003 2000-2003
Tract: 058902 Block: 1001
Tract: 059100 Blocks: 4000-4001
Within New York County
Within Manhattan Borough:
Tract: 003002 Blocks: 2000-2001
Tract: 003100 Blocks: 1000 1004-1010
Tract: 003200 Blocks: 1000-1001 2000 3000-3001 4000
Tract: 003300 Blocks: 1000-1006 1008-1010 2004-2009 2011-2012 3000-3001 4000-4005
Tract: 003400 Blocks: 1000 3000-3002 4000-4001
Tract: 003700 Blocks: 2000-2006 3000-3008 3011-3013 3016-3017
Tract: 004100 Blocks: 5001 6001-6003
Tract: 004300 Blocks: 1001-1004 3000-3005
Tract: 004500 Blocks: 1000-1006 1008
Tract: 004700 Blocks: 1000-1003 2000-2009 2011-2014
Tract: 008300 Blocks: 1000-1001 2000-2002
Tract: 008900 Blocks: 1000 2000-2001 5000
Tract: 009300 Blocks: 1000-1002 2000-2001
Tract: 009700 Blocks: 1000-1002 3000 4000
Tract: 010300 Blocks: 1012 2000-2002
Tract: 011100 Blocks: 1000-1004

Tract: 011500 Blocks: 1000-1003
Tract: 012700 Blocks: 1000-1001 2000-2001 5000
Tract: 013300 Blocks: 1000 2000-2001 5000-5001
Tract: 013900 Blocks: 4000-4002 5000 6000 7000
Tract: 014300 Blocks: 1010-1011 1015-1033
Tract: 014500 Blocks: 3000-3002 4000-4002 5000-5001
Tract: 014900 Blocks: 1004 2000 3000 4000-4001 5000
Tract: 015700 Blocks: 1000 2000-2001 3000 4000
Tract: 016100 Blocks: 2000-2001 3000 4000
Tract: 016200 Blocks: 0001-0003 5002-5008
Tract: 016400 Blocks: 2000-2002 3000-3002
Tract: 016500 Blocks: 1000-1001
Tract: 016600 Blocks: 3000-3001 6000-6003
Tract: 016900 Blocks: 2000 5000 6000
Tract: 017800 Block: 0001
Tract: 019200 Blocks: 0001-0003
Within Queens County
Within Queens Borough:
Tract: 000104 Blocks: 1000-1030 1032-1037
Tract: 001902 Blocks: 1000-1015
Tract: 003100 Blocks: 1000-1004 2000 2006-2008
Tract: 003301 Blocks: 1000-1002 1004-1014
Tract: 005100 Blocks: 1000-1002 2000-2005
Tract: 005300 Blocks: 1000-1002 2000-2002 3000-3001 4000-4002
Tract: 005700 Block: 2000
Tract: 005900 Block: 3000
Tract: 006100 Block: 1000
Tract: 008100 Blocks: 1002 1007-1008
Tract: 009100 Blocks: 1001-1002
Tract: 017101 Blocks: 1014-1015
Tract: 017902 Blocks: 1010-1011 1026
13. Congressional District 13.
Within Bronx County
Within Bronx Borough:
Tract: 022901
Tract: 022902
Tract: 023100
Tract: 023302
Tract: 023501
Tract: 023502
Tract: 023702
Tract: 023703
Tract: 023704
Tract: 023900
Tract: 024100
Tract: 024501
Tract: 024502
Tract: 024900
Tract: 025100
Tract: 025300
Tract: 025500
Tract: 026100
Tract: 026300
Tract: 026500
Tract: 026701
Tract: 026702

Tract: 026900
Tract: 027300
Tract: 027700
Tract: 027900
Tract: 037900
Tract: 038100
Tract: 038301
Tract: 038303
Tract: 038304
Tract: 039901
Tract: 039902
Tract: 040100
Tract: 040302
Tract: 040303
Tract: 040304
Tract: 040501
Tract: 040701
Within New York County
Within Manhattan Borough:
Tract: 016800
Tract: 017000
Tract: 017200
Tract: 017401
Tract: 017402
Tract: 018000
Tract: 018200
Tract: 018400
Tract: 018600
Tract: 018800
Tract: 018900
Tract: 019000
Tract: 019300
Tract: 019400
Tract: 019600
Tract: 019702
Tract: 019800
Tract: 020000
Tract: 020102
Tract: 020600
Tract: 020800
Tract: 020901
Tract: 021000
Tract: 021100
Tract: 021200
Tract: 021303
Tract: 021400
Tract: 021500
Tract: 021600
Tract: 021703
Tract: 021800
Tract: 021900
Tract: 022000
Tract: 022102
Tract: 022200
Tract: 022301
Tract: 022302

Tract: 022400
Tract: 022500
Tract: 022600
Tract: 022700
Tract: 022800
Tract: 022900
Tract: 023000
Tract: 023100
Tract: 023200
Tract: 023300
Tract: 023400
Tract: 023501
Tract: 023502
Tract: 023600
Tract: 023700
Tract: 023900
Tract: 024100
Tract: 024200
Tract: 024301
Tract: 024302
Tract: 024500
Tract: 024700
Tract: 024900
Tract: 025100
Tract: 025300
Tract: 025500
Tract: 025700
Tract: 025900
Tract: 026100
Tract: 026300
Tract: 026500
Tract: 026700
Tract: 026900
Tract: 027100
Tract: 027300
Tract: 027500
Tract: 027700
Tract: 027900
Tract: 028100
Tract: 028300
Tract: 028500
Tract: 028700
Tract: 029100
Tract: 029300
Tract: 029500
Tract: 029700
Tract: 029900
Tract: 030300
Tract: 030700
Tract: 030900
Tract: 031100
Within Bronx County
Within Bronx Borough:
Tract: 016500 Blocks: 1001-1006 1010-1015 1019
Tract: 016700 Blocks: 2000-2002 2004-2005
Tract: 016900 Blocks: 1000-1001

Tract: 017100 Block: 1001
Tract: 021501 Blocks: 1000 2000
Tract: 022701 Blocks: 2000-2004 3000 3006-3008
Tract: 022702 Block: 1000
Tract: 022703 Blocks: 1000 1006
Tract: 023301 Blocks: 1001-1002 2000-2003 4000-4001
Tract: 024300 Blocks: 1000-1001 2000 3000 4000
Tract: 024700 Block: 1000
Tract: 025700 Blocks: 1000-1005
Tract: 028100 Blocks: 1000-1001 2000-2001 3001-3002
Tract: 028300 Blocks: 1000-1005 2000 2002-2009
Tract: 028500 Blocks: 4000-4001 4004-4008
Tract: 028700 Blocks: 1001-1004 2000 3000-3001
Tract: 028900 Blocks: 1000-1005 2000 3001-3004 3006 4000-4001
Tract: 037504 Blocks: 1000-1007 2001-2002 3000-3001 3004-3005
Tract: 038500 Blocks: 1000-1009 2000-2002 3001-3006 4000-4006
Tract: 039500 Blocks: 1000-1005 2000-2004 3000-3006 4001-4012
Tract: 040502 Blocks: 1000 2000 5000 6000-6001
Tract: 040702 Blocks: 2000 3000-3003 4000-4002 5000
Tract: 040900 Blocks: 1005-1007 2000-2002
Within New York County
Within Manhattan Borough:
Tract: 014300 Blocks: 1000-1004 1008-1009
Tract: 016200 Blocks: 1000-1002 2000 3000-3001 4000-4001 5000-5001
Tract: 016400 Blocks: 1000-1001 4000
Tract: 016600 Blocks: 1000-1001 2000-2001 4000-4001 5000-5001
Tract: 017800 Blocks: 1000-1001 2000-2002 3000-3008
Tract: 019200 Blocks: 1000-1006 2000 3000
Tract: 019701 Block: 1000
14. Congressional District 14.
Within Bronx County
Within Bronx Borough:
Tract: 006000
Tract: 011000
Tract: 014400
Tract: 015200
Tract: 016600
Tract: 019400
Tract: 020000
Tract: 020200
Tract: 020400
Tract: 020601
Tract: 021001
Tract: 021002
Tract: 021200
Tract: 021601
Tract: 021800
Tract: 022000
Tract: 022200
Tract: 022401
Tract: 022403
Tract: 022404
Tract: 022800
Tract: 023000
Tract: 023200
Tract: 023600

Tract: 023800
Tract: 024000
Tract: 024400
Tract: 024600
Tract: 024800
Tract: 025000
Tract: 025200
Tract: 025400
Tract: 025600
Tract: 026601
Tract: 026602
Tract: 028400
Tract: 028600
Tract: 028800
Tract: 029600
Tract: 030000
Tract: 031200
Tract: 036100
Within Queens County
Within Queens Borough:
Tract: 005500
Tract: 006300
Tract: 006501
Tract: 006502
Tract: 006900
Tract: 007100
Tract: 007300
Tract: 007900
Tract: 008300
Tract: 009500
Tract: 009700
Tract: 009900
Tract: 010100
Tract: 010300
Tract: 010500
Tract: 010701
Tract: 011100
Tract: 011300
Tract: 011500
Tract: 011700
Tract: 011900
Tract: 012100
Tract: 012301
Tract: 012500
Tract: 013500
Tract: 013700
Tract: 014100
Tract: 014300
Tract: 014500
Tract: 014700
Tract: 014900
Tract: 015100
Tract: 015300
Tract: 015500
Tract: 015700
Tract: 015900

Tract: 016100
Tract: 016300
Tract: 016900
Tract: 017102
Tract: 017901
Tract: 018101
Tract: 018102
Tract: 018300
Tract: 018501
Tract: 018502
Tract: 018700
Tract: 018900
Tract: 019901
Tract: 019902
Tract: 019903
Tract: 020500
Tract: 022900
Tract: 023501
Tract: 023502
Tract: 025100
Tract: 025301
Tract: 025302
Tract: 025500
Tract: 025700
Tract: 026901
Tract: 027102
Tract: 027301
Tract: 027302
Tract: 027500
Tract: 027701
Tract: 027702
Tract: 027900
Tract: 028100
Tract: 028300
Tract: 028500
Tract: 028700
Tract: 028900
Tract: 029100
Tract: 029300
Tract: 029500
Tract: 029700
Tract: 029900
Tract: 030903
Tract: 030904
Tract: 030905
Tract: 030906
Tract: 031700
Tract: 032700
Tract: 032900
Tract: 033100
Tract: 033700
Tract: 033900
Tract: 034700
Tract: 035100
Tract: 035300
Tract: 035700

Tract: 036100
Tract: 036300
Tract: 036500
Tract: 036700
Tract: 037100
Tract: 037300
Tract: 037501
Tract: 037502
Tract: 037700
Tract: 037900
Tract: 038100
Tract: 038301
Tract: 039901
Tract: 039902
Tract: 040101
Tract: 040102
Tract: 040301
Tract: 040302
Tract: 040501
Tract: 040502
Tract: 040701
Tract: 040702
Tract: 040901
Tract: 040902
Tract: 041100
Tract: 041300
Tract: 041500
Tract: 042700
Tract: 043900
Tract: 044301
Tract: 044302
Tract: 045500
Tract: 046300
Tract: 046500
Tract: 046902
Tract: 090700
Tract: 091900
Tract: 092500
Tract: 092900
Tract: 093900
Tract: 094500
Tract: 094700
Tract: 097300
Tract: 098100
Tract: 102900
Tract: 103900
Within Bronx County
Within Bronx Borough:
Tract: 000100 Blocks: 1000-1003
Tract: 006200 Blocks: 1000-1001 2000 3000 4000-4002
Tract: 007200 Blocks: 3000 3002-3003
Tract: 007600 Blocks: 1000-1001 4000-4001
Tract: 009000 Blocks: 0001 0003 1004-1006 1009 2000-2020
Tract: 009200 Blocks: 1000-1007 2000-2001 3000-3003 3005 4000-4001 5000-5001 5003
Tract: 009600 Blocks: 1000-1005 2000-2007 2009-2016 2020-2025

Tract: 013000 Blocks: 1006-1008
Tract: 013200 Blocks: 0001 1000-1003 2000-2008 3002-3004 3010-3011 4000-4005 5000-5010
Tract: 016100 Blocks: 1000 1002
Tract: 018400 Blocks: 2003-2005 2008-2009 3000-3007 4000-4009
Tract: 021602 Blocks: 1000-1001 2000 3000-3002 4000-4002 5000-5002 6000
Tract: 026400 Blocks: 2000-2009 3000-3007 4000-4008
Tract: 027600 Blocks: 0001 1005-1014 1016-1019 1022
Tract: 030202 Blocks: 2000-2001
Tract: 031000 Blocks: 1005-1011 2008-2014 3001-3009
Tract: 031400 Blocks: 2000 2006-2007
Tract: 033400 Blocks: 1008-1010 1012-1031
Tract: 035900 Blocks: 1004-1009 1014-1017
Tract: 036300 Blocks: 1001 2000 3002 4004-4005
Tract: 039700 Block: 1001
Tract: 050400 Blocks: 0006 1001-1004 1010 1012 1015-1016
Tract: 000104 Blocks: 1031 1038
Tract: 001902 Block: 1016
Tract: 003100 Blocks: 2001-2005 2009 1003 2009
Tract: 003301 Blocks: 1003 1015-1019
Tract: 005100 Blocks: 1003 2006
Tract: 005300 Block: 4003
Tract: 005700 Blocks: 1000-1006 2001 3000-3004
Tract: 005900 Blocks: 1000-1004 2000-2001 3001
Tract: 006100 Blocks: 1001 2000-2001 3000 4000-4002
Tract: 008100 Blocks: 1000-1001 1003-1006
Tract: 009100 Blocks: 1000 1003 2000-2004
Tract: 017101 Blocks: 1000-1013
Tract: 017902 Blocks: 1000-1009 1012-1025 1027-1032
Tract: 021900 Blocks: 1000-1016 1018-1022
Tract: 024300 Blocks: 1003-1013 2000-2016 3005-3006
Tract: 024500 Blocks: 1000-1005 2000-2004 3002-3006 4000-4006
Tract: 024900 Block: 3003
Tract: 025900 Blocks: 1000-1011 2000-2001
Tract: 026100 Blocks: 1000-1003 2000-2001 3000-3001 4000-4003
Tract: 026300 Blocks: 1000-1009
Tract: 026501 Blocks: 2000-2003 2007
Tract: 026700 Blocks: 1000-1002 3000-3003
Tract: 027101 Blocks: 1000-1001
Tract: 038302 Blocks: 0001 1000-1020 1022-1031 1033 1067 1089
Tract: 043701 Blocks: 1000-1002 2000-2003 2005-2009
Tract: 043702 Blocks: 1001-1005 2000-2003 3000-3003
Tract: 046100 Blocks: 1000 2000-2003
Tract: 046700 Blocks: 1000-1003 2000-2001 3000-3001 4000
Tract: 046901 Block: 3000
Tract: 086900 Blocks: 2000 2005-2007
Tract: 088902 Block: 1000
Tract: 088903 Blocks: 1002-1003 2002-2003 3003
Tract: 098700 Blocks: 1000-1012 2000-2014
Tract: 099100 Blocks: 1001-1004 2001-2002 3005 3015 3017-3019 4001-4020 4023-4025 5000-5012 5014-5016
Tract: 101700 Blocks: 1003-1004 3000-3008 4000-4002 6006-6009 7000-7004
Tract: 103300 Blocks: 1000-1009 2000-2005 3000
15. Congressional District 15.

Within Bronx County
Within Bronx Borough:
Tract: 000200
Tract: 000400
Tract: 001600
Tract: 001901
Tract: 001902
Tract: 001903
Tract: 001904
Tract: 002001
Tract: 002002
Tract: 002300
Tract: 002400
Tract: 002500
Tract: 002701
Tract: 002702
Tract: 002800
Tract: 003100
Tract: 003300
Tract: 003500
Tract: 003700
Tract: 003800
Tract: 003900
Tract: 004001
Tract: 004100
Tract: 004200
Tract: 004300
Tract: 004400
Tract: 004600
Tract: 004800
Tract: 005001
Tract: 005002
Tract: 005100
Tract: 005200
Tract: 005300
Tract: 005400
Tract: 005600
Tract: 005902
Tract: 006100
Tract: 006301
Tract: 006302
Tract: 006500
Tract: 006700
Tract: 006800
Tract: 006900
Tract: 007000
Tract: 007100
Tract: 007300
Tract: 007400
Tract: 007500
Tract: 007700
Tract: 007800
Tract: 007900
Tract: 008300
Tract: 008400
Tract: 008500

Tract: 008600
Tract: 008700
Tract: 008900
Tract: 009301
Tract: 009302
Tract: 009800
Tract: 011502
Tract: 011701
Tract: 011702
Tract: 011900
Tract: 012101
Tract: 012102
Tract: 012300
Tract: 012500
Tract: 012701
Tract: 012901
Tract: 013100
Tract: 013300
Tract: 013500
Tract: 014100
Tract: 014300
Tract: 014500
Tract: 014701
Tract: 014702
Tract: 014900
Tract: 015100
Tract: 015300
Tract: 015500
Tract: 015700
Tract: 015900
Tract: 016300
Tract: 017300
Tract: 017500
Tract: 017701
Tract: 017702
Tract: 017901
Tract: 017902
Tract: 018101
Tract: 018102
Tract: 018301
Tract: 018302
Tract: 018501
Tract: 018502
Tract: 018900
Tract: 019300
Tract: 019500
Tract: 019700
Tract: 019900
Tract: 020100
Tract: 020501
Tract: 020502
Tract: 020900
Tract: 021100
Tract: 021301
Tract: 021302
Tract: 021502

Tract: 021700
Tract: 021900
Tract: 022101
Tract: 022102
Tract: 022300
Tract: 022500
Tract: 029301
Tract: 029302
Tract: 029500
Tract: 029700
Tract: 030100
Tract: 030701
Tract: 030900
Tract: 031600
Tract: 031800
Tract: 031900
Tract: 032300
Tract: 032400
Tract: 032600
Tract: 032800
Tract: 033000
Tract: 033201
Tract: 033202
Tract: 033500
Tract: 033601
Tract: 033700
Tract: 034300
Tract: 034500
Tract: 035100
Tract: 036501
Tract: 036502
Tract: 036700
Tract: 036901
Tract: 036902
Tract: 037100
Tract: 037300
Tract: 038700
Tract: 038900
Tract: 039100
Tract: 039300
Tract: 041100
Tract: 041300
Tract: 041500
Tract: 041900
Tract: 042100
Tract: 042300
Tract: 042500
Tract: 042901
Tract: 042902
Tract: 043101
Tract: 043102
Tract: 000100 Blocks: 0001-0002
Tract: 006200 Blocks: 1002-1005 4000 5000-5002
Tract: 006400 Blocks: 1000-1004 2000 3000-3001
Tract: 007200 Blocks: 1000-1003 2000-2002 3001 3004 4000
Tract: 007600 Blocks: 2000-2001 3000-3001 4002-4005 5000-5005

Tract: 009000 Blocks: 0002 1000-1003 1007-1008 1010 3000-3001 4000-4003 5000
Tract: 009200 Blocks: 3004 3006 5002 5004
Tract: 009600 Blocks: 1006-1008 2008 2017-2019
Tract: 016100 Blocks: 1001 1003-1010 2000-2002 3000 4000-4001
Tract: 016500 Blocks: 1000 1007-1009 1016-1018 1020-1023
Tract: 016700 Blocks: 1000-1001 2003 2006 2007-2009
Tract: 016900 Blocks: 1002-1006
Tract: 017100 Block: 1000
Tract: 021501 Blocks: 1001 3000-3001
Tract: 021602 Blocks: 3003-3004
Tract: 022701 Blocks: 1000-1001 3001-3005
Tract: 022702 Blocks: 1001-1006
Tract: 022703 Blocks: 1001-1005
Tract: 023301 Blocks: 1000 3000-3001
Tract: 024300 Block: 2001
Tract: 024700 Blocks: 1001 2000-2004
Tract: 025700 Blocks: 1006-1008
Tract: 028100 Block: 3000
Tract: 028300 Block: 2001
Tract: 028500 Blocks: 1000-1001 2000 3000-3002 4002-4003
Tract: 028700 Blocks: 1000 1005
Tract: 028900 Blocks: 3000 3005
Tract: 031400 Blocks: 1000-1005 2001-2005
Tract: 033400 Blocks: 1000-1007 1011 1022 1032
Tract: 033801 Blocks: 1002-1003 2000-2002
Tract: 034000 Blocks: 3000 4000-4003
Tract: 034200 Blocks: 2003-2010
Tract: 034400 Blocks: 1000-1002
Tract: 034800 Blocks: 4000-4005
Tract: 035900 Blocks: 1000-1003 1010-1013
Tract: 036300 Blocks: 1000 3000-3001 4000-4003 4006-4008 5000-5002 6000-6007
Tract: 037504 Blocks: 1008 2000 2003 3002-3003
Tract: 038500 Block: 3000
Tract: 039500 Blocks: 4000 4013
Tract: 039700 Blocks: 1000 1002-1016 2000-2002
Tract: 040502 Blocks: 3000-3001 4000-4001
Tract: 040702 Blocks: 1000-1002 2001-2003
Tract: 040900 Blocks: 1000-1004
Tract: 043503 Blocks: 1001-1022
16. Congressional District 16.
Within Putnam County
All of Carmel town
All of Putnam Valley town
Within Westchester County
All of Eastchester town
All of Harrison town
All of Mount Vernon city
All of North Castle town
All of Scarsdale town
All of Somers town
All of Yonkers city
All of Yorktown town
Within Bronx County
Within Bronx Borough:

Tract: 030201
Tract: 033602
Tract: 033802
Tract: 035000
Tract: 035600
Tract: 035800
Tract: 036000
Tract: 036400
Tract: 036800
Tract: 037000
Tract: 037200
Tract: 037400
Tract: 037600
Tract: 037800
Tract: 038000
Tract: 038200
Tract: 038600
Tract: 038800
Tract: 039000
Tract: 039200
Tract: 039400
Tract: 039600
Tract: 039800
Tract: 040400
Tract: 040600
Tract: 040800
Tract: 041400
Tract: 041800
Tract: 042000
Tract: 042200
Tract: 042400
Tract: 042600
Tract: 042800
Tract: 043000
Tract: 043400
Tract: 043501
Tract: 043502
Tract: 043600
Tract: 044200
Tract: 044400
Tract: 044800
Tract: 044901
Tract: 044902
Tract: 045101
Tract: 045102
Tract: 045800
Tract: 046000
Tract: 046203
Tract: 046204
Tract: 046205
Tract: 046206
Tract: 046207
Tract: 046208
Tract: 046209
Tract: 048401
Tract: 048402

Within Westchester County
Within Bedford town:
Tract: 012803
Tract: 012804
Tract: 983000
Within Greenburgh town:
Tract: 010200
Tract: 010300
Within New Rochelle city:
Tract: 006200
Tract: 006301
Tract: 006400
Tract: 006600
Tract: 006700
Tract: 006802
Within White Plains city:
Tract: 009703
Within Bronx County
Within Bronx Borough:
Tract: 030202 Blocks: 1000 3000-3001 4000-4001
Tract: 031000 Blocks: 1000-1004 2000-2007 3000
Tract: 033801 Blocks: 1000-1001 1004
Tract: 034000 Blocks: 1000-1003 2000-2006
Tract: 034200 Blocks: 1000-1002 2000-2002 2008
Tract: 034400 Blocks: 2000-2008
Tract: 034800 Blocks: 1000-1011 2000 3000-3006
Tract: 043503 Block: 1000
Tract: 045600 Blocks: 1000-1005 2000-2007
Within Westchester County
Within Bedford town:
Tract: 012600 Blocks: 1022-1023 1034 2005-2009 2014-2015 2017-2021
3000-3034 4000-4024 5000-5015
Tract: 012700 Blocks: 2000-2007 2009 2012-2014 3000-3013 4000-4040
Within Westchester County
Within Mamaroneck town:
Tract: 006900 Block: 2009
Within New Rochelle city:
Tract: 006100 Blocks: 1010 3000-3010
Tract: 006302 Blocks: 1000-1010 1012-1014 2000 2005-2010
Tract: 006500 Blocks: 1000-1016 2000-2010 3000-3006 3012-3018
4000-4007 4010-4013
Tract: 006801 Blocks: 1000-1008 2001-2018 3000-3040 4000-4028
Within White Plains city:
Tract: 009600 Blocks: 2001-2002 2012 2014-2016 2020-2025
Tract: 009701 Blocks: 1000-1012 2001-2006 3000-3020
Tract: 009702 Blocks: 2000 2003-2005 2010-2033 3000-3022
17. Congressional District 17.
All of Rockland County
All of Sullivan County
Within Orange County
All of Chester town
Within Orange County
All of Deerpark town
All of Greenville town
All of Minisink town
All of Mount Hope town

All of Port Jervis city
All of Tuxedo town
All of Warwick town
Within Westchester County
All of Mount Kisco town
All of Mount Pleasant town
All of New Castle town
All of Ossining town
Within Orange County
Within Monroe town:
Tract: 014101
Tract: 014201
Tract: 014202
Within Wawayanda town:
Tract: 011801
Tract: 011802
Within Westchester County
Within Greenburgh town:
Tract: 010400
Tract: 010500
Tract: 010600
Tract: 010701
Tract: 010702
Tract: 010801
Tract: 010803
Tract: 010804
Tract: 010901
Tract: 010902
Tract: 010903
Tract: 011000
Tract: 011101
Tract: 011102
Tract: 011200
Tract: 011300
Tract: 011401
Tract: 011402
Tract: 011500
Within White Plains city:
Tract: 008801
rract: 008802
Tract: 008901
Tract: 008902
Tract: 009000
Tract: 009100
Tract: 009201
Tract: 009202
Tract: 009300
Tract: 009400
Tract: 009500
Within Orange County
Within Monroe town:
Tract: 014102 Blocks: 1000-1008 1013-1014 1017-1021 1038 2000-2013
3000-3014 4000-4005 4009-4031
Tract: 015003 Blocks: 2019-2021
Tract: 015005 Blocks: 1000-1005 1011-1012
Tract: 015007 Block: 1002

Tract: 015009 Blocks: 2001-2003
Within Westchester County
Within White Plains city:
Tracts: 009600 Blocks: 1000-1010 2000 2003-2011 2013 2017-2019
3000-3018 4000-4016
Tracts: 009701 Block: 2000
Tracts: 009702 Blocks: 1000-1002 2001-2002 2006-2009
18. Congressional District 18.
Within Dutchess County
All of Amenia town
All of Beacon city
All of Beekman town
All of Clinton town
All of Dover town
All of East Fishkill town
All of Fishkill town
All of LaGrange town
All of North East town
All of Pawling town
All of Pine Plains town
All of Pleasant Valley town
All of Poughkeepsie city
All of Poughkeepsie town
All of Stanford town
All of Union Vale town
All of Wappinger town
All of Washington town
Within Orange County
All of Blooming Grove town
All of Cornwall town
All of Crawford town
All of Goshen town
All of Hamptonburgh town
All of Highlands town
All of Middletown city
All of Montgomery town
All of New Windsor town
All of Newburgh city
All of Newburgh town
All of Palm Tree town
All of Wallkill town
All of Woodbury town
Within Putnam County
All of Kent town
All of Patterson town
All of Philipstown town
All of Southeast town
Within Ulster County
All of Lloyd town
All of Marlborough town
All of Plattekill town
All of Rochester town
All of Shawangunk town
All of Wawarsing town
Within Westchester County
All of Cortlandt town

All of Lewisboro town
All of North Salem town
All of Peekskill city
All of Pound Ridge town
Within Dutchess County
Within Hyde Park town:
Tract: 070102
Tract: 070201
Tract: 070301
Tract: 070401
Tract: 070101 Blocks: 1015 1017-1019 1021-1023 1025-1035 2000-2013 3016-3018 3020-3028 3030-3032
Within Orange County
Within Monroe town:
Tract: 015003 Blocks: 2013-2014 2016-2017
Within Wawayanda town:
Tract: 001601 Blocks: 1015 1017 1022-1023
Within Westchester County
Within Bedford town:
Tract: 012600 Blocks: 1000-1021 1024-1033 1035 2000-2004 2010-2013 2016 2022
Tract: 012700 Blocks: 1000-1027 2008 2010 2011
19. Congressional District 19.
All of Columbia County
All of Delaware County
All of Greene County
Within Albany County
All of Bethlehem town
All of Coeymans town
Within Broome County
All of Binghamton city
All of Binghamton town
All of Conklin town
All of Dickinson town
All of Kirkwood town
All of Sanford town
All of Union town
All of Vestal town
All of Windsor town
Within Chenango County
All of Afton town
All of Bainbridge town
All of Columbus town
All of Guilford town
All of New Berlin town
All of North Norwich town
All of Norwich city
All of Norwich town
All of Oxford town
All of Sherburne town
Within Dutchess County
All of Milan town
All of Red Hook town
All of Rhinebeck town
Within Madison County
All of Brookfield town

All of Eaton town
All of Hamilton town
All of Lebanon town
All of Madison town
Within Oneida County
All of Augusta town
All of Bridgewater town
All of Kirkland town
All of Marshall town
All of New Hartford town
All of Paris town
All of Sangerfield town
All of Utica city
Within Otsego County
All of Burlington town
All of Butternuts town
All of Decatur town
All of Edmeston town
All of Hartwick town
All of Laurens town
All of Maryland town
All of Middlefield town
All of Milford town
All of Morris town
All of New Lisbon town
All of Oneonta city
All of Oneonta town
All of Otego town
All of Otsego town
All of Pittsfield town
All of Roseboom town
All of Unadilla town
All of Westford town
All of Worcester town
Within Rensselaer County
All of East Greenbush town
All of Nassau town
All of North Greenbush town
All of Rensselaer city
All of Sand Lake town
All of Schodack town
All of Stephentown town
Within Ulster County
All of Denning town
All of Esopus town
All of Gardiner town
All of Hardenburgh town
All of Hurley town
All of Kingston city
All of Kingston town
All of Marbletown town
All of New Paltz town
All of Olive town
All of Rosendale town
All of Saugerties town
All of Shandaken town

All of Ulster town
All of Woodstock town
Within Chenango County
Within Coventry town:
Tract: 970801 Blocks: 1057 1059-1060 1066-1070 3014-3015 3021 3023-3026 3030-3032
Tract: 970901 Blocks: 2006-2009 2012-2013 2023 2096-2097
Tract: 970902 Blocks: 1000-1005 1007-1011 1022 1030-1032 1062 2000-2003 2005-2016 2018-2021 2024-2030 2058
Tract: 971000 Block: 1059
Within Dutchess County
Within Hyde Park town:
Tract: 070101 Blocks: 1000-1014 1016 1020 1024 3000-3015 3019 3029
Within Rensselaer County
Within Berlin town:
Tract: 052103 Blocks: 1000-1007 1009-1012 1014-1052 2002 2010 2013-2020 2022-2025 2027
20. Congressional District 20.
All of Schenectady County
Within Albany County
All of Albany city
All of Berne town
All of Cohoes city
All of Colonie town
All of Green Island town
All of Guilderland town
All of Knox town
All of New Scotland town
All of Rensselaerville town
All of Watervliet city
All of Westerlo town
Within Montgomery County
All of Amsterdam city
All of Amsterdam town
All of Charleston town
All of Florida town
All of Glen town
All of Mohawk town
Within Rensselaer County
All of Troy city
Within Saratoga County
All of Ballston town
All of Charlton town
All of Clifton Park town
All of Galway town
All of Greenfield town
All of Halfmoon town
All of Malta town
All of Mechanicville city
All of Milton town
All of Moreau town
All of Northumberland town
All of Providence town
All of Saratoga Springs city
All of Waterford town
All of Wilton town

Within Warren County
All of Glens Falls city
All of Queensbury town
Within Saratoga County
Within Stillwater town:
Tract: 062001
Tract: 062100
Tract: 062002 Blocks: 1025-1026 1028 1031 2015 2038-2041 2050 2053
21. Congressional District 21.
All of Clinton County
All of Essex County
All of Franklin County
All of Fulton County
All of Hamilton County
All of Herkimer County
All of Lewis County
All of Schoharie County
All of St. Lawrence County
All of Washington County
Within Jefferson County
All of Antwerp town
All of Champion town
All of Philadelphia town
All of Rutland town
All of Wilna town
Within Montgomery County
All of Canajoharie town
All of Minden town
All of Palatine town
All of Root town
All of St. Johnsville town
Within Oneida County
All of Annsville town
All of Ava town
All of Boonville town
All of Camden town
All of Deerfield town
All of Florence town
All of Floyd town
All of Forestport town
All of Lee town
All of Marcy town
All of Remsen town
All of Rome city
All of Steuben town
All of Trenton town
All of Vernon town
All of Verona town
All of Vienna town
All of Western town
All of Westmoreland town
All of Whitestown town
Within Oswego County
All of Amboy town
All of Constantia town
All of Hastings town

All of Parish town
All of West Monroe town
All of Williamstown town
Within Otsego County
All of Cherry Valley town
All of Exeter town
All of Plainfield town
All of Richfield town
All of Springfield town
Within Rensselaer County
All of Brunswick town
All of Grafton town
All of Hoosick town
All of Petersburgh town
All of Pittstown town
All of Poestenkill town
All of Schaghticoke town
Within Saratoga County
All of Corinth town
All of Day town
All of Edinburg town
All of Hadley town
All of Saratoga town
Within Warren County
All of Bolton town
All of Chester town
All of Hague town
All of Horicon town
All of Johnsburg town
All of Lake George town
All of Lake Luzerne town
All of Stony Creek town
All of Thurman town
All of Warrensburg town
Within Oswego County
Within Albion town:
Tract: 020501 Blocks: 1006-1009 1013-1095 2007 2009-2012 2014-2054 2057-2058 2061-2063
Tract: 020502 Blocks: 1000-1008 2000-2003
Within Rensselaer County
Within Berlin town:
Tract: 052103 Blocks: 1008 1013 2000-2009 2011-2012 2021 2026
Within Saratoga County
Within Stillwater town:
Tract: 062002 Blocks: 1000-1024 1029-1030 2000-2014 2016-2037 2042-2049 2051-2052
22. Congressional District 22.
All of Onondaga County
All of Tompkins County
Within Cayuga County
All of Auburn city
All of Aurelius town
All of Fleming town
All of Genoa town
All of Ledyard town
All of Locke town

All of Moravia town
All of Niles town
All of Owasco town
All of Scipio town
All of Sempronius town
All of Sennett town
All of Springport town
All of Summerhill town
All of Throop town
All of Venice town
Within Cortland County
All of Cortland city
All of Cortlandville town
All of Cuyler town
All of Homer town
All of Preble town
All of Scott town
All of Solon town
All of Taylor town
All of Truxton town
Within Madison County
All of Cazenovia town
All of DeRuyter town
All of Fenner town
All of Georgetown town
All of Lenox town
All of Lincoln town
All of Nelson town
All of Oneida city
All of Smithfield town
All of Stockbridge town
All of Sullivan town
Within Ontario County
All of Geneva city
All of Geneva town
Within Schuyler County
All of Hector town
Within Seneca County
All of Covert town
All of Fayette town
All of Geneva city
All of Lodi town
All of Ovid town
All of Romulus town
All of Seneca Falls town
All of Varick town
Within Cayuga County
Within Brutus town:
Tract: 040400 Blocks: 1032-1033 1036-1037 1041-1056 1058-1072 2031-2033 2035-2040 2047-2055 3000-3007 3009-3043
23. Congressional District 23.
All of Allegany County
All of Cattaraugus County
All of Chautauqua County
All of Chemung County
All of Steuben County

All of Tioga County
Within Broome County
All of Barker town
All of Chenango town
All of Colesville town
All of Fenton town
All of Lisle town
All of Maine town
All of Nanticoke town
All of Triangle town
Within Chenango County
All of German town
All of Greene town
All of Lincklaen town
All of McDonough town
All of Otselic town
All of Pharsalia town
All of Pitcher town
All of Plymouth town
All of Preston town
All of Smithville town
All of Smyrna town
Within Cortland County
All of Cincinnatus town
All of Freetown town
All of Harford town
All of Lapeer town
All of Marathon town
All of Virgil town
All of Willet town
Within Erie County
All of Aurora town
All of Boston town
All of Brant town
All of Cattaraugus Reservation
All of Colden town
All of Collins town
All of Concord town
All of Eden town
All of Evans town
All of Hamburg town
All of Holland town
All of North Collins town
All of Orchard Park town
All of Sardinia town
All of Wales town
Within Livingston County
All of Mount Morris town
All of North Dansville town
All of Nunda town
All of Ossian town
All of Portage town
All of Sparta town
All of Springwater town
All of West Sparta town
Within Schuyler County

All of Catharine town
All of Cayuta town
All of Dix town
All of Montour town
All of Orange town
All of Reading town
All of Tyrone town
Within Wyoming County
All of Arcade town
All of Castile town
All of Eagle town
All of Gainesville town
All of Genesee Falls town
All of Java town
All of Pike town
All of Sheldon town
All of Wethersfield town
Within Yates County
All of Barrington town
All of Benton town
All of Jerusalem town
All of Milo town
All of Potter town
All of Starkey town
All of Torrey town
Within Chenango County
Within Coventry town:
Tract: 970801 Blocks: 3027-3029 3033-3041
Tract: 970802 Blocks: 1049-1050 1052-1056
Tract: 970902 Blocks: 1006 1023-1024 1029 2004
Tract: 971000 Blocks: 1000-1004 1020-1040 1053-1058 1072-1074
Within Wyoming County
Within Orangeville town:
Tract: 970400 Blocks: 1010-1014 1025-1026 1028 3005-3011 3014-3020 3041-3042 3044-3046
24. Congressional District 24.
All of Genesee County
All of Orleans County
All of Wayne County
Within Cayuga County
All of Cato town
All of Conquest town
All of County subdivisions not defined
All of Ira town
All of Mentz town
All of Montezuma town
All of Sterling town
All of Victory town
Within Erie County
All of Alden town
All of Clarence town
All of Elma town
All of Lancaster town
All of Marilla town
All of Newstead town
All of Tonawanda Reservation

Within Jefferson County
All of Adams town
All of Alexandria town
All of Brownville town
All of Cape Vincent town
All of Clayton town
All of County subdivisions not defined
All of Ellisburg town
All of Henderson town
All of Hounsfield town
All of Le Ray town
All of Lorraine town
All of Lyme town
All of Orleans town
All of Pamelia town
All of Rodman town
All of Theresa town
All of Watertown city
All of Watertown town
All of Worth town
Within Livingston County
All of Avon town
All of Caledonia town
All of Conesus town
All of Geneseo town
All of Groveland town
All of Leicester town
All of Lima town
All of Livonia town
All of York town
Within Monroe County
All of Clarkson town
All of Hamlin town
All of Riga town
All of Wheatland town
Within Niagara County
All of Cambria town
All of County subdivisions not defined
All of Hartland town
All of Lewiston town
All of Lockport city
All of Lockport town
All of Newfane town
All of Pendleton town
All of Porter town
All of Royalton town
All of Somerset town
All of Tonawanda Reservation
All of Tuscarora Nation Reservation
All of Wilson town
Within Ontario County
All of Bristol town
All of Canadice town
All of Farmington town
All of Gorham town
All of Manchester town

All of Naples town
All of Phelps town
All of Richmond town
All of Seneca town
All of South Bristol town
All of West Bloomfield town
Within Oswego County
All of Boylston town
All of County subdivisions not defined
All of Fulton city
All of Granby town
All of Hannibal town
All of Mexico town
All of Minetto town
All of New Haven town
All of Orwell town
All of Oswego city
All of Oswego town
All of Palermo town
All of Redfield town
All of Richland town
All of Sandy Creek town
All of Schroeppel town
All of Scriba town
All of Volney town
Within Seneca County
All of Junius town
All of Tyre town
All of Waterloo town
Within Wyoming County
All of Attica town
All of Bennington town
All of Covington town
All of Middlebury town
All of Perry town
All of Warsaw town
Within Yates County
All of Italy town
All of Middlesex town
Within Cayuga County
Within Brutus town:
Tract: 040400 Blocks: 1000-1031 1034-1035 1038-1040 1057 1073 2000-2030 2034 2041-2046 3008
Within Niagara County
Within Wheatfield town:
Tract: 022716 Blocks: 1001 1003
Tract: 022717 Blocks: 1009-1011 3016-3019
Within Ontario County
Within Hopewell town:
Tract: 051200 Blocks: 1000-1010 1017 1019-1020 1032-1040 1042-1058 3000-3007 3013 3015-3030 3038-3039 3047
Within Oswego County
Within Albion town:
Tract: 020501 Blocks: 1000-1005 1010-1012 1091-1092 2000-2006 2008 2013
Within Wyoming County

Within Orangeville town:
Tract: 970400 Blocks: 1000-1009 1024 1027 1029-1033 1036-1039 3000-3004 3012-3013 3021-3040 3043 3047-3057
25. Congressional District 25.
Within Monroe County
All of Brighton town
All of Chili town
All of County subdivisions not defined
All of East Rochester town
All of Gates town
All of Greece town
All of Henrietta town
All of Irondequoit town
All of Mendon town
All of Ogden town
All of Parma town
All of Penfield town
All of Perinton town
All of Pittsford town
All of Rochester city
All of Rush town
All of Sweden town
All of Webster town
Within Ontario County
All of Canandaigua city
All of Canandaigua town
All of East Bloomfield town
All of Victor town
Within Hopewell town:
Tract: 051200 Blocks: 1011-1016 1018 1021-1031 1041 2000-2018 3008-3012 3014 3031-3037 3040-3046 3048-3052
26. Congressional District 26.
Within Erie County
All of Amherst town
All of Buffalo city
All of Cheektowaga town
All of Grand Island town
All of Lackawanna city
All of Tonawanda city
All of Tonawanda town
All of West Seneca town
Within Niagara County
All of Niagara Falls city
All of Niagara town
All of North Tonawanda city
Within Wheatfield town:
Tract: 022713
Tract: 022714
Tract: 022715
Tract: 022716 Blocks: 1000 1002 1004-1022 2000-2022
Tract: 022717 Blocks: 1000-1008 2000-2016 3000-3015
Tract: 022901 Block: 2003
112. Separability of congressional districts. Each congressional district created by this article shall be deemed a separate district for the purpose of apportionment of the entire state into congressional districts. If one or more congressional districts created by this arti-

cle are judicially found not to be in compliance with the decisions and mandates of a court of competent jurisdiction, only the defective district or districts and those immediately adjacent or contiguous thereto shall be reapportioned. All other districts shall be deemed to to be properly created.

2. Construction. a. This act shall be liberally construed to effectuate the purposes thereof and to apportion and district this state in compliance with constitutional and statutory requirements and shall supersede any inconsistent provision of law including but not limited to section 3 of chapter 17 of the laws of 2012.

b. It is intended that this act and the congressional districts described herein completely encompass all the area of the state. It is also intended that such districts apportioned on the basis of 2020 population, contain the whole number of persons in this state. It is further intended that the apportionment and districting provided for in this act result in the creation of districts containing equal population as nearly as practicable. It is also intended that no district shall include any of the area included within the description of any other district.

3. Saving clause. a. If the districts described in the act do not carry out the purposes thereof, because of unintentional omissions; duplications; overlapping areas; erroneous nomenclature; lack of adequate maps or descriptions of political subdivisions, wards, or other divisions thereof, or of their boundary lines; street closings, changes in names of streets, or other changes of public places; alteration of the boundary or courses of waters or waterways, filling in of lands underwater, accretion or other changes in shorelines or alteration of courses, rights of way, or lines of public utilities or other conditions, then the state board of elections, at the request of any person or candidate, aggrieved thereby, shall, by order, correct such omissions, overlappings, erroneous nomenclature, or other defects in the description of districts so as to accomplish the purposes and objectives of this act.

b. In promulgating such orders, the state board of elections, in addition to achieving equality in the population of districts and ensuring that all areas of the state are completely and accurately encompassed in such districts, shall be guided by the following standards:

(1) Gaps in the description of any district shall be completed in a manner which results in a total description of that district consonant with the description of adjacent districts and in complete contiguity of districts.

(2) Areas of the state included within the descriptions of more than one district shall be allocated to the district having the lowest population.

(3) Areas of the state not included within the descriptions of any district shall be allocated to the adjacent district having the lowest population.

(4) In the event that the area subject to corrected description or allocation as provided in paragraph one, two or three of this subdivision is of such size or contains such population that its inclusion as a unit in any district would result in substantial disparity in the size, shape or population of such district, then the state board of elections may allocate portions of such area to two or more districts.

(5) In any allocation of area or correction of descriptions made pursuant to this section, the state board of elections shall, consistent

with the foregoing standards, preserve the contiguity and compactness of districts and avoid the unnecessary division of political subdivisions.

c. Copies of such orders shall be filed by the state board of elections in its own office and in the office of the affected boards of election. A copy of each such order shall also be filed by the state board with the legislative bill drafting commission to facilitate it in performing its functions under section 70-b of the public officers law. In addition, a copy of such order shall be served upon the person or candidate, if any, who instituted the application for such an order. The state board of elections may adopt reasonable rules regulating the procedure for applications for orders under this section in the manner of serving and filing any notice or copy of orders relating thereto.

d. Upon the filing of such an order, the description of any affected district shall be deemed to have been corrected in the manner provided in such order to the full extent as if such correction had been contained in the original description set forth in this act.

e. In furtherance of effectuating the provisions of subdivision d of this section, the legislative bill drafting commission, upon receipt from the state board of elections of an order promulgated pursuant to subdivision b of this section, and upon the approval of the temporary president of the senate and the speaker of the assembly, shall cause the description of a congressional district altered pursuant to any such order to be revised accordingly within its data base of the laws of the state of New York so that such altered district may be contained in a publication of the state law and be certified to as a correct transcript of the text of law relating thereto such district in the manner authorized by section 70-b of the public officers law.

f. If any part or provision of this act relating to any congressional district shall be adjudged invalid by a court of competent jurisdiction, such judgment shall: (1) be confined in its operation to the part or provision of this act or the district or districts described herein directly involved in the controversy in which such judgment shall have been rendered, and (2) not affect or impair the validity of the remaining parts, provisions or districts described in this act or elsewhere.

g. The congressional districts of this state, as existing immediately prior to the effective date of this act, shall continue to be the congressional districts of the state for the purpose of filling vacancies in the office of representative in congress at any special election held prior to the general election of the year 2022.

h. The congressional districts of this state, from and after the effective date of this act, shall be the congressional districts of the state for the purpose of designating and nominating candidates for representatives in congress, and for electing district delegates and alternate district delegates to national party conventions.

i. In order to provide for an orderly election of members of the congress from the state of New York and in recognition of the constitutional mandate that congressional districts shall be created by law subject to judicial review under such reasonable regulations as the legislature may prescribe, it is hereby determined and declared that no order of the court invalidating this act or part thereof shall be entered in a manner which will deprive the legislature of an opportunity to discharge its constitutional mandate. In any proceeding for judicial review of the provisions of this act, the determination of the court shall be embodied in a tentative order which shall become final 30 days after service of copies thereof upon the parties unless the court shall, in the interval, on application of any party, resettle its order.

j. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

4. Separability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

5. This act shall take effect immediately.

Exhibit 7

STATE OF NEW YORK

S. 8196 A. 9167

SENATE - ASSEMBLY

February 1, 2022

IN SENATE -- Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state law, in relation to congressional districts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 9 of section 111 of the state law, as added by a chapter of the laws of 2022 amending the state law relating to creation of congressional districts, as proposed in legislative bill numbers S. 8172-A and A. 9039-A, is amended to read as follows:

9. Congressional District 9.

Within Kings County

Within Brooklyn Borough:

Tract: 021300
Tract: 021500
Tract: 021700
Tract: 021900
Tract: 027000
Tract: 029800
Tract: 030600
Tract: 031701
Tract: 031702
Tract: 031900
Tract: 032100
Tract: 032300
Tract: 032500
Tract: 032700
Tract: 032900
Tract: 033100
Tract: 033300
Tract: 033500
Tract: 033701

EXPLANATION--Matter in italics (underscored) is new; matter in brackets is old law to be omitted.

LBD14150-05-2

Tract: 033702
Tract: 033900
Tract: 034100
Tract: 034300
Tract: 034500
Tract: 034901
Tract: 034902
Tract: 035101
Tract: 035102
Tract: 035301
Tract: 035302
Tract: 035500
Tract: 035701
Tract: 035702
Tract: 035900
Tract: 036100
Tract: 040000
Tract: 040200
Tract: 040400
Tract: 040600
Tract: 040800
Tract: 041000
Tract: 041200
Tract: 041800
Tract: 042000
Tract: 042200
Tract: 042400
Tract: 042600
Tract: 042800
Tract: 043000
Tract: 043200
Tract: 043400
Tract: 043600
Tract: 043800
Tract: 044000
Tract: 044200
Tract: 044400
Tract: 044600
Tract: 044800
Tract: 045000
Tract: 045200
Tract: 045400
Tract: 045600
Tract: 045800
Tract: 046000
Tract: 046201
Tract: 046202
Tract: 048000
Tract: 048200
Tract: 048400
Tract: 049000
Tract: 049200
Tract: 049400
Tract: 050600
Tract: 050801
Tract: 050803

Tract: 050804
Tract: 051001
Tract: 051002
Tract: 051200
Tract: 051400
Tract: 051601
Tract: 051602
Tract: 051800
Tract: 052000
Tract: 052600
Tract: 052800
Tract: 053000
Tract: 053200
Tract: 053400
Tract: 053800
Tract: 054200
Tract: 054400
Tract: 054600
Tract: 054800
Tract: 055000
Tract: 055200
Tract: 055400
Tract: 056400
Tract: 064000
Tract: 064200
Tract: 064400
Tract: 064600
Tract: 073400
Tract: 073800
Tract: 074000
Tract: 074200
Tract: 074400
Tract: 074600
Tract: 074800
Tract: 075000
Tract: 075200
Tract: 075400
Tract: 075600
Tract: 075800
Tract: 076000
Tract: 076200
Tract: 076400
Tract: 076600
Tract: 076800
Tract: 077000
Tract: 077200
Tract: 077400
Tract: 077600
Tract: 078000
Tract: 078200
Tract: 078400
Tract: 078601
Tract: 078602
Tract: 078801
Tract: 078802
Tract: 079001

Tract: 079002
Tract: 079201
Tract: 079202
Tract: 079400
Tract: 079601
Tract: 079602
Tract: 079801
Tract: 079802
Tract: 080000
Tract: 080200
Tract: 080400
Tract: 080600
Tract: 080800
Tract: 081000
Tract: 081400
Tract: 081600
Tract: 081800
Tract: 082000
Tract: 082200
Tract: 082400
Tract: 082600
Tract: 082800
Tract: 083000
Tract: 083200
Tract: 083400
Tract: 083600
Tract: 083800
Tract: 084000
Tract: 084600
Tract: 084800
Tract: 085000
Tract: 085200
Tract: 085400
Tract: 085600
Tract: 085800
Tract: 086000
Tract: 086200
Tract: 086400
Tract: 086600
Tract: 086800
Tract: 087000
Tract: 087200
Tract: 087401
Tract: 087600
Tract: 087800
Tract: 088001
Tract: 088002
Tract: 088200
Tract: 088400
Tract: 088600
Tract: 088800
Tract: 089000
Tract: 089200
Tract: 089400
Tract: 089600
Tract: 089800

Tract: 090000
Tract: 090200
Tract: 091200
Tract: 092400
Tract: 093200
Tract: 093600
Tract: 093800
Tract: 094600
Tract: 152200
Tract: 017700 BlockBlocks: 1000 1013
Tract: 020500 Blocks: 1000-1001 2000-2001 3000-3001
Tract: 020700 Blocks: 1000-1001
Tract: 022100 Blocks: 1004-1005 2000-2002 3000-3002
Tract: 024600 Blocks: 1000-1002 2001-2002 3000-3002
Tract: 025400 Blocks: 1000-1002 2000-2003 3003
Tract: 025600 Blocks: 1000-1005 2003
Tract: 025800 Blocks: 1000-1002 2000-2002
Tract: 026600 Blocks: 1000-1002 2002
Tract: 026800 Blocks: 1000-1001 2000-2003 4000-4001
Tract: 027200 Blocks: 1000-1001 2000-2001 3000
Tract: 029600 Block: 1000
Tract: 030000 Blocks: 1001 2000-2001 3000-3001 4000-4001 5000-5001 6000
Tract: 030200 Blocks: 1002-1003 2000-2002 3000-3002
Tract: 030400 Blocks: 1000-1005 1010 2001-2004 3000-3008
Tract: 030500 Blocks: 1004-1005 1008 2000-2002 3000-3002 4000-4002
Tract: 030900 Blocks: 2001-2002
Tract: 031100 Blocks: 1004 2000-2002
Tract: 031300 Blocks: 2000-2002 3000-3002
Tract: 031401 Blocks: 1000-1005 2000 5000-5001 6000-6001
Tract: 031500 Blocks: 2000-2001 3000-3001
Tract: 034700 Blocks: 1001-1002 2000-2001 3000-3001
Tract: 036300 Blocks: 1004-1006 2000-2003 3000-3004 4000-4001
Tract: 038600 Blocks: 2002-2003
Tract: 039600 Block: 2001
Tract: 039800 Blocks: 1001-1008 2000-2005
Tract: 041401 Blocks: 1000-1003 2002
Tract: 041402 Blocks: 1000-1003 2000-2002
Tract: 041600 Blocks: 1000-1007
Tract: 046800 Blocks: 1002-1005
Tract: 048800 Blocks: 1000 1003 2000 3000-3001
Tract: 049600 Blocks: 1000-1001
Tract: 055600 Blocks: 1000-1001 2000 3000-3001
Tract: 055800 Blocks: 1000 2000-2002
Tract: 056000 Blocks: 1000 2000 3000-3001
Tract: 056200 Blocks: 1000-1001 2000-2001
Tract: 063600 Blocks: 1000-1003
Tract: 063800 Blocks: 1000-1003 2000
Tract: 064800 Blocks: 1000-1004
Tract: 065000 Blocks: 1000-1001
Tract: 065600 Block: 1003
Tract: 072200 Block: 2005
Tract: 072400 Blocks: 2002-2005
Tract: 072600 Blocks: 1000-1010 1012-1018
Tract: 073200 Blocks: 1002-1004 1006 2001-2005
Tract: 090600 Block: 2004

Tract: 091000 Blocks: 1000-1001 2000 3000
Tract: 091600 Blocks: 1000-1002 2000-2003 3000-3001 4000-4002
Tract: 091800 Blocks: 1000-1005 2001-2006
Tract: 092000 Blocks: 1000 2000-2001 3002-3004
Tract: 092800 Blocks: 1000 2000-2001
Tract: 093000 Block: 1003
Tract: 093400 Blocks: 1000-1004 2000-2001 2004
Tract: 094401 Blocks: 1000-1001 2000-2001 2006 3000-3001
Tract: 095000 Block: 2000

2. Subdivision 10 of section 111 of the state law, as added by a chapter of the laws of 2022 amending the state law relating to creation of congressional districts, as proposed in legislative bill numbers S. 8172-A and A. 9039-A, is amended to read as follows:

10. Congressional District 10.
Within Kings County
Within Brooklyn Borough:
Tract: 003700
Tract: 005303
Tract: 009402
Tract: 010401
Tract: 010402
Tract: 010601
Tract: 010602
Tract: 010801
Tract: 010802
Tract: 011400
Tract: 011600
Tract: 011800
Tract: 012801
Tract: 013200
Tract: 017100
Tract: 017400
Tract: 017600
Tract: 017800
Tract: 018000
Tract: 018200
Tract: 018400
Tract: 018600
Tract: 018800
Tract: 019000
Tract: 019200
Tract: 019400
Tract: 019600
Tract: 019800
Tract: 020000
Tract: 020200
Tract: 020400
Tract: 020600
Tract: 020800
Tract: 021000
Tract: 021200
Tract: 021400
Tract: 021600
Tract: 021800
Tract: 022000
Tract: 022200

Tract: 022400
Tract: 022600
Tract: 022800
Tract: 023000
Tract: 023200
Tract: 023400
Tract: 023600
Tract: 023800
Tract: 024000
Tract: 024200
Tract: 024400
Tract: 024800
Tract: 025000
Tract: 025200
Tract: 026000
Tract: 026200
Tract: 026400
Tract: 027400
Tract: 027600
Tract: 027800
Tract: 028400
Tract: 028800
Tract: 029000
Tract: 047000
Tract: 047200
Tract: 047400
Tract: 047600
Tract: 047800
Tract: 048600
Tract: 049800
Tract: 050001
Tract: 050002
Tract: 050202
Tract: 050401
Tract: 050402
Within New York County
Within Manhattan Borough:
Tract: 000100
Tract: 001300
Tract: 001501
Tract: 001600
Tract: 002100
Tract: 002500
Tract: 002700
Tract: 002901
Tract: 002902
Tract: 003900
Tract: 006900
Tract: 007500
Tract: 007900
Tract: 009901
Tract: 009902
Tract: 009903
Tract: 011700
Tract: 012102
Tract: 012901

Tract: 012902
Tract: 013501
Tract: 013502
Tract: 014700
Tract: 015101
Tract: 015102
Tract: 015302
Tract: 015501
Tract: 015502
Tract: 015900
Tract: 016300
Tract: 016700
Tract: 017100
Tract: 017300
Tract: 017500
Tract: 017700
Tract: 017900
Tract: 018100
Tract: 018300
Tract: 018500
Tract: 018700
Tract: 019100
Tract: 019500
Tract: 019900
Tract: 020101
Tract: 020300
Tract: 020500
Tract: 020701
Tract: 031703
Tract: 031704
Tract: 031900
Within Kings County
Within Brooklyn Borough:
Tract: 000900 Blocks: 1004-1008 2000 2003-2004
Tract: 001100 Blocks: 1004-1006 1011
Tract: 005102 Blocks: 1011-1012 1015-1016
Tract: 001801 Blocks: 0001-0002
Tract: 001802 Block: 0001
Tract: 003300 Blocks: 2005-2007
Tract: 003900 Blocks: 1000-1003 2000 3000
Tract: 004300 Blocks: 1000 2001 4000-4005
Tract: 005301 Blocks: 0002 2000-2003 2005-2009 2014 2016-2018
Tract: 005302 Blocks: 0002 0004 1000-1013 2002-2013 3001-3004
Tract: 006500 Blocks: 3000 4000 5000 6000 6003 7000 7002-7006
Tract: 006901 Blocks: 2000-2001
Tract: 006902 Blocks: 2000-2002
Tract: 007500 Blocks: 1003 2004 5000-5002
Tract: 007700 Blocks: 3002-3006 3009-3012 4000-4003
Tract: 009002 Block: 1001
Tract: 009202 Blocks: 2000-2001
Tract: 009401 Blocks: 1001 2000-2001
Tract: 009800 Blocks: 3000-3001
Tract: 010000 Blocks: 1000-1001 2000-2001
Tract: 010200 Blocks: 1000-1002 2002
Tract: 011000 Blocks: 1000-1002 1005-1007 2000-2001
Tract: 011200 Blocks: 1001-1006 2000-2001 3000-3001 4001

Tract: 012000 Blocks: 1000-1005 1007-1012
Tract: 012901 Blocks: 1000-1001 2000-2001 4000-4001
Tract: 012902 Blocks: 2001-2006
Tract: 014000 Blocks: 1000-1001
Tract: 014800 Block: 1000
Tract: 015900 Blocks: 5000-5002 5000-5003 5004 6000
Tract: 016100 Blocks: 1000-1003 3000-3001 4000-4001
Tract: 016300 Blocks: 2000-2002 3000-3001 4000
Tract: 016600 Blocks: 1000-1001 2000-2002
Tract: 016800 Blocks: 0001 1002-1005 1007-1009
Tract: 016900 Blocks: 1000-1001
Tract: 017000 Blocks: 1000-1002 2000-2001 3000
Tract: 017200 Blocks: 1000-1007 2000-2002 2004-2005
Tract: 017500 Block: 1001
Tract: 017700 Blocks: 1000-1012 1001-1012 1014
Tract: 020300 Blocks: 1004-1005 2002
Tract: 020500 Blocks: 1002 2002 3002
Tract: 020700 Blocks: 2000-2002 3000-3001
Tract: 024600 Block: 2000
Tract: 025400 Blocks: 3000-3002
Tract: 025600 Blocks: 2000-2002
Tract: 025800 Blocks: 3000-3002
Tract: 026600 Blocks: 2000-2001 3000-3002
Tract: 026800 Blocks: 3000-3003
Tract: 027200 Blocks: 3001-3002
Tract: 028000 Blocks: 1000-1004 2000-2005
Tract: 028200 Blocks: 1000-1005 2000-2003 3000-3001
Tract: 028600 Blocks: 0002 1000-1003 2000 3000 4000-4002 5000-5002
Tract: 029200 Blocks: 1000-1002 2000-2003 3000-3003
Tract: 029400 Blocks: 1000-1008
Tract: 029600 Blocks: 1001-1002 2000-2002 3000-3002 4000-4001
Tract: 030000 Block: 1000
Tract: 030200 Blocks: 1000-1001 2000
Tract: 030400 Block: 2000
Tract: 046400 Blocks: 1000-1002 2000-2002
Tract: 046800 Blocks: 1000-1001
Tract: 048800 Blocks: 1001-1002 2001
Tract: 049600 Blocks: 1002-1004 2000-2002 3000-3004
Tract: 150200 Blocks: 1000-1004 2000-2006 3009-3012
Within New York County
Within Manhattan Borough:
Tract: 000500 Blocks: 0001-0004 1000-1031 2004-2006
Tract: 000600 Blocks: 1000-1002 2000-2001 2003
Tract: 000700 Blocks: 0001 1000-1005 2000 3000 4000-4004 5000-5001 6000-6002 7000-7008 8000-8002
Tract: 000800 Blocks: 1000-1001 2000 3000 4000 5000-5003 6000-6026
Tract: 000900 Blocks: 0001 1000-1023
Tract: 001502 Blocks: 0001 1000-1004 2000-2007 3000-3003 4000-4006 5000 6000-6001 7000-7002
Tract: 001800 Blocks: 1001-1004 5006 6000-6001
Tract: 003100 Blocks: 1001-1003 1011-1012 2000-2010
Tract: 003300 Blocks: 1007 1011-1012 2000-2003 2010 2013-2019 3002-3004
Tract: 003700 Blocks: 0001-0004 1000-1018 3009-3010 3014-3015
Tract: 004100 Blocks: 2000-2002 3000-3002 4000-4002 5000 5002-5005
Tract: 004500 Blocks: 1007 1009-1011

Tract: 004700 Block: 2010
Tract: 008300 Blocks: 3000-3003
Tract: 008900 Blocks: 3000-3001 4000-4001
Tract: 009300 Blocks: 3000 4000 5000-5001 6000-6001 7000
Tract: 009700 Blocks: 2000-2002
Tract: 010300 Blocks: 1000-1011
Tract: 011100 Blocks: 2000-2008 3000-3007
Tract: 011500 Blocks: 2000-2008
Tract: 012700 Blocks: 3000-3001 4000-4002
Tract: 013300 Blocks: 3000-3001 4000-4001
Tract: 013900 Blocks: 1000 2000 3000-3001
Tract: 014300 Blocks: 1005-1007 1012-1014
Tract: 014500 Blocks: 1000-1002 2000
Tract: 014900 Blocks: 1000-1003
Tract: 015700 Blocks: 5000 6000 7000-7001 8000-8001
Tract: 016100 Blocks: 1000-1002 5000 6000
Tract: 016500 Blocks: 2000 3000 4000 5000
Tract: 016900 Blocks: 1000 3000-3001 4000-4001
Tract: 019701 Blocks: 1001-1002

3. Subdivision 11 of section 111 of the state law, as added by a chapter of the laws of 2022 amending the state law relating to creation of congressional districts, as proposed in legislative bill numbers S. 8172-A and A. 9039-A, is amended to read as follows:

11. Congressional District 11.
All of Richmond County
Within Kings County
Within Brooklyn Borough:
Tract: 000200
Tract: 001803
Tract: 001804
Tract: 002000
Tract: 002200
Tract: 003000
Tract: 003400
Tract: 003600
Tract: 003800
Tract: 004100
Tract: 004400
Tract: 004600
Tract: 005000
Tract: 005201
Tract: 005202
Tract: 005400
Tract: 005601
Tract: 005602
Tract: 005800
Tract: 006000
Tract: 006200
Tract: 006400
Tract: 006600
Tract: 006800
Tract: 007000
Tract: 007100
Tract: 007200
Tract: 007400
Tract: 007600

Tract: 007800
Tract: 008000
Tract: 008200
Tract: 008400
Tract: 008600
Tract: 008800
Tract: 009001
Tract: 009201
Tract: 009600
Tract: 010100
Tract: 011700
Tract: 011901
Tract: 011902
Tract: 012100
Tract: 012200
Tract: 012600
Tract: 012700
Tract: 013000
Tract: 013100
Tract: 013300
Tract: 013400
Tract: 013500
Tract: 013600
Tract: 013700
Tract: 013800
Tract: 013900
Tract: 014101
Tract: 014102
Tract: 014200
Tract: 014300
Tract: 014500
Tract: 014700
Tract: 014901
Tract: 014902
Tract: 015000
Tract: 015100
Tract: 015200
Tract: 015300
Tract: 015400
Tract: 015500
Tract: 015700
Tract: 016000
Tract: 016200
Tract: 016400
Tract: 016500
Tract: 016700
Tract: 001801 Blocks: 1000-1010 2000-2003
Tract: 001802 Blocks: 1000-1011
Tract: 003900 Blocks: 2001-2002 3001-3002
Tract: 004300 Blocks: 2000 2002 3000-3003
Tract: 005301 Block: 0001
Tract: 005302 Blocks: 0001 0003
Tract: 006901 Blocks: 1000-1001
Tract: 006902 Blocks: 1000-1003
Tract: 007500 Blocks: 1000-1002 2000-2003 3000-3006 4000-4001
Tract: 007700 Blocks: 1000-1004 2000-2005 3000-3001 3007-3008 3013

Tract: 009002 Blocks: 1000 1002-1003
Tract: 009202 Blocks: 1000-1001
Tract: 009401 Block: 1000
Tract: 009800 Blocks: 1000-1001 2000-2001 4000-4001
Tract: 010000 Blocks: 3000-3001 4000-4001
Tract: 010200 Blocks: 2000-2001 3000-3001
Tract: 011000 Blocks: 1003-1004 2002-2003
Tract: 011200 Blocks: 1000 4000
Tract: 012000 Block: 1006
Tract: 012901 Blocks: 3000-3002
Tract: 012902 Blocks: 1000-1001
Tract: 014000 Blocks: 1002-1003 2000-2007
Tract: 014800 Blocks: 1001-1002 2000-2003
Tract: 015900 Blocks: 1000-1002 2000-2002 3000-3001 4000-4001 5003 6001-6004
Tract: 016100 Blocks: 4002-4004
Tract: 016600 Blocks: 1002-1006 2003-2006
Tract: 016800 Blocks: 1000-1001 1006
Tract: 016900 Blocks: 2000-2001 3000-3003 4000-4001 5000-5001
Tract: 017000 Blocks: 2002-2003 3001-3003
Tract: 017200 Block: 2003
Tract: 017500 Block: 1000
Tract: 028000 Block: 0001
Tract: 028200 Block: 0001
Tract: 028600 Block: 0001
Tract: 029200 Block: 1000
Tract: 029400 Block: 1000
Tract: 030400 Block: 0002
Tract: 150200 Blocks: 3000-3008
Tract: 990100 Blocks: 0005-0008

4. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2022 amending the state law relating to creation of congressional districts, as proposed in legislative bill numbers S. 8172-A and A. 9039-A, takes effect.

Exhibit 8

Affirmation of Steven B. Salcedo

Exhibit A

STATE OF NEW YORK COUNTY OF STEUBEN

SUPREME COURT

----------X

TIM HARKENRIDER et al., : Index No.

Petitioners, : E2022-0116CV

-vs- :

:

GOVERNOR KATHY HOCHUL et al., :

Respondents. : Special Proceedings

---------- X

Hall of Justice
Bath, New York
March 3, 2022

BEFORE:

HON. PATRICK F MCALLISTER
Acting Supreme Court Justice

APPEARANCES:

TROUTMAN PEPPER
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ALICE REITER, ESQ.
Attorneys for Senate Majority Leader

REPORTED BY: LAURA BLISS POWER
Official Court Reporter

THE COURT: This is the matter of Tim Harkenrider, et al. Versus Governor Kathy Hochul, et al. Just a word before we start today, I see everybody has got their mask on. Masks are still required in the state courtrooms. When you move outside the courtroom, that's the county and they don't have a mask requirement, but when you're in here, all masks are required. The only exception to that is if the attorneys are speaking at the podium I'll allow them to take down their masks to speak. I'm a little hard of hearing, I'm going to ask you all to speak up, and we'll use the podium for argument. This is being simulcast, and that way people will be able to see you.

Let's find out who's here today. Do we have any of the Petitioners here?

(No indication.)

THE COURT: Not present, but their attorneys are. I'm going to ask the attorneys to put their appearances on the record. We'll start with Petitioners.

MR. MOSKOWITZ: Bennet Moskowitz; Troutman Pepper.

THE COURT: Thank you, Mr. Moskowitz.

MR. TSEYTLIN: Misha Tseytlin; Troutman, Pepper.

THE COURT: Misha Tseytlin. Am I saying that

correctly?

MR. TSEYTLIN: Yes, Your Honor.

MR. WINNER: George H Winner Junior, Petitioner.

09:32:56 THE COURT: Mr. Winner.

All right on behalf of Governor Kathy Hochul, attorneys?

MS. MCKAY: Heather McKay of The New York State Attorney General's Office.

09:33:06 THE COURT: Was that Heather McKay?

MS. MCKAY: Yes.

MS. CRANE: Michele Crane from the New York State Attorney General's Office.

THE COURT: What's the name again?

09:33:14 MS. CRANE: Michele Crane.

THE COURT: Michele Crane.

MS. HALLIYADDE: Muditha Halliyadde for Attorney General's Office.

THE COURT: I'm sorry?

09:33:28 MS. HALLIYADDE: Muditha Halliyadde.

THE COURT: Thank you.

On behalf of the Senate Majority Leader?

MR. HECKER: Eric Hecker from Cuti, Hecker, Wang.

09:33:42 THE COURT: Eric Hecker?

MR. HECKER: Yes.

MR. CUTI: John Cuti from Cuti, Hecker, Wang.

THE COURT: John, what's the last name?

MR. CUTI: Cuti.

09:33:54 MR. GOLDENBERG: Alexander Goldenberg for Cuti, Hecker, Wang.

MS. REITER: And Alice Reiter from --

THE COURT: Alex Reiter?

MS. REITER: Alice Reiter.

09:34:14 THE COURT: Alice Reiter.

Are the same attorneys here on behalf of the Speaker of the Assembly?

MR. BUCKI: No, Your Honor, I'm here on behalf of Speaker Heastie. My name is Craig Bucki, last name 09:34:24 spelled, B-U-C-K-I from The Law Firm of Phillips Lyte in Buffalo.

THE COURT: Thank you, Mr. Bucki.

Anyone else here on behalf of the Speaker of the Assembly?

09:34:36 MR. BUCKI: No.

THE COURT: Is there anyone here on behalf of The New York State Board of Elections? Is there anyone here on behalf of the New York State Legislative Task Force on Demographic Research and Reapportionment?

09:34:52 MR. HECKER: Your Honor, each house of the

legislature has two appointees to Lot 4, so collectively the attorneys for the Senate Majority Leader and the Assembly Speaker effectively represent Lot 4.

THE COURT: Very good, thank you.

09:35:11 We have several matters on this morning. We're going to start with the motion to dismiss brought by the Governor and Lieutenant Governor. Which attorney for the Governor/Lieutenant Governor would like to present that?

MS. MCKAY: Heather McKay, Your Honor.

09:35:32 THE COURT: Okay, Ms. McKay, please proceed.

MS. MCKAY: Good morning, Your Honor.

THE COURT: Good morning.

MS. MCKAY: I don't want to -- there's been extensive briefing on our motion to dismiss. I don't

09:35:50 want to belabor the points. I'm sure that Your Honor is familiar with our arguments as detailed in those papers. I want to touch on a couple of highlighting points here, and I'm happy to answer any questions that Your Honor may have. First, I want to discuss the jurisdictional defect

09:36:10 that we've raised in our papers. The retroactive service attempts do not in fact cure the jurisdictional defect, and I believe our papers make abundantly clear that no email service occurred, nor was it actually agreed to by the Governor and Lieutenant Governor --

09:36:33 THE COURT: But they did receive notice, did

they not?

MS. MCKAY: Notice -- we certainly are able -- we're able to access the papers, those are publicly filed documents. So to the extent that we can access NYSEF, we 09:36:46 certainly have access to it. However these rules are in place for very important reasons, and that's how the Court obtains jurisdiction over the Respondents and with respect to any discussion of waiver, the docket makes abundantly clear that the Executive Respondents did not 09:37:05 appear until the time of our filed motion in which obviously we were raising the issue. With respect to the Lieutenant Governor it appears the Petitioners have abandoned any purported claim against him by failing to address that in their opposition papers to our motion. 09:37:27 With respect to the Governor herself there's still no competent evidence. Our memo of law cites extensive cases that establish that in a proceeding such as this, a special proceeding, the Petitioners have a burden of providing competent proof, and here there's absolutely no 09:37:50 proof whatsoever with respect to Governor Hochul's involvement.

THE COURT: But, Ms. McKay, doesn't the law require the Governor and the Lieutenant Governor to be served in this type of matter?

09:38:01 MS. MCKAY: Yes, absolutely.

1 THE COURT: How do I let them out? They're
2 necessary parties, aren't they?
3 MS. MCKAY: Well, I don't believe that's what
4 Unconsolidated Laws 4221 says. That provision is
09:38:11 5 indicating that service need to be made on them, amongst
6 many others, and not all of those entities are named in
7 this action because that provision does not pertain to --
8 it doesn't establish a basis for bringing a legal claim
9 against any of them individually. And here there's
09:38:34 10 nowhere -- there's no allegations as to her involvement
11 in the actual drawing of redistricting lines.
12 THE COURT: She had to approve it.
13 MS. MCKAY: Sure.
14 THE COURT: Correct?
09:38:43 15 MS. MCKAY: Absolutely. The Governor pursuant
16 to the Constitution does play a role the same way that
17 she does with any legislative act that she signed it into
18 law, and she certainly did. So here however what we're
19 left with then is a quasi-legislative act that's entitled
09:39:04 20 to absolute legislative immunity. So that's why she
21 should be released from this case. The first cause of
22 action fails as a matter of law the attempts at having
23 the -- that the IRC needs to take the first and second
24 attempts at creating a plan. The fact that that shall be
09:39:29 25 the redistricting process does not automatically equate

to failure of the IRC agreeing, then transforms what is a fundamental legislative function and always has been into a -- frankly a judicial one. The legislature -- that the legislature has the authority to draw the maps is
09:39:51 absolutely clear and unambiguous even after the 2014 amendments and even if there were an ambiguity in the constitutional provisions, including the 2014 amendments, Petitioners' suggested interpretation of intent behind the 2014 amendment to take that quintessential
09:40:14 legislative function and remove it entirely leads to absurd results. Certainly the 2021 legislation is permissible because it doesn't contradict anything in the 2014 amendment. So obviously all these arguments are very intertwined. If you buy into the concept that
09:40:39 Petitioners are advocating here that the legislature in first proposing the 2014 amendments and then the people in approving them -- if you buy into the concept that that meant that the legislature no longer has the authority, and that the IRC can essentially hold everyone
09:41:01 hostage, at which point it has to be now drawn by a Court, then you're necessarily going to find that the 2021 legislation did not fill in a gap that's there. So these things really rise and fall together.

THE COURT: Did the 2021 legislation pass
09:41:22 basically what was proposed and voted down in the

1 constitutional amendment?

2 MS. MCKAY: Well I'm glad Your Honor asked

3 about that because the arguments that Petitioner's make

4 on this are -- they're borderline misleading. First, the

09:41:39 5 2021 legislation was fully approved by both houses of the

6 legislature in June of 2021, so that predates the failure

7 of Ballot Proposal 1. In addition to that, while Ballot

8 Proposal 1 did contain language that clarified this issue

9 of an IRC stalemate, it was only one tiny part of that

09:42:05 10 overall ballot proposal which is why I've included the

11 ballot proposal in our papers from the Board of

12 Elections' public website which shows that there were

13 numerous matters in that proposed ballot initiative that

14 would absolutely have required constitutional amendment.

09:42:25 15 Changing quorum requirements, changing timing, those are

16 things that would truly have changed the terms in the

17 2014 amendments, and therefore did absolutely need a

18 constitutional amendment approved by the voters. This

19 aspect of the IRC stalemate, which essentially just

09:42:45 20 clarified what was already the process, was not something

21 that actually needed to be in a constitutional amendment,

22 it would be great if it was, but it could be accomplished

23 by legislation.

24 Finally, as to the second and third causes of

09:43:05 25 action, the Governor doesn't have an expansive amount of

arguments to present in that, other than indicating that Petitioners really have not satisfied their extremely high burden of demonstrating a con -- that the maps are unconstitutional beyond a reasonable doubt. Given the
09:43:28 Governor's extremely minimal role -- excuse me -- in just merely signing the maps, we are not prepared -- excuse me one moment.

THE COURT: You're fine.

MS. MCKAY: We would primarily rely on the
09:43:48 arguments of our Co-Respondents in terms of the substantive maps as they've been drawn.

And finally, as to the motions to amend, I'm happy to address those now. We have very minimal -- primarily we would rely on our papers. Again these were
09:44:02 extensively briefed, and unless Your Honor has any questions for us --

THE COURT: In regards -- I'd like to go back to the legislative immunity. I mean, isn't that really qualified immunity under the Pataki and Cuomo cases?

09:44:21 MS. MCKAY: No. It is right conferred under the Constitution in New York State, and it's not -- it is -- in fact the cases that we've cited do indicate that it is an absolute right with respect to the -- especially the particular tasks that are alleged here by Governor
09:44:40 Hochul. Just in terms of signing, it's very limited, the

actual factual allegations against her, and given that very limited nature this can be a basis for dismissal, not just obviously a basis for opposing discovery requests and all of that, which here you couldn't
09:45:01 envision much more broad discovery demands than we have here. But that's why that's included in our motion is because given the limited nature of the factual allegations against the Governor, those are absolute immunity she's entitled to under the cases that we've
09:45:18 provided.

THE COURT: Thank you.

MS. MCKAY: Thank you, Your Honor.

THE COURT: I may call you back up, Ms. McKay, on the motion to amend. We'll deal with that separately.

09:45:27 MS. MCKAY: Okay, thank you.

THE COURT: Who'd like to answer this on behalf of the Petitioners?

MR. TSEYTLIN: Thank you, Your Honor. Misha Tseytlin on behalf of the Petitioners.

09:45:43 First, briefly on the service issue. As we pointed out in our papers, service of a petition is governed by CPLR 403 not 2214, that was reflected in this Court's order to show cause, which directed us to serve in the manner of a summons, that's docket 18 -- docket
09:46:05 11. We followed that to a T. To the extent my friends

1 wanted the papers at the Rochester office for some reason
2 we did serve them their as a courtesy. They received
3 services in their reply brief filed last night. Their
4 only objection to that was while they claimed that that
09:46:23 5 was violative of this Court's order to show cause, the
6 initiating one, again that's docket 11, that orders us to
7 deliver the -- to serve it consistent with a summons, not
8 under 2214. So the issue is not only frivolous, but it's
9 also moot. Further, Counsel for the Governor did in fact
09:46:45 10 waive this entire issue by participating in the court
11 ordered meet and conferral process. I think almost
12 every --
13 THE COURT: Didn't they bring a motion to
14 dismiss? Isn't that -- the motion to dismiss for lack of
09:46:55 15 jurisdiction and proper service right off the bat cover
16 that?
17 MR. TSEYTLIN: They participated in that
18 conference before they filed that. I think almost every
19 attorney here was on that call. Counsel for the Governor
09:47:08 20 participated and quite aggressively making multiple
21 points that a conferral occurred consistent, and by the
22 direction of this Courts on its order to show cause.
23 Finally under the controlling O'Brien case any defect
24 here is a technical defect under CPLR 2001 and so there
09:47:33 25 is no jurisdictional defect at all with regard to

1 O'Brien. The service there wasn't made at all on the
2 Governor at all, not to the claim drawing office. And
3 yet the fourth division said that because that case --
4 the Board of Elections was represented, there was no
09:47:54 5 prejudice, no substantial rights were violated under
6 2001. Here of course the Board of Elections represented
7 by separate counsel, all the legislative respondents
8 represented by separate counsel, Governor's counsel
9 appearing here, no prejudice. So if there was some sort
09:48:12 10 of error, which absolutely clearly there wasn't, it would
11 be just a technical issue that is not jurisdictional at
12 all under 2001. Unless Your Honor has any questions
13 about that I would move on to the other points.
14 THE COURT: Go ahead.
09:48:29 15 MR. TSEYTLIN: With regard to the Governor as a
16 Defendant -- and the only thing I would add to Your
17 Honor's question is the Governor has been a Respondent or
18 a Defendant in virtually every single redistricting
19 challenge in the state's history, that's because not only
09:48:42 20 does the Governor sign the maps, the Governor also is
21 above the Board of Elections, which needs to administer
22 the elections. Now of course I agree with my friends
23 that because we did in fact name the Board of Elections,
24 if the Governor was dismissed including on this by
09:49:00 25 submission -- frivolous service issue, the case could

fully go on and we could have binding injunction prohibiting the Board of Election represented by separate counsel from administering the elections on any of these unconstitutional maps.

09:49:14 THE COURT: Doesn't there have to be some allegations against the Governor and Lieutenant Governor to hold it in there?

MR. TSEYTLIN: First of all, we do have an allegation against the Governor that she promised to do

09:49:25 the very egregious gerrymandering that occurred.

THE COURT: Which they say was taken out of context.

MR. TSEYTLIN: I leave it to Your Honor to lead that article and see if that is a credible articulation

09:49:36 of what she said. But in any event, for example, the Board of Elections, we don't have any allegation that they did anything wrong, but there's no gainsaying that they can be named as a respondent here because we need them here to obtain effective relief. We are seeking an

09:49:51 injunction against administering elections under unconstitutional maps. So the Board of Elections is a proper Respondent because we need them for full relief, they're a necessary party. The Governor is in this case for the same reason. Now, again, because we did name the

09:50:10 Board of Elections, the Governor is not an essential

1 party, but it is entirely appropriate to name the
2 Governor because she oversees the Board of Elections, and
3 an injunction stopping elections from happening under
4 these unconstitutional maps should certainly bind both
09:50:28 5 the Board of elections and the Governor.
6 Now moving on to the procedural argument and
7 the substantive argument. I don't know to the extent
8 that Your Honor would like me to fully opine on why we
9 think we are not only -- defeat their motion to dismiss,
09:50:44 10 but in fact on the papers before Your Honor, Your Honor
11 should with respect today enter a judgment in our favor
12 and injunction in our favor on the procedural argument.
13 Now --
14 THE COURT: Well Ms. McKay covered it somewhat.
09:50:57 15 So you can respond.
16 MR. TSEYTLIN: Okay the text of the
17 Constitution is clear and my friends don't engage with it
18 at all. It says that the process shall govern
19 redistricting. The process involves two rounds of maps
09:51:12 20 coming out from the IRC and the legislature voting on it,
21 only thereafter does the legislature get to enact a map.
22 THE COURT: It's not a complete process, is it?
23 It's part of the process?
24 MR. TSEYTLIN: The process, there's definite --
09:51:27 25 THE COURT: That's in the Constitution, but --

MR. TSEYTLIN: Right.

THE COURT: But it is not the complete process, is it?

MR. TSEYTLIN: The --

09:51:35 THE COURT: It still takes the Governor and the legislature to pass it.

MR. TSEYTLIN: Your Honor, that's also in the Constitution.

THE COURT: That is.

09:51:43 MR. TSEYTLIN: And the problem for them is the process wasn't followed. They don't engage with that cautious language. To the extent I think I understand the argument -- it's hard to follow -- is what they're saying is if that process isn't followed, we get to

09:52:00 default to a different process, the process used before 2014, but that's not what the Constitution says. The Constitution could have said if this process doesn't work then go to the pre-2014 process, that is not what it says. In fact, what the Constitution says -- I'll read

09:52:20 this language, it's very short and I think it settles this issue and it's so straight forward that I think both Congressional and Senate maps should be struck down to short order. Quote, "The process for redistricting congressional and state legislatives shall be established

09:52:42 by this section and section 5, and it shall govern

1 redistricting in the state except to the extent that a
2 court is required to order the adoption or changes to a
3 redistricting plan as a remedy". So what does that mean?
4 There is one exclusive process. The process there is one
09:53:00 5 and only one exception when courts order a fix. There is
6 no off-ramp for a different process, if the IRC doesn't
7 pass the map such that the legislature can't enact any
8 maps. The legislature understood this, which is why they
9 attempted to put this ballot measure before the People.
09:53:23 10 I heard my friend for the Governor say, well there were
11 other provisions in that, fair enough, but why do they
12 put that provision in there before the People --
13 THE COURT: But is your argument that the
14 Commission absolutely has to send a first set of maps?
09:53:39 15 If they're turned down they have to submit a second set
16 of maps? Is that the argument?
17 MR. TSEYTLIN: That's exactly --
18 THE COURT: That's the procedural argument.
19 MR. TSEYTLIN: That's exactly --
09:53:47 20 THE COURT: What if in good faith they can't
21 come to an agreement on that? We don't have an election?
22 MR. TSEYTLIN: That's right, Your Honor. That
23 it could be the same as if the Governor and the
24 legislature couldn't agree on a map. You know if --
09:54:02 25 let's say you had -- in good faith the Assembly can't

1 agree to a replacement map with the Senate or the
2 Governor, that happened in the last cycle, in the 2012
3 cycle with regard to the Congressional maps. So what
4 happens then? The old map still governs, if the old map
09:54:18 5 is still constitutional. Let's say there weren't any
6 population changes, you can hold an election under the
7 old map. If the old map is now unconstitutional because
8 it's mal apportioned then it becomes the duty of the
9 courts to correct this. This is not unusual. Again,
09:54:32 10 when the mandatory constitutional process for enacting a
11 new map fails and the old map is unconstitutional, the
12 courts always step in. But again, the old map is still
13 the law of the lands, the one that was enacted in 2012.
14 And an election can be held under that map unless someone
09:54:52 15 challenged that map in court. We have challenged those
16 maps in court.
17 THE COURT: I see that.
18 MR. TSEYTLIN: So both the 2012 map is
19 unconstitutional because it's mal apportioned and the
09:55:02 20 2022 map is unconstitutional because they didn't follow
21 the exclusive process in the same way as if they can't --
22 under the old system if they didn't follow the process of
23 getting by cameralism of presentment. It's just an ultra
24 vires act, and it becomes the duty of the courts to enjoy
09:55:20 25 any actions under that act, and then a court will need to

adopt a remedial map. In -- and the reason the Court needs to adopt a remedial map is because the Constitution provides the legislature with the opportunity to -- a reasonable opportunity to fix any errors. But when the
09:55:35 error is procedural, there's no way that error can be fixed. It would be as if the legislature -- only one house of the legislature passed a new map. That before 2014 was the exclusive process for enacting redistricting legislation. One house didn't pass it or two houses
09:55:53 passed it, but the Governor vetoed, that was an ultra vires law. In the same way if the commission does not do a necessary step in the exclusive redistricting process, the output is an ultra vires act, which is not the law of the lands. The law of the lands currently is the 2012
09:56:13 maps, but again we have challenged those as unconstitutional, and my friends have not argued to the contrary, they have conceded by silence that those maps are now unconstitutional even though they were constitutional when a federal court adopted the 2012
09:56:28 congressional map and a legislature with the Governor's signature adopted the Senate map.

THE COURT: Are you claiming that the 2021 legislation is unconstitutional?

MR. TSEYTLIN: It is absolutely
09:56:39 unconstitutional. We put that in our briefs and we put

that in our petition. The reason for that is it attempts to create an additional process. Again the Constitution provided that there's only a single process for adopting replacement redistricting maps, and it provides only one exception, a textural exception where a court can order some change. What they attempted to do with Section 633 was create an additional process, and again I will emphasize, they knew that this couldn't be done without constitutional amendment which is why they also passed the constitutional amendment and put it before the People because they knew they were changing the process, the process that was exclusive in the Constitution. Now of course if the constitutional amendment had passed, then the legislation -- then it would be under a different constitutional footing. There's all kind of legislation that's passed that reenforce constitutional amendments. In fact they have legislation that codifies the 2014 process. But upon -- but because the People rejected that amendment resoundingly, the legislation that they drafted in view of that amendment is unconstitutional.

THE COURT: Anything further?

MR. TSEYTLIN: I do have obviously extensive arguments on the substantive aspect of our challenge. However, Counsel for the Governor only addressed that briefly, so perhaps I'll reserve that until --

1 THE COURT: How about legislative immunity or
2 qualified immunity?
3 MR. TSEYTLIN: Your Honor, do you mean with
4 regard to the Governor being a Defendant or with regard
09:58:19 5 to discovery?
6 THE COURT: Well, both.
7 MR. TSEYTLIN: With regard to the Governor
8 being a Defendant, again we have explained -- and I've
9 explained this morning that the Governor is a Defendant
09:58:33 10 in large part for the same reason the Board of Elections
11 is a Governor -- is an enforcer of the elections in the
12 state. Again, the Board of Elections is the primary
13 enforcer, but the Governor, she sits above the Board of
14 Elections and there's no legislative immunity to not be
09:58:49 15 enjoyed, not to enforce unconstitutional law. The
16 Governor is sued all the time. There was a pretty big
17 case maybe about a year ago where Governor Cuomo was sued
18 to not enforce certain restrictions on places of worship.
19 You know, he was sued because he would have been
09:59:07 20 enforcing those restrictions. This kind of thing
21 happened all the time. Now with regard to legislative
22 privilege, as Your Honor pointed out, that's a qualified
23 privilege. What we're seeking here is the -- and we've
24 quoted case law from New York that says that the New York
09:59:25 25 Speech and Debate Clause is parallel to the Federal

1 Speech and Debate Clause. We now have many years of
2 experience with the federal courts treatment of
3 legislative immunity in the partisan gerrymandering
4 context. What the Federal courts have said is this is a
09:59:41 5 qualified privilege and there's five factors that need to
6 be determined whether to set aside. Those factors are
7 readily satisfied in partisan redistricting cases,
8 because a significant portion of the evidence of a
9 partisan gerrymandering -- of gerrymandering purpose is
10:00:00 10 exclusively in the hands of the legislature or the
11 Governor, and the need for it is great. The issues are
12 very serious and because partisan gerrymandering is
13 unconstitutional, it wouldn't have any sort of chilling
14 affect. So the New York Speech and Debate Clause is
10:00:17 15 parallel to the Federal one, and all the Federal cases
16 that have been cited to Your Honor apply this five factor
17 test, only thing we're asking is for the very standard
18 form of discovery that's always given to Plaintiffs in
19 partisan gerrymandering cases here -- Petitioners, things
10:00:34 20 like did they look at political data which could be
21 unconstitutional, did they speak --
22 THE COURT: I won't have you get into the
23 discovery because we'll cover that soon.
24 MR. TSEYTLIN: Yes, Your Honor. So that's the
10:00:45 25 extent of what I'll say on that.

THE COURT: All right, thank you.

MR. TSEYTLIN: Thank you.

THE COURT: With regard to the Governor and Lieutenant Governor's motion to dismiss for lack of proper service and not mentioning anything in the paperwork, there's some -- as regards to Governor, nothing that I saw as regards to Lieutenant Governor. I'm still denying the motion for the following reasons. The New York Unconsolidated Law Section 4221 requires service of the petition on the Governor and the Lieutenant Governor. I believe they're necessary parties. CPLR 403 is controlling, it doesn't specify service upon the nearest office of the Attorney General, and while CPLR 2214 does refer to services of an order to show cause upon the nearest Attorney General's office, that is specifically in reference to motions and not the commencement of an action which we have here. In addition, the Governor and Lieutenant Governor admit they received notice, and I've heard no argument that anyone was prejudiced by it. So that's my ruling on that motion.

And that's going to move us to the Petitioner's order to show cause to add the New York Senate redistricting to the action. Who will be arguing that on behalf of the Petitioner? Mr. Tseytlin?

MR. TSEYTLIN: Yes, Your Honor. I'm going to be very brief on this. Leave to amend is freely granted, there's really two considerations, one; whether it would basically be so insubstantial as to be dismissed. I've
10:02:40 already explained why our procedural argument is not only substantial, but sure to win. We also have a substantive argument and the procedural argument applies to the same extent to the Congressional and Senate, they use the same procedure.

10:02:58 With regard to the substantive arguments we haven't developed those this morning, but Your Honor can see in the papers that the process that was used was justice partisan, which is a major consideration in substantive partisan gerrymandering allegations and our
10:03:15 experts methodology which is wildly accepted by courts around the country including most recently by the Ohio Supreme Court showing that the senate map was more pro-democrat than 5,000 computer generated maps, is powerful evidence of substantive gerrymandering. We also
10:03:33 have an expert based specific discussion about specific senate districts that were gerrymandered to favor the Democrats. So we can discuss those things in more detail, but that certainly survives that low barrier for it's so insubstantially dismissed.

10:03:49 The only other inquiry on the motion on an

1 amendment is prejudice. There's clearly no prejudice
2 here. We filed our initial petition within a couple of
3 hours of the Governor signing the maps. We filed the
4 motion to amend, I think three business days later. The
10:04:08 5 reason we did that is during the legislative process they
6 revealed the Congressional map first, so we had more time
7 to analyze it. The Senate map didn't get put out to the
8 world until a little bit later, so we needed more time to
9 look at it. There was absolutely no prejudice to anyone
10:04:27 10 by the way that we did this.
11 THE COURT: Are you saying the Senate map came
12 out after the Congressional maps?
13 MR. TSEYTLIN: Yes, it came out to the world.
14 They were signed together, but it came out to the world
10:04:38 15 later. And given the complexity of how many districts
16 there are, we needed a couple more days to analyze.
17 There was absolutely no prejudice. The procedural
18 arguments are entirely identical, so there's no -- you
19 know, those rise and fall together. With regard to the
10:04:52 20 substantive arguments, you know, we have the Trende
21 Report which applies the same methodology to both. They
22 presumably have the same critique of the Trende Report
23 with regard to the Senate and the Congressional. In
24 fact, in their opposition to leave to amend, they just
10:05:13 25 repurposed our expert criticism of the Trende approach to

the Senate map.

So now -- and then the only other aspect is the discussion of the specific Senate districts. They chose not to put anything in writing responding to that, but I

10:05:31 will note that even when they contempted[sic] to contest the specific congressional districts, they didn't put in any competent evidence to rebut our showing. They put in an expert report from this Harvard professor from Mesiti[sic], looks like he may have never been to the

10:05:48 State of New York, let alone certainly had no expertise in New York to be able to talk about New York's district. So even if they had responded to the Senate specific districts, they presumably would have put in the same expert who has no ability to testify on New York

10:06:06 communities of interest and that sort.

In any event the Court can strike down the Senate districts today on the procedural arguments and during remedial process they can be given the opportunity to make any supplemental submission to the substantive

10:06:21 challenges to the Senate districts which would permit this whole case to wrap up within the 60-day window that the Constitution provides.

THE COURT: Thank you.

On behalf of the Governor?

10:06:36 MS. CRANE: Good morning, Your Honor.

THE COURT: Good morning.

MS. CRANE: I'm Michele Crane from the Attorney General's Office, Your Honor. The jurisdictional argument which we raised with regard to the motion to
10:06:50 dismiss was also raised with respect to this motion to -- for leave to amend, the petition and given the fact that this is a motion and that they made a motion to amend their original pleading, then we would say that the CPLR provision 2214 does apply here, and therefore they do not
10:07:09 have jurisdiction over the Governor or Lieutenant Governor. I know you've already discussed this in detail, and I think you're familiar with the arguments, so I just want to make the distinction here with respect to that issue. We also raised in this motion or our
10:07:23 opposition to the motion to amend the legislative immunity and non-justiciability arguments, we'd like to reiterate those to the Court. I think the Court is familiar with those and lastly, Your Honor, we do believe that allowing this amendment to occur would significantly
10:07:40 interfere with the election cycle and in the declaration of Mr. Brown from our office, he specifically sets forth the dates upon which everything needs to be accomplished, and I would really ask the Court to look at those dates.

THE COURT: I did.

10:07:54 MS. CRANE: And to consider the impact that

this amendment may have. The Attorney General's Office on behalf of the Governor and Lieutenant Governor have not responded or answered the petition yet. We would need time to do that. If the Court allows discovery
10:08:06 there would be a --

THE COURT: You've had it for 20 days or so, haven't you?

MS. CRANE: Well, we still need to put --

THE COURT: I understand.

10:08:13 MS. CRANE: It needs to be approved by Counsel and the Governor's office before we submit, Your Honor, we didn't really have this. There's a dispute about how this was served obviously, and our office was not assigned to represent the Governor and Lieutenant
10:08:27 Governor until fairly late in the game. Our focus was on the papers that are before you today. We have not spent the time answering the petition, so we will need time to accomplish that.

THE COURT: The amended petition?

10:08:42 MS. CRANE: Yes, the amended petition. And so that will need to be done. If the Court allows discovery, that will need to be done, and all of this now -- these cases are in jeopardy for this election cycle to occur. So based on that, we would ask the Court
10:08:57 to deny the motion to amend the petition.

THE COURT: Thank you, Ms. Crane.

MS. CRANE: Thank you.

THE COURT: On behalf of the Senate Majority Leader will you be speaking on behalf of the Senate Majority Leader and Senate Minority Leader there?

MR. HECKER: Assembly Speaker there(indicating), Senate Majority Leader.

THE COURT: Very good.

MR. HECKER: Good morning, Your Honor, Eric Hecker from Cuti, Hecker, Wang for the Senate Majority Leader. I'll be very brief because I expect our discussion to be extensive when we get to the petition itself.

As we said in our papers we acknowledge generally speaking that leave to amend is granted liberally in a usual case. This is an unusual case for three reasons. First of all, they've put in expert testimony that fatally undermines their theory. Mr. Trende has shown unmistakably and unequivocally that in literally every single one of his thousands of simulations, there are more Republican majority districts in the Senate plan than in the enacted Senate plan --

THE COURT: He disputes that in the reply though, doesn't he?

MR. HECKER: He doesn't actually. We can get

1 into all that. I would respectfully suggest when we get
2 into the petition, but suffice it to say, we have that
3 futility argument.
4 Also as the Attorney General's Office is
10:10:20 5 arguing, we have a significant time problem. There is no
6 amended petition. Your Honor, we've been working very
7 hard on this case, we haven't taken days off in weeks,
8 it's taken everything we have to rebut the evidence both
9 statistically and also in terms of actually how the lines
10:10:40 10 were drawn. And if we have to go back and amend the
11 answer, the amended petition -- which we certainly will
12 if we're directed to, it's going to take time. And then
13 beyond that, as the Attorney General also emphasized, the
14 election season is already underway. The designating
10:10:56 15 petition period started two days ago. It would sew
16 confusion in the extreme for this Court to enjoin
17 anything, which is why in almost every case where there's
18 ever been a really bona fide argument of
19 unconstitutionality at this stage of the process, you
10:11:18 20 stick with what you've got, and you address whatever
21 arguments there are for the next cycle. So for those
22 three reasons, we think there's no reason to grant the
23 amended petition, and I look forward to addressing the
24 merits of the petition when we get to that motion.
10:11:32 25 THE COURT: But there has been a time crunch

for you, for them, the Petitioner, for everybody. I mean, the maps just got passed here, what? Three weeks -- a month ago?

MR. HECKER: Correct, and we've now burned half
10:11:45 of the 60 days that Your Honor has jurisdictionally because they didn't bother to challenge the Senate map when they could have. They were passed together. The Congressional map was announced 24 hours before the Senate map, several days before they were enacted
10:12:00 simultaneously. They didn't bother to put it in their petition, and we lost a month. Thank you, Your Honor.

THE COURT: Thank you.

Assembly Leader?

MR. BUCKI: Good morning, Your Honor, we would
10:12:23 second the arguments that were put forth by Counsel for the Senate Majority Leader. We would agree with the futility of the amendment, and in particular what I would note from the evidence that is before the Court, in particular the expert reports, is that typically when you
10:12:39 would do all of these various simulations, which Mr. Trende did 5,000 simulations, we would submit pursuant to the experts that we've offered that in fact 50,000 simulations would be a more appropriate sample size, specifically in order to draw any kind of
10:12:58 conclusions concerning these maps. But what would

specifically be expected, given the Partisan makeup of the voters of the State of New York, is that you would have a map with 63 senate districts with between 51 and 53 being more likely to elect a Democrat to the State
10:13:18 Senate. And in fact when you look at the map, only about 49 of the districts could be expected to have an advantage for a democrat. So as our experts, both from the Assembly side and the Senate side have demonstrated, actually there is a Republican advantage to these maps
10:13:36 rather than a Democratic vantage. So we would submit that given that evidence that we provided to the Court, given the expertise that we've offered from our experts -- I would note that in particular Mr. Trende is a graduate student, he's never published anything that's
10:13:51 been subject to peer review. Mr. LaVigna is well -- very much an expert in the field of communications, he worked in communications for the State Senate, but he doesn't claim to be a statistician, he doesn't claim to have any kind of particular background that would give him the
10:14:08 authority to be able to give a proper statistical opinion as to the propriety of these maps because when you get down to it, evaluating these maps is a matter of social science and a matter of evaluating mathematically whether in fact there is an unfair partisan advantage that's been
10:14:28 given to one party or another. So we would submit that

1 the petition is lacking in merit. The proposed amended
2 petition is lacking in merit.
3 The other thing I'd like to say, and I'm going
4 to touch on it briefly now, but I do anticipate
10:14:41 5 discussing it in greater detail later on if we do get to
6 argument on the merits of the actual petition, is the
7 issue of standing. We only have a limited number of
8 Petitioners in this case and there is no proposal to add
9 any Petitioners in the amended petition. And we would
10:15:00 10 submit that the law is clear both from the United States
11 Supreme Court as it's been put forth in the Gill versus
12 Whitford case which Mr. Tseytlin had the opportunity to
13 argue before the Supreme Court. This is true under the
14 Hays versus United States case, and in the State of New
10:15:16 15 York. It's true under the Bay Ridge Community Council
16 versus Carey case from the mid 1980's, is that in order
17 to challenge the lines of a particular district the
18 Petitioner needs to have standing, and the person who
19 would have standing is a person who actually lives in
10:15:34 20 that district. There are 63 Senate districts that are
21 proposed in this redistricting plan from throughout the
22 State of New York, and many fewer petitioners than 63.
23 And what the Court will find is that the vast majority of
24 districts are not represented by any Petitioner in the
10:15:53 25 amended petition.

1 THE COURT: Let me ask you something.
2 MR. BUCKI: Yes.
3 THE COURT: The case law seems to indicate that
4 prior to predating the 2014 constitutional amendment that
10:16:06 5 required a Petitioner to be a resident of the district
6 before he would have standing, but wasn't that changed by
7 the constitutional amendment? Doesn't anyone have the
8 standing to challenge it?
9 MR. BUCKI: No, it was not, and I'm glad Your
10:16:20 10 Honor brought this up because we looked into this
11 yesterday, and in preparation for today. And in
12 particular the key case is the Bay Ridge Community
13 Council case that determined that in order to have
14 standing you need to live, for state constitutional
10:16:34 15 purposes, in a district. And the language that
16 Mr. Tseytlin cites from the state Constitution that says
17 any citizen may challenge a map, that very language was
18 not added to the Constitution in the 2014 amendment. In
19 fact, that language was in the state Constitution as it
10:16:55 20 existed in the mid 1980's when Bay Ridge Community
21 Council was decided. So as a consequence, just because
22 it says any citizen may challenge a map -- it's true any
23 citizen may challenge a map, but there's an additional
24 requirement that's unstated expressly in Article 3 of the
10:17:13 25 Constitution. But that is a requirement that comes to us

from the tradition of the common law which is that in order for a citizen to challenge, that citizen needs to have standing. So that language was in the Constitution in the mid 1980's, and not with understanding that -- Bay
10:17:29 Ridge Community Council at the Supreme Court level, as affirmed by the appellate division, as affirmed by the Court of Appeals on the decision that are rendered by the Appellate Division, determined that there was no standing on part of a gentleman who I believe lived in Long Lake
10:17:44 in Hamilton County who was trying to allege that somehow there was an improper gerrymander on racial grounds in Queens, and the Supreme Court said a person in Long Lake cannot challenge what goes on in terms of how a map is drawn in Queens. And that was true even though the state
10:18:06 constitution said then as it does now that any citizen can make a challenge. So we would submit that with respect to the amended petition, the vast majority of Senate districts are unrepresented by the Petitioners, and so as a consequence, the amended petition would lack
10:18:21 merit in that the vast majority -- in that the Petitioners themselves cannot challenge the vast majority of the districts that have been put forth in the Senate map.

And then of course we would second the
10:18:35 contentions made by the counsel for the Senate Majority

Leader with respect to the prejudice if this amendment were to be granted, in that, for example, there are deadlines with respect to issuing ballots under the UOCAVA, U-O-C-A-V-A statute that are coming upon us as
10:18:55 soon as the middle of May, not to mention the fact that this proceeding needs to be completed by April 4th. And so for all of those reasons, we oppose the motion for leave to amend.

THE COURT: Thank you, Mr. Bucki.

10:19:07 Is there anyone else I haven't called on yet?

(No response.)

THE COURT: The issues in both the petition and the amended petition seem to be the same. The parties are the same, the requested relief is almost identical.
10:19:36 I don't see any prejudice. I'm going to grant leave to amend the petition to add the New York State Senate redistricting. I'm directing that the answer to the amended petition be filed by March 10th which is Thursday. That brings us to the Petitioner's order to
10:20:03 show cause for expedited discovery, and it's been touched upon, but let's revisit it. Who will be arguing that on behalf of the petitioner? Mr. Tseytlin?

MR. TSEYTLIN: Thank you, Your Honor, I did touch upon this earlier. What we've requested here is
10:20:29 the standard discovery that partisan gerrymandering

Plaintiff's do readily obtain in cases around the country. The only case they've cited that denied the discovery, only did so after there was already a holding that the case was lacking in merit. Now just to be clear on our procedural argument, which I think can be ruled upon today or as soon as Your Honor is able, we do not need discovery in our procedural argument. That is just a matter of straight constitutional text. We are -- on our substantive argument, we do think we have put before Your Honor more than sufficient evidence for us to prevail. Having said that, just because we put enough evidence for us to prevail doesn't mean we're not entitled to the full scope of evidence including -- because I'm sure that one way or the other this matter is going to get appealed.

THE COURT: Subject to qualified privilege?

MR. TSEYTLIN: Sorry?

THE COURT: Subject to qualified --

MR. TSEYTLIN: Of course, Your Honor. If Your Honor things this aspect of our request is overbroad or subject to that privilege, we would certainly be open to a narrowing of our discovery request.

THE COURT: Well, your request seemed a little overbroad to me. It was just sort of open ended. Anything relating to the redistricting, that's pretty

broad.

MR. TSEYTLIN: If Your Honor thinks that's too broad, Your Honor, we would not oppose Your Honor narrowing that or striking that paragraph.

10:21:57 The primary thing that we do want is to find out what political data -- what political information they looked at and what communications that they had with the IRC or other third parties which are all deeply relevant to when we get to the substantive aspect of our

10:22:16 petition. The courts are -- around the country look at three categories of information when deciding whether there was partisan intent, which is the only thing that would be -- that we need to prove. We don't need to prove some sort of other things, partisan intent. So

10:22:34 they look at statistical evidence of partisan bias, we've talked about that. If you look at the individual specific lines and see which communities of interest have been broken up for what. Don't necessarily need discovery on that, but they also look at the process.

10:22:51 Did the map drawers look at political data? Had -- did they consult with a third party? Did they get behind-the-scenes directions from the state party?

THE COURT: I assume you're looking for something that shows somebody directed the Commission not

10:23:07 to make any decisions on this thing? Am I right?

1 MR. TSEYTLIN: That would certainly be a
2 relevant consideration in determining whether the process
3 was directed towards the goal of drawing a partisan map.
4 Under standard intent case law the overall process --
10:23:28 5 THE COURT: Wouldn't that be relevant if that's
6 what you were seeking? Wouldn't that be relevant to your
7 procedural argument?
8 MR. TSEYTLIN: I think it would be more
9 relevant to our substantive argument because even if they
10:23:39 10 hadn't attempted to break the process -- which you know
11 with discovery will reveal if they did -- the bottom line
12 is they just didn't follow the exclusive process. So
13 certainly that kind of evidence would show why their
14 argument must be wrong. That the ability to tell those
10:24:00 15 that you appoint, don't pass anything so we can go back
16 to doing the business exactly how we did in 2014, you
17 know, that is an absurd result of what they're arguing,
18 but we don't need to prove that in any way to prevail in
19 our procedural argument. The reason for that is that's
10:24:17 20 just like -- because the commission didn't pass out a
21 second set of maps, that's just like under the prior
22 system if the assembly didn't pass out a map. It's just
23 a necessary part of the law making process that did not
24 occur. However if they did act to undermine the
10:24:35 25 committee the commission process in service of a map that

1 left, right and center, everyone -- I mean, I heard my
2 friend say, this is a Pro-Republican, that's silly.
3 Left, right and center. Everyone recognizes this is an
4 egregious partisan gerrymandering. If in service of that
10:24:55 5 they told the IRC, don't pass anything because we don't
6 want to have the political accountability of rejecting a
7 Commission map because we want to jam through this
8 egregious gerrymandering to fulfill the Governor's
9 promise to advance the interest of the national
10:25:12 10 democratic party to fulfill the -- one of the Democratic
11 leaders point that they wanted to gerrymander New York or
12 they did gerrymander New York to get revenge for what
13 Republicans are doing in Texas and North Carolina
14 allegedly in service of that, they communicated with
10:25:33 15 those individuals, they communicated with the IRC, that
16 would be relevant evidence of partisan intent, which is
17 what's illegal. Intent is a fact specific inquiry.
18 While we do have overwhelming evidence of it already,
19 certainly those kind of communications would further
10:25:49 20 bolster our showing of partisan intent. And that's why
21 it's deeply irrelevant under the five-part test that
22 courts use to analyze the qualified Speech and Debate
23 privilege. But again, I will reiterate, if Your Honor
24 thinks some of those later requests we have in our five
10:26:09 25 requests are overbroad, anything to do with

redistricting, you know we certainly would welcome Your Honor narrowing that to get to the nub of what we're really trying to get to, which is the political data they looked at, and the communications they had with third parties about the obvious gerrymander -- the obvious embarrassing gerrymander they've imposed on the state of New York.

THE COURT: Thank you, MR. TSEYTLIN.

On behalf of the Governor?

10:26:32 MS. MCKAY: Yes, Your Honor. Heather McKay, again.

First of all, I want to emphasize that as our papers made clear, this kind of a special proceeding which Petitioners themselves have selected here, 10:26:56 generally disfavors discovery. And that in particular in order to justify discovery in a case such as this one that it makes them -- it even more necessary that the demands that they need to obtain a court order for, need to be appropriately narrow, and it's not Your Honor's job 10:27:20 to narrow those. The requests are completely overbroad, and should therefore be denied in the sense that Petitioner's have to obtain this is different than a regular preliminary action. Petitioners have to obtain a court order to get their discovery and what they've 10:27:37 provided to Your Honor is vastly overbroad and again,

it's not Your Honor's job to narrow the scope of those demands. With respect to the first cause of action, Petitioners have conceded that they are raising a purely legal question. I do want to touch just briefly though upon the fact that they continue to insist that they need a discovery with respect to the IRC process. That's absolutely untrue. They need to justify that as relevant material and necessary to prove their claims. And given that all parties agree on the facts surrounding the evidence in the IRC, the IRC could not reach an agreement that's undisputed. They don't need to do a pointless fishing expedition into the IRC process. And that's just one example of how vastly overbroad these are, as presented. And it's the Petitioners' obligation to appropriately narrow any of their requests they've --

THE COURT: Wouldn't it be relevant if someone did touch base with the Commission or any member of that Commission to say, you know, then you're doing your job, but don't come up with a set of maps?

MS. MCKAY: To be honest, Your Honor, I'm not entirely sure it would be particularly relevant here. We obviously have Democrats and Republicans pointing the finger at each other saying --

THE COURT: Wouldn't that sort of tend to indicate someone intentionally not following the process?

1 MS. MCKAY: Well, I think the only relevance
2 that it could have would be establish that the breakdown
3 of communications -- which again is undisputed between
4 all the parties, they couldn't reach an agreement, so
10:29:28 5 their argument says that necessarily the legislature no
6 longer has any role in the redistricting process and has
7 to completely turn to the judicial branch, and our
8 argument is that of course that's preposterous. If they
9 have the ability to freely change or amend the maps, that
10:29:45 10 would be passed by the IRC in the first place, then
11 obviously they have the ability to create maps when
12 there's an IRC stalemate. As to the second and third
13 causes of action, again our arguments fall back on the
14 principles that we've already covered which is that these
10:30:09 15 claims are not implicating the Governor and now they're
16 essentially admitting here in court that she's named in
17 the same way that the Board of Elections is named, to
18 obtain the relief that they're seeking. Well, now
19 they've completely eviscerated any claims of necessity of
10:30:26 20 discovery from the Governor. They're not seeking any
21 discovery from the Board of Elections, and we've also
22 already -- my colleague has gone into the issues of
23 timing, in particular this motion is where that's
24 relevant because the discovery demands, the document
10:30:47 25 demands, and the number of depositions that they're

1 proposing to hold of very high ranking statewide
2 officers, would significantly delay the proceedings and
3 not allow resolution within the constitutional confines.
4 And finally I think that we've covered a lot on
10:31:09 5 privileges today, so I'm not going to get further into
6 that, but obviously we're reserving our rights to raise
7 specific privileges as to specific demands, if any are in
8 fact served. Those are absolutely going to bar the
9 discovery in the first place which will mean that we've
10:31:26 10 delayed only to come to that conclusion, and they will
11 not have access to the materials that they're seeking
12 because of the importance of the legislative process and
13 the executive's need to be able to do her job. Thank
14 you.
10:31:46 15 THE COURT: Thank you, Ms. McKay.
16 On behalf of the Senate Majority Leader?
17 MR. CUTI: Thank you, Your Honor, John Cuti.
18 THE COURT: Good morning.
19 MR. CUTI: Good morning. A lot to cover.
10:32:05 20 Let's start with CPLR 408. The standard is not
21 relevance, as Your Honor's questions reflected, it is
22 whether discovery should be allowed in, and the standard
23 for that is whether it's essential. Now Petitioner's
24 counsel has gotten up here today and said that Your Honor
10:32:23 25 should enter judgment on the merits today on their

1 procedural claim. So obviously discovery is not
2 essential for that claim even on their view. He just
3 told you a few minutes ago, counsel for Petitioner, that
4 they have with respect to their second claim the
10:32:46 5 substantive claim, overwhelming evidence already. So if
6 they already have overwhelming evidence, then discovery
7 by definition is not essential, for that reason alone you
8 should deny leave. Related to another reason to deny
9 leave is the inevitable delay. Now, no discovery
10:33:11 10 requested have yet been propounded. The issue before you
11 is whether they should be allowed to, and as Your Honor
12 noted, they're rather dramatically overbroad. So one
13 assumes if leave is granted they would serve some sort of
14 narrowed requests. But then -- and here I want to talk
10:33:28 15 about absolute legislative privilege. There is going to
16 be intensive litigation both here and depending on Your
17 Honor's rulings interlocutory in the Fourth Department.
18 Now Petitioner's counsel either misunderstands the law of
19 the Speech or Debate Clause or he mislead, Your Honor.
10:33:47 20 The federal cases that apply a qualified privilege do not
21 involve the Speech or Debate Clause. Let me just take a
22 few minutes to unpack that. The United States
23 Constitution has a Speech or Debate Clause. And there's
24 a long line of decisions beginning in the 1940's and
10:34:05 25 running through the 80's where the court in opinion after

1 opinion stresses that the privilege is absolute based on
2 the plain language of the clause. The Members of the
3 House and Senate shall not be questioned in any other
4 place with respect to their legislative conduct. Now,
10:34:28 5 New York's Constitution has a virtually verbatim clause
6 and the New York Court of Appeals has held in Ohrenstein
7 that the New York Speech or Debate Clause provides at
8 least as much protection as the Federal clause does to
9 members of the Federal Congress, and that privilege is
10:34:49 10 absolute. The law is crystal clear that members of the
11 legislature cannot be questioned about their motives or
12 their intentions or their work they do at the
13 subcommittee or anything that is directly related to the
14 legislative process. Drawing maps is a quintessential
10:35:10 15 legislative function, and the case law from the Supreme
16 Court -- and again there are cases cited in our papers
17 that make clear that the Federal cases construing the
18 Speech or Debate Clause are persuasive authority. The
19 privilege doesn't just apply to the elected members, but
10:35:26 20 to their aides, even to consultants, anyone who is
21 performing legislative functions. It's a functional
22 analysis, it doesn't turn only to the title of the
23 person.
24 And so where does the notion of a qualified
10:35:40 25 privilege come from? I'll explain. There are many

1 redistricting litigations where state maps are challenged
2 in cases filed in Federal Court. Now one of the main
3 reasons there are two main foundations for the absolute
4 nature of the Speech or Debate Clause privilege, one is
10:36:01 5 respect for the independence of the legislator and
6 legislature, and relatedly respect for the separation of
7 powers. The executive and judiciary are not permitted
8 ever to question what members are doing with respect to
9 their legislative conduct. But when a Federal Court has
10:36:22 10 state legislators before it, there are no separation of
11 powers concerns, it's two different governments. The
12 Federal Court isn't telling a Federal legislator what she
13 can do. There are federalism concerns, but that cuts in
14 favor of the federal government because of supremacy
10:36:41 15 clause. And so when those federal district courts and
16 circuit courts are talking about a qualified privilege,
17 they're not applying the speech or debate clause at all.
18 How could they? The Federal Speech or Debate Clause
19 doesn't apply to state legislators, it says Senators or
10:37:00 20 representatives. A Federal District Court is not going
21 to apply the New York Constitution or the Pennsylvania
22 Constitution. What they do in all the cases, including
23 in every single case they cite for the proposition
24 applies what's called the Federal common law. The
10:37:15 25 Federal common law has long respected legislative

1 privilege, but when a Federal court's applying the
2 Federal common law, they're bound by Federal Rule Civil
3 Procedure 501, and that rule says; we respect common law
4 privileges, but you must construe them narrowly. The
10:37:34 5 Speech or Debate jurisprudence is the polar opposite,
6 case after case from the Supreme Court says it must be
7 broadly construed to protect the independence of
8 legislators. So this is -- the five-factor test is not
9 applicable at all, not even for illustrative purposes.
10:37:54 10 The cases that matter are cases like Eastland and Graves
11 and Brewster and Helstoski, all Supreme Court cases that
12 stress the privilege is absolute and the core of the
13 privilege protects the motivations and the intentions of
14 legislators. There is what Justice Harlan said in
10:38:17 15 Johnson that is precisely what the Speech or Debate
16 privilege protects. And so yes, intent can be an issue,
17 but it can be proved in many ways. It can be proved by
18 objective evidence. We all know that to prove murder in
19 the second degree in New York you have to prove intent,
10:38:36 20 and while motive is not an element, it's certainly
21 relevant. But you can't ask the Defendant what he
22 intended because he has an absolute privilege, but you
23 can still try to prove the case. Now they say they've
24 already proved their case, so they don't need this
10:38:52 25 discovery at all, but even were they allowed to seek

1 discovery, they can't have Your Honor order legislators
2 to answer questions or produce documents about their
3 correlative functions. You don't have the power to do
4 that under the Constitution. And for them to tell you
10:39:09 5 that it's a qualified privilege is either really a poor
6 reading of the law or something worse. So if Your Honor
7 has any questions, I'm happy to answer them.
8 THE COURT: Thank you. Thank you. Appreciate
9 it, sir.
10:39:22 10 Mr. Bucki?
11 MR. BUCKI: Thank you, Your Honor. Of course
12 we would agree with counsel for the State Senator
13 Majority as to the absolute nature of the privilege, and
14 as much as it would apply to State Senators it would also
10:39:43 15 apply to Members of the Assembly. We would further agree
16 that just by the nature of the papers that have been
17 offered by the Petitioners, they have offered statistical
18 evidence, they have offered evidence of so called public
19 statements by the Governor. And as Mr. Cuti said, there
10:40:00 20 are other ways to prove partisan intention with the
21 Petitioners' claim is their objective, and I would submit
22 that a good synonym for the word intent -- and this
23 phrase partisan intent comes directly from their motion
24 for leave to engage in discovery. A synonym for intent
10:40:18 25 is motive. And matter of Maron versus Silver from the

Court of Appeal from about a decade ago is clear, that there is no place to require state legislators to answer for their motivations in terms of how it is that they come to enact a certain piece of legislation. And we
10:40:37 would agree that enacting a new proposed map for the congressional lines and State Senate lines is quintessentially a legislative act. Where I would like to focus is with respect to the reply papers that were served by the Petitioners on Tuesday, March 1st which we
10:40:57 did not have an opportunity to respond to in writing. And in response to the ample authority that demonstrates the absolute nature of the legislative privilege, the Petitioners offer several cases wherein they claim that in fact the privilege is not absolute, and I think it's
10:41:18 really important to go through each one of those cases to demonstrate the distinctions such that the argument that the Petitioners' offer does not have merit.

So first of all they cite to a case called Larabee versus Governor of the State of New York which
10:41:34 eventually went up on appeal under the matter of Maron versus Silver case. They said Larabee demonstrates that in fact the privilege is not absolute. That's not the case. What Larabee was about was the issue of legislative immunity, because there -- what was alleged
10:41:51 was that the state legislators had violated their

constitutional requirement to raise the pay of the judges in the State of New York, and the response that was given by state legislators is, well, we cannot be held to account for that on account of legislative immunity. And
10:42:09 in fact what eventually was held, in matter of Maron versus Silver was that while legislators could not be required to pay out of their own pockets for additional amounts to be allocated for salaries for judges, a declaratory judgment to be issued such that it could be
10:42:25 held that in fact the Constitution had been violated in as much as under the separation of powers doctrine, the legislature had not done its job to give proper compensation to the State Court Judges. So they could do their job. But on appeal when the Larabee case went up
10:42:44 with Matter of Maron versus Silver, Maron versus Silver was clear when it got to a paragraph talking about the privilege issue rather than the immunity issue as to the absolute nature of the legislative privilege because under the Speech or Debate Clause in the State
10:43:00 Constitution, it could not be more clear, that for any speech or debate in either House of the Legislature, the members shall not be questioned in any other place. And over time this clause has been construed by the courts. And in particular I would note the campaign for fiscal
10:43:19 equity case, that was a case where the person who was

being deposed was a staffer at The State Education Department. And that staffer in the deposition was starting to be asked, well what is the nature of your communications with folks in the State Legislature with
10:43:34 respect to school funding. And so we would submit that that's a very similar kind of inquiry that the Petitioners are looking to pursue with respect to, oh legislators, what were the nature of your communications that you had with members of the Independent
10:43:50 Redistricting Commission and there in campaigned for fiscal equity. The Court said this privilege is so broad that it isn't simply a privilege that can be invoked by state legislators. It can be invoked by the staff, by the people who work with them, by the consultants, by
10:44:06 people who work for other state agencies with respect to the interface that takes place with state legislators both orally and in terms of their written communications as well. And we would submit that that same privilege applies, and no matter how much Petitioners may say that
10:44:22 they could try to make their request a bit more narrow, and as much as they make -- they offer that invitation to the Court, we would submit that the privilege issue would still apply and we could continue to raise it such that none of -- that no discovery demand that the Petitioners
10:44:41 could ever create as to the motivations or partisan

1 intent could ever be countenanced under the absolute
2 legislative privilege. And Your Honor made a point, well
3 isn't it relevant that in fact say a State Legislator had
4 some communication with a member of the Independent
10:45:00 5 Redistricting Commission, and I would say that under the
6 law, privilege has superiority over relevance all the
7 time. So for example, if an attorney is counseling a
8 polluter with respect to bad documents that exist in the
9 polluter's files about some kind of toxic tort
10:45:22 10 allegations, documents that would not be helpful if they
11 were to see the light of day, that document -- that memo
12 is subject to attorney/client privilege.
13 THE COURT: And your example though, could they
14 get that information from the member of the Commission?
10:45:36 15 If they talked with the legislator?
16 MR. BUCKI: I would submit that a member of the
17 Commission is the same -- is in the same position as --
18 THE COURT: They're not legislators --
19 MR. BUCKI: -- as the education department
10:45:48 20 employee who was being deposed in the campaign for fiscal
21 equity case. There it was in the middle of a deposition
22 and that employee was being asked questions about her
23 interface with the legislature. That employee was being
24 represented by someone from the State Attorney General's
10:46:05 25 Office who raised an objection on the basis of privilege,

and it had to go to State Supreme Court and actually went up to the First Department in 2009. And the person who was taking the deposition said this is someone who works for State Ed, this is someone who works for a state agency, this isn't somebody who's a legislator. But not withstanding, the privilege was so broad that the Court was clear that that person could not be questioned with respect to those communications.

THE COURT: Isn't it supposed to be an Independent Redistricting Commission?

MR. BUCKI: Well, actually there was a case that went before Albany County Supreme Court, the Leib case wherein it was supposed to be on the ballot in part of the syllabus that was presented to the voters that this was an Independent Redistricting Commission. And in fact the Court held you can't call it an Independent Redistricting Commission in terms of ballot proposal, not withstanding the fact that in the parlance that's developed since then they have called themselves independent, but likewise if somebody committed murder and then goes to their priest for confession and says I confess that I committed this murder, absolutely that would be relevant, but there's an absolute priest penitent privilege in the State of New York. And so likewise, just because something is relevant doesn't mean

that it isn't privilege, and the privilege trumps the relevance every single time. With respect to the Ohrenstein case, they say that's another case that demonstrates the privilege isn't really absolute. That
10:47:33 was a case that involved allegations of bribery. There are no allegations of bribe or money changing hands or anything of that nature. And then in fact where I'd like to focus also is on a case that they cite from Illinois which is Burton versus Corn Products Refining Company
10:47:51 from 1918. And little more recently from the appellate division in the late 1950's; Reformed Church of Mile Square. And they say here are instances where not withstanding a Speech or Debate Clause, the legislators were brought in and required to testify concerning the so
10:48:10 called purpose of legislation. I think it could be argued that intent and purpose could be two totally different things. But setting that aside, what's important to see about those cases is these are cases that involved municipal legislators. So in the Reform
10:48:27 Church of Mile Square case, that concerned the prospect of getting discovery from persons who served on the City Council in the City of Yonkers, and with respect to the Burton case that was a case that involved getting discovery from people who served on a City Council in
10:48:42 Granite City, Illinois -- I had to look up where that is,

it's just outside of St. Louis -- but what's important is in neither case does it talk about getting discovery from members of the State Legislature or people who interface with members of the State Legislature, and there's a
10:49:02 reason for this, because as the Humane Society case that the Petitioners also rely upon makes clear, there is a difference between the jurisprudence that exists with respect to the privilege that -- the legislative privilege that state legislators receive, versus the
10:49:20 jurisprudence that exists with respect to the privilege that local legislators receive such as members of a city council or a town board in the State of New York or county legislator. So that is a common law privilege that has been set forth from the courts, and there can be
10:49:36 exceptions to the common law privilege. Whereas the privilege for state legislators is an absolute privilege that exists under the State Constitution. And so the bottom line is none of the authorities that the Petitioners, my friends on the other side, have offered
10:49:53 in reply would support anything other than an absolute legislative privilege. And if the Petitioners did not want there to be an absolute legislative privilege applied, they could have brought this case prospectively in Federal Court. They talk about the various five
10:50:11 factor tests that are applied. That may be true in

Federal court, but we're not in Federal court for the western district of New York, we're not in the United States Supreme Court, we are in the Supreme Court for New York State, Steuben County, and in Steuben County Supreme
10:50:26 Court we would submit like anywhere else in New York State Court, there is an absolute privilege that attaches.

The last thing I would like to say -- actually two more things. First of all, with respect to the
10:50:39 burden.

THE COURT: With respect to what?

MR. BUCKI: With respect to the burden. Much has been said about the burden by my colleague Mr. Cuti, but I would like to emphasize that if there were to be
10:50:52 any kind of discovery demands simply the task of putting together copious privilege logs, not to mention the task of having to search for all the different documents that could potentially be responsive to a request that would eat up the remaining time that we have, this proceeding
10:51:11 needs to be decided within one month from tomorrow, and authorizing discovery which the Petitioners acknowledge in saying this petition can be granted today, they're basically acknowledging that they don't really need it. But even if this discovery were to be authorized, simply
10:51:30 the litigation that would happen on appeal in terms of a

1 notice of appeal, the fact that there would be an
2 automatic stay of the discovery under CPLR 5519(a)(1),
3 the fact that then we'd have to go before a special
4 session of the Fourth Department to have to sort this
10:51:44 5 out, every day that goes by is another day that this
6 proceeding is not going to be decided on the merits,
7 which it needs to by April 4th. And so we would submit
8 that the materiality and the necessity that would require
9 not only under CPLR 408 but also CPLR 3101 simply is not
10:52:05 10 there.
11 And the last thing I'll say at this juncture is
12 in as much as the Petitioners say this petition can be
13 granted today, I wanted to make absolutely clear that now
14 that the petition has been amended, it's impossible to
10:52:19 15 grant the petition today. It would be possible to deny
16 the petition today, but to grant it, no, and the reason
17 for that is that the Respondents have not had an
18 opportunity to answer for every petition. There needs to
19 be an answer. And the case on this point is matter of
10:52:36 20 Kickertz, K-I-C-K-E-R-T-Z, versus New York University.
21 It's from the Court of Appeals from about a decade ago,
22 that if the petition is granted without an opportunity
23 for the respondents to answer, then that's going to be
24 overturned on appeal because as a matter of due process
10:52:54 25 the Respondents need an opportunity to answer to -- we

would submit that to take that step of granting a petition at this time, as the Petitioners would invite this court to do, simply is not something that can happen at this juncture.

10:53:06 THE COURT: Thank you, Mr. Bucki.

MR. BUCKI: Thank you.

THE COURT: The Constitution provides both legislative immunity and legislative privilege, however the Courts have found the state legislators do not have

10:53:28 an absolute right to legislative privilege. In 2003 in the case of Rodriguez versus Pataki the Court laid out a balancing test to determine what information should be disclosed and what needs to be protected because of the chilling affect it would have on the legislature if the

10:53:46 information was disclosed. The Rodriguez court adopted a five-factor test. Under the five prong test the Court finds the request to discovery is relevant, that the relevant discovery is not otherwise available, that the issue of this -- the issues of this case are very

10:54:06 serious, and that the Government's role in the case is huge. Further, that limited discovery will not have the potential of chilling legitimate legislative actions in the future. Since this Court only has until April 4th to decide this matter, the Court will grant expedited

10:54:25 discovery, however short time period that may be. All

1 persons asked to provide discovery are to give this his
2 or her highest priority, and to set aside other matters.
3 The Court will permit discovery of legislative
4 respondents as to whether or not the map drawing process
10:54:46 5 was directed and controlled by one political party or the
6 legislative leaders of one political party. This would
7 include whether the Respondents without Republican input
8 directed and/or controlled the map drawing process. The
9 Court will also permit discovery of the legislative
10:55:06 10 Respondents as to any public remarks or statements made
11 by them, any public testimony he or she gave about the
12 redistricting process and/or maps, and any inquiries from
13 and responses to the public or media about the
14 redistricting process and/or maps. This would include
10:55:29 15 public comments made by the Respondents about the
16 Independent Redistricting Commission, and the IRC's
17 action or lack of action. This would include any
18 communication between the Respondent's and third parties
19 about advancing a partisan agenda or any efforts to
10:55:49 20 undermine the constitutional process of having the IRC
21 produce a viable map and/or viable second map. This
22 would also include all documents and communications
23 concerning the work of the Commissioners of the
24 Democratic caucus of the IRC, which documents and
10:56:09 25 communications were received from third parties. Any

discovery from non-legislative persons is not so restricted. The Governor and Lieutenant Governor are not to be considered as non-legislative members. Discovery is to be completed by March 12th, and I know that's tight. I'll be posting an order to this fact and uploading it to NYSEF. Does anyone else wish to be heard on the argument of lack of standing? I know it's been touched upon. Does anybody else need to respond to that?

MR. HECKER: I would like to, Your Honor.

10:56:55 THE COURT: On behalf of the Senate Majority Leader?

MR. HECKER: Hello, again Your Honor, Eric Hecker; Cuti, Hecker and Wang for the Senate Majority.

Just very briefly, the case that they rely upon, the Humane Society case from the third department is a case in which the Court denied standing for every Petitioner but one. And the only Petitioner who was allowed to proceed in that case was allowed to proceed precisely because she lived next door to the foie gras farm at issue that she alleged was contaminating her water. Here they put no evidence in when they filed their petition, none. They put belatedly some evidence of where Petitioners live in reply which appellate courts have held you can't do in a special proceeding, period. It can't be cured in reply. But more to the point, there

is still no evidence in the record at all that anybody in this case lives in Long Island, and this is exactly the kind of generalized non-specific claim made by Petitioners with no injury in fact, who are not within the zone of interest. We are in District 23.

10:58:24

THE COURT: Is an adjoining district that might be affected by another district, is that in the zone of interest?

MR. HECKER: Perhaps. There are many many districts between District 23 and Districts 1, 2 and 3 on Long Island. There's nobody within striking distance of standing. So they have a technical problem that they created by failing to put in any evidence with their petition to establish standing, which my friend Mr. Tseytlin successfully argued before the Supreme Court, it's fatal, and the end of the story, and you can't cure it in reply in the State of New York, but even if you could, this court has no basis to be judging any district based claims in Long Island when nobody in this case lives within striking distance of Long Island. Nobody from one, nobody from two, nobody from three, nobody from four, nobody from five, nobody from six, nobody close to Districts 1 and 2. Just wanted to make that point, Your Honor.

10:58:35

10:58:58

10:59:15

MR. TSEYTLIN: May I be heard on standing?

10:59:33

THE COURT: Pardon me?

MR. TSEYTLIN: May I be heard on standing?

THE COURT: Go ahead, Mr. Tseytlin.

MR. TSEYTLIN: A couple of things standing, Your Honor. First of all, with regard to our procedural claim that would knock out the entire map, there's no way to divorce that knockout from any particular district. So with regard to at least a procedural claim there's not even a colorable standing argument. Any person can raise that, that would knock out that.

With regard to their reference to the Gill versus Whitford case of the US Supreme Court, I did in fact argue they should not be allowed to cure by having additional plaintiffs, the argument was rejected by the US Supreme Court. The Us Supreme Court sent the case back down to the lower court to allow them to add more plaintiffs, that was way later then what happened here, which is -- we correctly submitted under the constitutional language that any citizen can challenge the map, that's the constitutional language. It was not addressed in the Bay Ridge decision, which was a trial court decision in any event, and it was not addressed. So any citizen language we relied on that to the extent they raised some objections. We then put in sworn affidavits from citizens throughout the state who are

Petitioners, all of the districts are interlinked. If Your Honor strikes down the districts that the Petitioners are in on substantive grounds, the other districts will need be to be changed in creating the remedial map, a partisan interest cannot be advanced as it was in Long Island.

Finally with regard to standing, again, I will reiterate that for our procedural claim, there is no colorable argument, and on the others we have citizens all over the state who have submitted competent evidence timely before the return date, which is all the rules require. Thank you.

THE COURT: Thank you. Is there anyone else who wishes to be heard on that?

MS. MCKAY: Your Honor, may we seek clarification with respect to the discovery ruling, as applied to the Governor and Lieutenant Governor, please?

THE COURT: They're considered part of the legislative, so they have the privilege to the extent that I said.

MS. MCKAY: Okay, and with respect to Your Honor's rulings as to legislative Respondents need to provide discovery, are you including the Governor and Lieutenant Governor in --

THE COURT: Yes.

MS. MCKAY: Thank you for the clarification.

THE COURT: Mr. Bucki, I saw you start to get up. Is there anything you wanted to address on the standing issue?

11:02:23 MR. BUCKI: I already had the opportunity to talk quite a bit about standing, I just want to second what Mr. Hecker says which is that vast swaths of territory within the State of New York are not represented by any Petitioner, and he mentioned Long
11:02:38 Island as a really good example. So even if it could be argued and countenanced, which I don't think it can be, that somehow as long as you live in the district next door that you have standing to challenge the way the district next door is created, well in a lot of cases
11:02:57 there is nobody in the district, and there's nobody next door. And so as a consequence this really is in the -- more in the nature of a generalized political grievance rather than a situation where the individuals at issue would have standing to challenge the entirety of the map
11:03:16 as they claim to do. And with respect to that -- any citizen language the Bay Ridge Community Council case that talked about it in detail about the standing of the person in Long Island -- I should say the lack of standing of that person with respect to challenging the
11:03:29 way a district map looks in Queens, that was later

affirmed in a detailed decision from the Appellate Division and then later affirmed on the basis of the Appellate Division opinion at the Court of Appeals. So we would submit that this is more than just a
11:03:45 miscellaneous case, this is a case that went all the way up to the Court of Appeals, and the Court of Appeals would agree with the Federal courts from Gill versus Whitford and Hays versus United States that in order to have standing to challenge your district lines, you need
11:03:57 to live in the district, and the vast majority of the Petitioners simply do not.

THE COURT: But the Petitioners are challenging the map in general, they want everything thrown out. Doesn't any citizen have the right to standing to bring
11:04:12 the petition?

MR. BUCKI: We would submit that if you have a challenge to your particular district you need to live in the district, and that is the position of the Speaker, and I think that's the position of the Senate Majority
11:04:24 Leader as well. And then, second of all, the other reason I was about to rise is I just have a question with respect to the discovery in terms of how things are going to go. I would anticipate once the order is entered that there is going to be a notice of appeal filed certainly
11:04:38 on behalf of the Speaker, I would anticipate on behalf of

the Senate Majority Leader. We would submit -- and I'd like to put it on the record now that simply the filing of that notice of appeal stays the discovery order and that's the position that we take. And I leave it to the
11:04:52 Petitioners to determine how it is that they're going to respond to that opportunity, so CPLR 5519. But further I would have a procedural question as to when we can expect the transcript to be ready so that that could be included in any record on appeal that could be provided to the
11:05:11 Fourth Department.

THE COURT: I'll ask for it to be done ASAP.

MR. BUCKI: Very well, Your Honor.

THE COURT: Thank you, Mr. Bucki.

Have I listened to everyone on the standing
11:05:22 issue?

MR. HECKER: Yes, Your Honor.

THE COURT: The motion to dismiss for lack of standing is denied, the amended Constitution gives every citizen the right to commence this action and allege that
11:05:39 the maps were drawn with a gerrymandering intent. The case law that predates the 2014 constitutional amendment, which required a Petitioner to be a resident of a particularly aggrieved district is no longer a guide to determining standing because of the additional revision.
11:05:59 Petitioners have provided additional affidavits to verify

that in fact these Petitioners encompass a number of districts, and of course any district that abuts their district would also be impacted by any change the Court may make in the dimensions of the district. That's my
11:06:16 ruling on that.

That brings us now to just the petition, the original petition itself. Honestly, I don't know if I need to hear argument on that today, and I'll tell you why. The Petitioners requested that I stay the election
11:06:41 or the current petition gathering process until this matter can be decided. The Court understands that the Petitioners' experts claim the currently enacted maps are the most egregious display of gerrymandering of any of the 5,000 or 10,000 maps that were drawn allegedly in a
11:07:04 non-partisan way. It's a serious allegation. However, the Respondents' experts paint an entirely different picture. I've decided that a hearing will be necessary to be conducted to determine where the truth lies between the Petitioners' experts and the Respondents' experts.
11:07:29 Until I have heard this testimony I'm not in a position to know whether or not to strike down these maps or uphold these maps. I'm not inclined at this point in time to void the maps simply because the IRC failed to submit a second map. I do not intend at this time to
11:07:53 suspend the election process for the following reasons;

Petitioners have an extremely high level of proof to be able to prove that the Respondents acted in an unconstitutional way in creating the Congressional and Senate maps. That proof is beyond a reasonable doubt
11:08:19 with the Respondents enjoying a presumption of constitutionality. Two; even if I find the maps violated the Constitution and must be redrawn, it is highly unlikely that a new viable map could be drawn and be in place within a few weeks or even a couple of months,
11:08:44 therefore striking these maps would more likely than not leave New York State without any duly elected Congressional delegates. I believe the more prudent course would appear to be to permit the current election process to proceed and then if necessary to require new
11:09:05 elections next year if the new maps need to be drawn. I'm not ruling on the Petitioners' procedural argument today. I believe I'm not going to make any rulings on anything until the discovery is done. And I know it's a very short time period for discovery, but we're all under
11:09:35 the gun. As I said before, the answer to the amended petition is going to be due by March 10th. Expert testimony is to start on March 14th, and whatever other testimony you wish to present. I'm unavailable March 21st through the 28th and my decision is due by
11:10:03 April 4th. Naturally I reserve the right to make a

decision on what I have before me at the time. I think everybody here would love to have a lot more time to pursue this and go through extensive discovery and trial, but we're faced with the fact that we're under a
11:10:30 deadline. Any future court hearings here will be also simulcast using the same link and the same password just so everyone knows, so we don't get a multitude of calls about whether there's still the same link or a different link. Is there anything else that needs to be discussed
11:10:55 today?

MR. BUCKI: Your Honor, if I may just clarify? So then is it true what I'm hearing that testimony from experts is scheduled to commence here on Monday, March 14th?

11:11:08 THE COURT: Yes, at 9:30.

MR. BUCKI: 9:30 a.m.?

THE COURT: And in my mind I'm not telling you how to present your case, but I'd like to hear your main experts. That's important to me. You call it the way
11:11:24 you see it, and I don't know if discovery will yield anything or not. We really don't know.

MR. BUCKI: So to clarify further, Your Honor, not withstanding what may happen on appeal with respect to the discovery order, the testimony from experts will
11:11:42 regardless commence on March 14th no matter what?

THE COURT: Yes.

MR. BUCKI: Thank you.

THE COURT: Mr. Bucki raised a very good point when he was standing at the podium that, you know and I envision that one side or the other would appeal and they're saying they're going to appeal my decision on the discovery issue which may put a stay on everything here. So I mean I'll leave it to the parties to discuss how you want to deal with that. All I can tell you is my decision is by law due by April 4th, and that's where we are. I'll upload a decision on the discovery issue today, and I'll see everyone on the 14th. Thank you.

Certified to be a true and accurate transcript.

Laura Bliss Power

Laura Bliss Power

Exhibit 9

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARK A. FAVORS, HOWARD LEIB, LILLIE H. GALAN, EDWARD A. MULRAINE, WARREN SCHREIBER, and WEYMAN A. CAREY,

Plaintiffs,

DONNA KAYE DRAYTON, EDWIN ELLIS, AIDA FORREST, GENE A. JOHNSON, JOY WOOLLEY, SHEILA WRIGHT, LINDA LEE, SHING CHOR CHUNG, JULIA YANG, JUNG HO HONG, JUAN RAMOS, NICK CHAVARRIA, GRACIELA HEYMANN, SANDRA MARTINEZ, EDWIN ROLDAN, MANOLIN TIRADO, LINDA ROSE, EVERET MILLS, ANTHONY HOFFMAN, KIM THOMPSON-WEREKOH, CARLOTTA BISHOP, CAROL RINZLER, GEORGE STAMATIADES, JOSEPHINE RODRIGUEZ, and SCOTT AUSTER,

Intervenor-Plaintiffs,

-against-

ANDREW M. CUOMO, as Governor of the State of New York, ROBERT J. DUFFY, as President of the Senate of the State of New York, DEAN G. SKELOS, as Majority Leader and President Pro Tempore of the Senate of the State of New York, SHELDON SILVER, as Speaker of the Assembly of the State of New York, JOHN L. SAMPSON, as Minority Leader of the Senate of the State of New York, BRIAN M. KOLB, as Minority Leader of the Assembly of the State of New York, NEW YORK STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT ("LATFOR"), JOHN J. McENENY, as Member of LATFOR, ROBERT OAKS, as Member of LATFOR, ROMAN HEDGES, as Member of LATFOR, MICHAEL F. NOZZOLIO, as

OPINION AND ORDER

DOCKET # 11-CV-5632 (RR)(GEL)(DLI)(RLM)

Member of LATFOR, MARTIN MALAVÉ DILAN, as Member of LATFOR, and WELQUIS R. LOPEZ, as Member of LATFOR,

Defendants.

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REENA RAGGI, United States Circuit Judge,
GERARD E. LYNCH, United States Circuit Judge,
DORA L. IRIZARRY, United States District Judge:

This three-judge court was convened on February 14, 2012, pursuant to 28 U.S.C. § 2284(a), to address plaintiffs' complaint that defendants' failure to redraw New York's state and federal congressional districts consistent with the results of the 2010 Census deprives them of the ability to vote in upcoming elections in accordance with rights guaranteed by the federal and state constitutions, see U.S. Const. art. I, § 2; N.Y. Const. art. III, §§ 4, 5, and the Voting Rights Act of 1965, see 42 U.S.C. §§ 1973–1973aa-6.[1] Like the

[1] Plaintiffs Mark A. Favors, Howard Leib, Lillie H. Galan, Edward A. Mulraine, Warren Schreiber, and Weyman A. Carey ("Favors Plaintiffs") are registered voters in the State of New York; Leib is also a prospective State Senate candidate. Four sets of individuals intervened as plaintiffs pursuant to Fed. R. Civ. P. 24: (1) Donna Kaye Drayton, Edwin Ellis, Aida Forrest, Gene A. Johnson, Joy Woolley, and Sheila Wright ("Drayton Intervenors"); (2) Linda Lee, Shing Chor Chung, Julia Yang, and Jung Ho Hong ("Lee Intervenors"); (3) Juan Ramos, Nick Chavarria, Graciela Heymann, Sandra Martinez, Edwin Roldan, and Manolin Tirado ("Ramos Intervenors"); and (4) Linda Rose, Everet Mills, Anthony Hoffman, Kim Thompson-Werekoh, Carlotta Bishop, Carol Rinzler, George Stamatiades, Josephine Rodriguez, and Scott Auster ("Rose Intervenors").

Defendants, all sued in their official capacities, are Andrew M. Cuomo, as Governor of the State of New York; Eric T. Schneiderman, as Attorney General of the State of New York; Robert J. Duffy, as President of the State Senate; Dean G. Skelos, as Majority Leader and President Pro Tempore of the State Senate; Sheldon Silver, as Speaker of the State Assembly; John L. Sampson, as Minority Leader of the State Senate; Brian M. Kolb, as Minority Leader of the State Assembly; the New York State Legislative Task Force on

census that triggers it, this argument is now raised in federal courts at predictable ten-year intervals. See Rodriguez v. Pataki, No. 02-cv-618, 2002 WL 1058054 (S.D.N.Y. May 24, 2002); Puerto Rican Legal Def. & Educ. Fund, Inc. v. Gantt, 796 F. Supp. 681 (E.D.N.Y. 1992); Flateau v. Anderson, 537 F. Supp. 257 (S.D.N.Y. 1982). In the past, judicial creation of a congressional redistricting plan has spurred the New York legislature to produce its own plan just in time to avoid implementation of the judicial plan. See, e.g., Rodriguez v. Pataki, 308 F. Supp. 2d 346, 357–58 (S.D.N.Y.) (describing state legislature's enactment of congressional redistricting plan shortly after court adoption of special master plan), aff'd, 125 S. Ct. 627 (2004). This time is different. With less than 24 hours until the scheduled March 20, 2012 start of the petitioning process for the June 26, 2012 congressional primaries, the New York legislature has not delineated congressional districts for the state. Accordingly, the court declares New York to be without a congressional redistricting plan that conforms to the requirements of federal law, and it hereby orders defendants to implement the redistricting plan attached as Appendix 1 to this opinion ("Ordered Plan").[2]

Demographic Research and Reapportionment ("LATFOR"); John J. McEneny, as a member of LATFOR; Robert Oaks, as a member of LATFOR; Roman Hedges, as a member of LATFOR; Michael F. Nozzolio, as a member of LATFOR; Martin Malavé Dilan, as a member of LATFOR; and Welquis R. Lopez, as a member of LATFOR.

Since filing, plaintiffs have withdrawn a claim that defendants' redistricting failure also violates the New York Prisoner Reallocation Law, see N.Y. Corr. Law § 71(8), making it unnecessary to discuss that claim further. Plaintiffs have also withdrawn their remaining claims against Attorney General Schneiderman.

[2] Insofar as plaintiffs also challenge the defendants' failure to draw district lines for New York State Senate and Assembly districts, the parties are directed to appear before the court for a status conference on Wednesday, March 21, 2012, at 3:00 p.m. in the Ceremonial

I. The Undisputed Merits of Plaintiffs' Claim That New York Lacks a Constitutional Congressional Redistricting Plan

Defendants do not seriously dispute plaintiffs' claim that New York is without a constitutional congressional redistricting plan for the 2012 elections.[3] Nor could they. As a result of the relative decline in New York's population reflected in the 2010 Census, the number of congressional districts allotted to the state is reduced from 29 to 27. See Kristin D. Burnett, U.S. Census Bureau, 2010 Census Briefs: Congressional Apportionment 2 (Nov. 2011), available at http://www.census.gov/prod/cen2010/briefs/c2010br-08.pdf; see generally U.S. Const. art. I, § 2, cl. 3; 2 U.S.C. § 2a. Thus, New York cannot operate under its existing congressional districting plan. Rather, it must redraw congressional district lines in order to have representatives seated in the 113th Congress.[4] Further, the state must do so in a way that both (1) conforms to the constitutional mandate that "as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's," Wesberry v. Sanders, 376 U.S. 1, 7–8 (1964), and (2) adheres to the constitutional prohibition against

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Courtroom to discuss what, if any, further proceedings are necessary in light of the enactment of a legislative redistricting plan for state offices on March 15, 2012.

[3] To the extent some defendants' Answers dispute the merits of plaintiffs' claim, no defendant has pursued the challenge before this court, and we deem it waived by each defendant's failure to object to the magistrate judge's findings that New York currently has two too many districts, and that those districts are not equally apportioned in light of 2010 census data. See Report and Recommendation at 14 (Mar. 12, 2012), Dkt. Entry 223.

[4] See 2 U.S.C. § 2a(c) (requiring at-large election of representatives if state has more districts than apportioned). Defendants do not propose to hold statewide congressional elections.

both intentional and excessive uses of race or ethnicity in redistricting, see Miller v. Johnson, 515 U.S. 900, 916 (1995) (prohibiting use of race or ethnicity as "predominant factor" motivating decision to place significant number of voters within or without particular district); City of Mobile v. Bolden, 446 U.S. 55, 66 (1980) (holding that redistricting cannot purposefully discriminate against racial group by diluting its vote). Federal law also obligates New York to effect redistricting consistent with the Voting Rights Act, particularly Section 2, which ensures against minority vote dilution, see 42 U.S.C. § 1973, and Section 5, which forbids retrogression in the electoral position of minorities in covered jurisdictions, see id. § 1973c, here including New York, Kings, and Bronx Counties, see 28 C.F.R., pt. 51, App.

No such plan being in place, plaintiffs are entitled to both a declaratory judgment in their favor and relief in the form of a judicially ordered congressional redistricting plan.

II. The Ordered Redistricting Plan

In ordering defendants to implement the attached redistricting plan, we adopt the March 12, 2012 Report of Magistrate Judge Roanne L. Mann in its entirety and the redistricting plan recommended therein, see Report and Recommendation (Mar. 12, 2012), Dkt. Entry 223 ("Report" or "Recommended Plan"). The court's Ordered Plan modifies the Recommended Plan only to the extent noted in the margin.[5] We write here to discuss the

[5] In response to submissions from the parties and the public, the court makes the following four changes to the Recommended Plan:

(1) The Brooklyn waterfront extending from the Brooklyn Bridge to the Brooklyn

process and legal principles informing development of the Ordered Plan, and the court's reasons for rejecting certain objections or complaints about the Recommended Plan from parties and interested members of the public.

A. The Process Employed To Develop the Ordered Plan

1. Defendants' Ripeness Challenge

Rather than challenge the merits of plaintiffs' claim before the three-judge panel or the magistrate judge, defendants questioned its ripeness, moving for dismissal on the ground that state inaction had not yet reached the point where a court could recognize a violation of federal law. We rejected this argument in an electronic order on February 21, 2012, supported by an opinion filed on March 8, 2012. See Order Denying Motions to Dismiss (Mar. 8, 2012), Dkt. Entry 219.[6] With the petitioning process for the state's congressional elections set to begin on March 20, 2012, and with defendants conceding that no new

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Battery Tunnel is placed in the same district, Ordered District 7, as it was under the existing plan. Two blocks in Sunset Park, Brooklyn, are then moved from Recommended District 7 to Ordered District 10 to achieve constitutionally mandated population equality.

(2) Wyoming County is united in Ordered District 27. The split of Ontario County, which was already split under the Recommended Plan, is reconfigured to ensure that Ordered District 23 achieves population equality.

(3) A zero population census block is moved from Recommended District 23 to Ordered District 27 to unify the Town of Canandaigua.

(4) A census block containing two people is moved from Recommended District 25 to Ordered District 27 to unify the Town of Hamlin. The split of the Town of Clarkson is shifted from the northeast to the southwest in order to achieve population equality.

Maps reflecting these changes are attached as Appendix 2 to the opinion.

[6] In this order, the court also summarily rejected defendants' challenge to plaintiffs' standing. See Order Denying Motions to Dismiss at 14–17 (Mar. 8, 2012), Dkt. Entry 219.

congressional district plan was imminent, plaintiffs' claim was plainly ripe.[7] Not only did the existing plan—providing for 29 congressional districts that do not comport with either the 2010 Census or the constitutional mandate of "one person, one vote"—clearly violate federal law, but also the court's ability to provide the necessary remedy, a constitutional redistricting plan, in time for the March 20 petitioning process faced significant time challenges. See id. at 7–14.[8]

2. The Magistrate Judge's Report

In order to provide a timely remedy, on February 27, the court referred the task of

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[7] The March 20 date is a product of litigation in the Northern District of New York challenging New York's compliance with the Uniformed and Overseas Citizens Absentee Voting Act of 1986, see 42 U.S.C. §§ 1973ff–1973ff-7, as amended by the Military and Overseas Voter Empowerment Act, Pub. L. No. 111-84, subtitle H, §§ 575–589, 123 Stat. 2190, 2318–2335 (2009). On January 27, 2012, Judge Gary L. Sharpe ordered that New York's date for its non-presidential federal primary elections be moved to June 26, 2012, in order to bring the state into compliance. See United States v. New York, No. 1:10-cv-1214 (GLS/RFT), 2012 WL 254263, at *3 (N.D.N.Y. Jan. 27, 2012). Judge Sharpe then adjusted the rest of New York's election calendar accordingly, setting March 20, 2012, as the first day candidates may collect designating petitions in order to appear on the primary ballot. See United States v. New York, No. 1:10-cv-1214 (N.D.N.Y. Feb. 9, 2012), ECF No. 64 (adopting schedule including March 20, 2012 date for commencement of petition gathering); see also N.Y. Elec. Law § 6-134(4) (requiring designating petitions to be filed within 37-day period); id. § 6-158(4) (setting "eighth Thursday preceding the primary election" as deadline for filing designating petitions).

Defendants acknowledge that petitions must be obtained in the district that the prospective candidate seeks to represent. See Feb. 27, 2012 Hr'g Tr. at 31. Thus, districts must be delineated by the start of the petitioning process.

[8] Under ideal circumstances, a court would require at least two months to devise a statewide redistricting plan, "one month for the drawing of the plan and an additional month for hearings and potential modifications to it." Nathaniel Persily, When Judges Carve Democracies: A Primer on Court-Drawn Redistricting Plans, 73 Geo. Wash. L. Rev. 1131, 1148 (2005). This court has had to develop the Ordered Plan in half that time.

devising a recommended plan for redrawing New York's congressional districts to Magistrate Judge Mann with instructions to issue a report and recommendation to the court on March 12, 2012.[9] The court further authorized the retention of Dr. Nathaniel Persily as a redistricting expert to assist Magistrate Judge Mann and this court in fashioning redistricting relief.[10] See Order of Referral to Magistrate Judge at 3–4 (Feb. 28, 2012), Dkt. Entry 133.

Exerting efforts that have been aptly characterized as "Herculean,"[11] Magistrate Judge Mann filed a detailed report and plan recommendation on March 12, supported by Dr. Persily's equally detailed affidavit and accompanying exhibits. The Report is remarkable in several respects. First, and most obviously, it provides this court in two weeks' time with what defendants have been unable—or unwilling—to provide New York State voters in more than a year: a redistricting plan for the state's congressional districts. In doing so, the Report

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[9] A formal appointment order was entered on February 28, 2012. See Order of Referral to Magistrate Judge (Feb. 28, 2012), Dkt. Entry 133.

[10] Dr. Persily, Charles Keller Beekman Professor of Law and Professor of Political Science at Columbia University School of Law, and the author of the article referenced in note 6, supra, is a well recognized expert on redistricting and voting rights. He served as a court-appointed expert in New York's 2002 redistricting, and has served in a similar capacity in connection with redistricting challenges in Connecticut, Georgia, and Maryland. See Aff. of Professor Nathaniel Persily, J.D., Ph.D., App. K (Mar. 12, 2012), Dkt. Entry 223, Attach. 12. Several parties urged and no party opposed Dr. Persily's retention in this case.

[11] Mar. 15, 2012 Hr'g Tr. at 44 (statement of Jackson Chin, counsel for Ramos Intervenors); id. at 59 (statement of Richard Mancino, counsel for Favors Plaintiffs); Dominican American National Roundtable Objection at 3 (Mar. 13, 2012), Dkt. Entry 240, Ex. 7 ("DANR Objection").

cogently sets forth controlling principles of law, the challenging choices implicated in any redistricting assignment, and the magistrate judge's reasons for making the choices reflected in the Recommended Plan. Second, the Report discusses the commendable process employed by the magistrate judge to develop the Recommended Plan, which afforded the parties and interested members of the public frequent opportunities to be heard. See Report at 8–12. Third, the Report recommends a redistricting plan that is exemplary in satisfying each and every standard set forth in this court's referral order.

3. Adoption of the Report and Recommended Plan

This court is nevertheless required to review the Recommended Plan de novo and to decide for itself what redistricting plan is necessary to ensure compliance with controlling law. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 53(f). Toward that end, we have carefully reviewed not only the magistrate judge's Report and Recommended Plan, but also all filings in the case, including all submitted plans (partial or statewide),[12] as well as all objections and comments to the Recommended Plan presented by any party or interested person either in writing or at a public hearing conducted on March 15, 2012.[13] The court has consulted

[12] Any suggestion that the magistrate judge failed to consider partial-plan submissions by the parties or public, see DANR Objection at 2–3, finds no support in the record, for reasons discussed infra at 39. In any event, this court has itself reviewed all plan submissions in reaching its final decision. In considering partial plans, the court, like the magistrate judge, is mindful that its task is not simply to accommodate the particular interest addressed in any plan but to effect a redistricting plan for the entire state that, first and foremost, satisfies the mandates of federal constitutional and statutory law.

[13] The quality and fairness of the Recommended Plan is attested by the scarcity of objection from the highly engaged parties to this litigation, who include the entire executive

further with Dr. Persily to ensure its full understanding of the demographics informing the Recommended Plan and implicated in changes urged by the parties or members of the public. Upon such careful and independent review, we adopt the magistrate judge's Report and Recommended Plan, with only minor and uncontroversial adjustments as indicated supra note 5.

4. Legal Principles Informing the Court's Decision

In ordering defendants to implement the court's redistricting plan, we are guided by principles of law that all parties agree are accurately set forth in the magistrate judge's Report. See Report at 13–19 (discussing constitutional and statutory redistricting standards);

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and legislative leadership of New York State. Of the parties, only the Drayton and Ramos Intervenors and the Senate Majority Defendants submitted objections to portions of the Report and Recommended Plan. See Drayton Intervenors' Letter (Mar. 14, 2012), Dkt. Entry 226; Ramos Intevenors' Letter (Mar. 14, 2012), Dkt. Entry 228; Senate Majority Defs.' Objections (Mar. 14, 2012), Dkt. Entry 231. The Lee and Rose Intervenors filed letters stating that they had no objections to the Report and Recommended Plan, see Lee Intervenors' Letter (Mar. 14, 2012), Dkt. Entry 227; Rose Intervenors' Response (Mar. 14, 2012), Dkt. Entry 229, and the Plaintiffs filed a memorandum of law in support of the Recommended Plan, see Pls.' Mem. in Support (Mar. 14, 2012), Dkt. Entry 232. The Governor, Assembly Majority, Senate Minority, and Assembly Minority Defendants filed no responses to the Report and Recommended Plan.

Although the magistrate judge and the court each invited members of the public to submit comments by easily-accessible electronic means or in person at public hearings, only a small number of negative comments were received, and only a handful of New York's many elected officials suggested changes. The court received approximately twenty written submissions from the public supporting or opposing the Report and Recommended Plan. See Public Submissions to the Court (Mar. 19, 2012), Dkt. Entry 240. Approximately thirty members of the public spoke at the public hearing in support of or in opposition to the Recommended Plan. As set forth infra in Part II.B, only a small number of these comments opposing the plan require extended discussion.

id. at 21–38 (discussing traditional redistricting factors). Because we adopt the Report, we do not repeat that discussion here. Nevertheless, in light of apparent confusion by some parties and members of the public at the March 15, 2012 hearing as to the court's obligations with respect to redistricting principles that impose legal mandates as compared with principles that afford some discretion, a preliminary discussion is useful to our subsequent analysis of specific objections.

a. The Constitutional Mandate of "One Person, One Vote"

At the first tier of redistricting analysis, the controlling principle is constitutional and mandatory: Article I, Section 2 requires that congressional election districts conform to the principle of "one person, one vote." Abrams v. Johnson, 521 U.S. 74, 98 (1997); Wesberry v. Sanders, 376 U.S. 1, 7–8 (1964); see also Reynolds v. Sims, 377 U.S. 533, 561–64, 568 (1964) (holding that state election districts must be apportioned by equal population). To satisfy this mandate, the population of each of New York's 27 new congressional districts must be within one person of the target number of 717,707 persons. See Report at 14; Aff. of Professor Nathaniel Persily, J.D., Ph.D. ¶¶ 103–04 (Mar. 12, 2008), Dkt. Entry 223, Attach. 1 ("Persily Aff."); see also Abrams v. Johnson, 521 U.S. at 98 (holding that "[a] court-ordered plan should ordinarily achieve the goal of population equality with little more than de minimis variation" (internal quotation marks omitted)). Thus, in considering arguments urging that persons be moved from one district to another in furtherance of one or more of the traditional redistricting factors discussed infra Part II.A.4.c, this court is

constitutionally mandated to replace any persons moved with the same number of persons drawn from another district. As should be obvious, this means that, with the exception of changes that can be effected with a simple population swap between two districts, see, e.g., supra n.5 (discussing some such population swaps), most changes will trigger a ripple effect through multiple districts with serious constitutional implications for the entire redistricting plan.

b. Constitutional and Statutory Prohibition of Discriminatory Redistricting

The second tier of redistricting analysis is of equal importance to the first in that it too is constitutional and mandatory: a redistricting plan cannot intentionally discriminate against a racial or ethnic group. See City of Mobile v. Bolden, 446 U.S. at 66; White v. Regester, 412 U.S. 755, 765–66 (1973); Gomillion v. Lightfoot, 364 U.S. 339, 341–42, 346 (1960). At the same time, race or ethnicity cannot be used as the "predominant factor" in deciding whether to put significant numbers of persons within or without a particular district. Miller v. Johnson, 515 U.S. at 916; see Shaw v. Reno, 509 U.S. 630, 642–49 (1993). The prohibition on discrimination is reinforced by the Voting Rights Act, which proscribes both minority vote dilution in Section 2, see 42 U.S.C. § 1973, and retrogression of existing minority strength in jurisdictions covered under Section 5, see id. § 1973c. Magistrate Judge Mann accurately discusses in some detail the law relevant to these principles, and thus, we do not repeat that discussion here. See Report at 13–19; see also Rodriguez v. Pataki, 2002 WL 1058054, at *4 (setting forth same legal standards in reviewing special master plan for

2002 New York redistricting). Further, the appendices attached to Dr. Persily's affidavit document the care taken in the Recommended Plan—and, now, the Ordered Plan—to safeguard against minority vote dilution and retrogression. See Persily Aff., Apps. A–J. Here too, then, we consider arguments urging this court to move persons from one district to another mindful of our obligation not to make any changes that could cause vote dilution or retrogression.

c. Traditional Redistricting Factors

At the third tier of redistricting analysis, a court considers, to the extent possible, traditional principles that generally inform legislative redistricting. This process contemplates the exercise of discretion.

In our referral to the magistrate judge, this court identified four traditional redistricting factors warranting consideration: (1) district compactness, (2) contiguity, (3) respect for political subdivisions, and (4) preservation of communities of interest. See Order of Referral to Magistrate Judge at 3 (Feb. 28, 2012), Dkt. Entry 133. At the same time, we stated that the magistrate judge's discretion to weigh these factors also extended to other factors that she might identify as reasonable, consistent with otherwise controlling law. See id. Two further traditional redistricting factors urged by the parties and members of the public are (5) maintaining the cores of existing districts and (6) protecting incumbency.[14] See Karcher

[14] To the extent the Senate Majority Defendants characterized the protection of core districts as the "primary" factor in redistricting analysis, Mar. 15, 2012 Hr'g Tr. at 16, 20, they sensibly withdrew that argument, conceding that traditional redistricting factors are

v. Daggett, 462 U.S. 725, 740 (1983) (recognizing these two factors as traditional considerations in legislative redistricting); Diaz v. Silver, 978 F. Supp. 96, 105, 123 (E.D.N.Y.) (stating that maintaining cores of existing districts is traditional redistricting factor, and that it is not improper for legislature to consider incumbency in enacting redistricting plan), aff'd, 522 U.S. 801 (1997).

In fact, the magistrate judge's Report carefully addresses each of these six factors, discussing both the factor's relevancy to redistricting and the concerns associated with its application. See Report at 21–38. The magistrate judge accords some weight to each of these factors, with the single exception of incumbency protection. See id. In all respects pertaining to traditional redistricting factors, we adopt both the Report's reasoning and its conclusions as our own. We add only a few observations relevant to our future discussion of particular objections to the weight assigned to some of the traditional factors. These demonstrate that the noted traditional factors are not all of a kind.

First, only the first three traditional redistricting factors—compactness, contiguity, and respect for political subdivisions—can claim the sanction of enacted New York law. The State Constitution requires that State Senate and Assembly districts be contiguous and "in as compact form as practicable." N.Y. Const. art. III, §§ 4, 5 (emphasis added). It further requires that such districts consist of contiguous territory, and limits the division of counties,

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necessarily subordinate to the two identified constitutional and statutory principles that must be satisfied by any redistricting plan, see id. at 20–21.

towns, and city blocks in forming state legislative districts. See id. Where state policy is thus reflected in law, there is sound reason for a court to accord that policy some weight, even when devising a redistricting plan for the federal rather than state legislature, subject, of course, to the superior demands of federal law, see U.S. Const. art. VI, cl. 2. As detailed in the magistrate judge's Report, the Recommended Plan is scrupulous in ensuring district contiguity; further, it achieves compactness and avoids splitting political subdivisions better than the existing plan. See Report at 23–24 (noting that Recommended Plan achieves compactness and contiguity in all districts, and splits six fewer counties and five fewer towns than existing plan); Persily Aff. ¶¶ 134–35 (stating that Recommended Plan keeps together 42 of 62 counties, and 894 of 970 towns, both of which improve on existing congressional districts). Indeed, the Ordered Plan has itself modified the Recommended Plan to unite one more county and three more towns, changes that could be effected without undue disruption to the overall plan's compliance with federal law. See supra n. 5. Thus, the Recommended Plan keeps 43 New York counties and 897 towns whole.

Second, the remaining factor identified in our referral order, the preservation of communities of interest, has no comparable pedigree in enacted state law. While the preservation of communities of interest has been recognized as "a legitimate goal in creating a district plan," Diaz v. Silver, 978 F. Supp. at 123, we observe, as did the magistrate judge, that this factor can more easily draw the court into political debates than factors such as compactness, contiguity, and respect for political subdivisions. These last three factors are

more susceptible to neutral analysis, with a court's options and choices often evident on a map.[15] But the identification of a "community of interest," a necessary first step to "preservation," requires insights that cannot be obtained from maps or even census figures. Such insights require an understanding of the community at issue, which can often be acquired only through direct and extensive experience with the day-to-day lives of an area's residents. Legislators are expected to have such understanding and experience. Judges are not. Thus, even if legislators routinely seek to preserve their constituents' communities of interest in a new redistricting plan, courts are understandably inclined to accord redistricting weight only to the preservation of obviously established and compact communities of interest. The Recommended Plan does this by respecting "certain widely recognized, geographically defined communities." Report at 27 (quoting Persily Aff. ¶ 137).

Third, the remaining factors at issue—maintaining the cores of prior districts and incumbency protection—similarly risk drawing the court into political disputes. This is not to denigrate such factors, but simply to recognize that assigning them weight is a process that frequently requires political tradeoffs, a task for which the legislature—by virtue of insight, process, and ballot accountability—is better suited than the judiciary.[16] Indeed, that

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[15] In noting that these factors are susceptible to objective evaluation, we do not suggest that they are necessarily easy to apply. See, e.g., Persily Aff. ¶ 130 & App. D (noting and applying eight different mathematical models to assess Recommended Districts' compactness).

[16] To be sure, the legislature may itself wish to insulate its own redistricting efforts from complaints of partisanship by employing an independent commission. This is the subject of current debate in New York. See, e.g., Danny Hakim, John Eligon & Thomas

conclusion is only reinforced here, where the court was obliged to create a congressional redistricting plan for as populous and diverse a state as New York in only a few weeks. To satisfy the mandates of federal law, the court's focus has necessarily been on census information. Nevertheless, like the magistrate judge, this court has made every effort also to consider the range of traditional redistricting factors, but it has done so cautiously, mindful of its obvious inability to acquire the sort of comprehensive insights that allow a legislature to balance the competing political concerns implicated in preserving various communities of interest, maintaining the cores of existing districts, and protecting incumbents.

Of course, when the legislature itself weighs these factors in enacting a redistricting plan, a federal court reviewing that plan must confine itself to correcting error of federal law, without displacing otherwise "legitimate state policy judgments." Perry v. Perez, 132 S. Ct. 934, 941 (2012). That, however, is not this case. The court was obliged to create a new redistricting plan because the state has failed to do so. In these circumstances, the court owes no comparable deference to the outdated policy judgments of a now unconstitutional plan. See id. at 943 (stating that where there is "no recently enacted state plan," a court may be "compelled to design an interim map based on its own notion of the public good"). Indeed,

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Kaplan, Cuomo, Admitting Setbacks, Says He Asked for the Moon, N.Y. Times, Mar. 15, 2012, at A20 (discussing mixed reactions to compromise on state redistricting reform). We express no view on this question. We note only that, to the extent political concerns are implicit in certain redistricting factors that legislatures have permissibly employed in the past, a court may reasonably decide to accord those factors less weight than others better suited to neutral determination.

when, as here, a new plan is required to contract the number of congressional districts, a court could only guess at which communities of interest the legislature would preserve or not, which districts the legislature would maintain or sacrifice, and which incumbents it would protect and which it would not.

Moreover, in creating a redistricting plan for a state that has none, a court's consideration of the traditional factors informing legislatively enacted plans does not require it to assign specific weight to any particular factor, or consistently to assign the same weight to a factor in delineating each district. Rather, the court must exercise discretion. Indeed, even if a court were generally inclined to accord significant weight to factors such as compactness or respect for political subdivisions, it might sometimes have to subordinate those factors to satisfy the population requirement of "one person, one vote," or to avoid proscribed minority voter dilution or retrogression. Similarly, a court may generally value the preservation of communities of interest while recognizing the particular challenges of "defining and accommodating" such communities of interest "in a region as diverse and dynamic as New York City and its environs." Report at 26.[17] Further, as the court had

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[17] As Dr. Persily observed:

> Respecting communities of interest is both an essential and slippery consideration in redistricting processes. In one respect, redistricting is about representation of communities. Communities that are split between districts often view their voice as diminished. In another respect, arguments based on communities of interest can often be pretexts for incumbency or partisan-related considerations. Moreover, community boundaries are inherently amorphous, contested, shifting and conflicting. By respecting one

repeated occasion to observe at the public hearing, the delineation of communities of interest is cabined by constitutional limits on racial stereotyping. See Miller v. Johnson, 515 U.S. at 920 (recognizing that communities of interest may be based on racial or ethnic makeup so long as "action is directed toward some common thread of relevant interests," but holding that, when a "State assumes from a group of voters' race that they 'think alike, share the same political interests, and will prefer the same candidates at the polls,' it engages in racial stereotyping at odds with equal protection mandates" (quoting Shaw v. Reno, 509 U.S. at 647)).

Insofar as Magistrate Judge Mann assigned no weight to protecting incumbents, we do not understand her to have concluded that she was legally proscribed from considering this factor, but only that she opted to assign it no weight for reasons explained in her Report. We adopt this reasoning and exercise our own discretion in the same manner. We note only that, in creating a redistricting plan that eliminates two congressional districts, it is impossible to protect all incumbents, thus presenting the judiciary with political choices. See Report at 37–38. To insulate the Ordered Plan from any complaint of actual or apparent partisan bias, we choose to assign no weight to incumbency protection. In urging that we do otherwise, objecting parties and interested persons suggest that some incumbents' decisions

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> community's boundaries or some advocates' conception of their community, a redistricting plan might conflict with other advocates' conception of their community or with another community's boundaries.

Report at 25 n.16 (quoting Persily Aff. ¶¶ 52–53).

not to stand for reelection may obviate the need for the court to make any such political choice. We are not persuaded. The present intentions of congressional incumbents to seek other offices or decline to run for reelection are always subject to change and possibly contingent on expectations about the districts the court might draw. In any event, those intentions are not part of any evidentiary record in this case, being known to the court at best through press reports or suggestions by parties and members of the public that are speculative and unreliable. Even in the absence of this evidentiary defect, the argument assumes that it would be possible to devise a redistricting plan that eliminated only districts represented by members not pursuing reelection while still satisfying all requirements of federal law. Our ability to devise such a plan is not apparent on the record. In any event, we are not inclined to upset the carefully crafted Recommended Plan on the eve of the petitioning process in order to further the most political of the traditional redistricting factors, particularly as there is no district residency requirement for congressional candidates. See id. at 36 (citing U.S. Const. art. I, § 2).[18]

Having reviewed the full record for ourselves and having carefully considered the objections and comments of all parties with respect to the Recommended Plan, we decide de

[18] In reaching this conclusion, we do not overlook the importance of incumbent seniority. See Diaz v. Silver, 978 F. Supp. at 123 ("[T]he powerful role that seniority plays in the functioning of Congress makes incumbency an important and legitimate factor for a legislature to consider."). Like the magistrate judge, however, we do not think this concern requires that incumbency protection be given the weight urged in a court-devised plan. The legislature, of course, is free to give this factor greater weight in any redistricting plan it chooses to adopt.

novo to accord the identified traditional redistricting factors the same weight as the magistrate judge. See Report at 21–38. Any party or person disappointed with the weight assigned by this court to any of the traditional redistricting factors may certainly pursue this concern with their representatives in the New York legislature, which body has the authority to write a new plan for the next congressional election if it is dissatisfied with the Ordered Plan. Contrary to a concern expressed by one member of the public, nothing requires the Ordered Plan to remain in place for a decade. That result will occur only if the legislature chooses to leave the Ordered Plan in place.

We now address particular objections to the Recommended Plan that merit discussion.

B. Objections to the Recommended Plan

In discussing objections to the Recommended Plan, we start with those raised by the parties and proceed to others raised by public commentators.

1. Senate Majority Defendants

The Senate Majority Defendants object to the principles applied in creating the Recommended Plan and raise specific objections to particular Recommended Districts. See Senate Majority Defs.' Objections (Mar. 14, 2012), Dkt. Entry 231 ("Senate Majority Defs.' Objections"). Because we have already discussed general principles, here we address only specific objections and incorporate our previous discussion as necessary.

a. Recommended Districts 1, 2, and 3 (Long Island)

The Senate Majority Defendants complain that the Recommended Plan creates Long

Island districts that do not "respect[] the cores of current districts and the communities of interest that have formed around them." Senate Majority Defs.' Objections at 4 (quoting Rodriguez v. Pataki, No. 02-Civ. 618 (RMB), 2002 WL 1058054, at *6 (S.D.N.Y. May 24, 2002) (internal quotation marks omitted)). They object to Recommended Districts 2 and 3, which are generally oriented from east to west to create districts along parts of the South and North Shores of Long Island, respectively, because, they contend, "Districts have traditionally run north to south across Long Island." Id.

As we have already observed, and as the Senate Majority Defendants concede, the preservation of elements of former districts so as to include in a newly formed district a large percentage of a previous district's population, see Persily Aff. ¶¶ 141–42, is not a stated policy of New York. See supra at 14–16; Mar. 15, 2012 Hr'g Tr. at 30. Nevertheless, because core preservation has been recognized as a legitimate consideration in a redistricting plan, see, e.g., Karcher v. Daggett, 462 U.S. at 740-41, a court may consider this factor, along with compactness, contiguity, respect for political subdivisions, and maintenance of communities of interest, in drawing district lines, see Abrams v. Johnson, 521 U.S. at 84, 98–100. Because the record plainly demonstrates such consideration by the magistrate judge,[19] the Senate Majority Defendants do not contend that the Recommended Plan violates

[19] As Professor Persily notes, only 7 of the 27 new districts fail to include at least half of a prior district's population, and nearly half (13) of the new districts contain at least 70% of a prior district's population. Persily Aff. ¶ 142 & App. E. The question here is not whether core preservation is an appropriate factor (it is), or whether the Recommended Plan takes it into account (it does). The question is whether an objection based on that factor

any legal principle. They simply urge the court to exercise its discretion to give core preservation greater weight in creating districts on Long Island. Having carefully considered their arguments, we conclude that the objection provides insufficient reason to alter the Recommended Plan, which seems to us better to balance the appropriate considerations.

Inspection of the Senate Majority Defendants' own proposed Long Island districts reveals that they are significantly less compact than the Recommended Districts. Their proposed districts take highly unusual shapes. Indeed, it is far from clear that the Senate Majority Defendants' proposed districts run north to south across Long Island, or are even primarily north to south in orientation. Defendants' proposed District 2 forms a rough L shape; it is impossible to draw a north-south line through it that touches both shores. Their proposed District 3, meanwhile, covers all of the northern and southern shorelines of Nassau County (and parts of the southern shore of Suffolk) but narrows to an anemic mile-wide corridor from Hicksville to Greenvale.[20] The Recommended Plan's more compact geography is sufficient reason in itself to reject the Senate Majority Defendants' objection. Moreover, districts that center on the northern and southern shores of Long Island—such as those of the Recommended Plan— follow widely understood social and geographical distinctions between Long Island's "North Shore" and "South Shore" communities and thereby reflect

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alone, without taking into account other counterbalancing factors, warrants rejecting this particular aspect of the Recommended Plan.

[20] Indeed, a glance at the map shows that the Senate Majority Defendants exaggerate the extent to which the existing districts are oriented in a simple north-south direction. Their shapes are considerably more complex, resembling an "L" or an inverted "T."

communities of interest that have no counterpart in the Senate Majority Defendants' plan. While defendants argue that preserving the cores of former districts is a more objectively measurable goal than recognizing communities of interest, the argument is not convincing with respect to well-established and geographically compact communities such as the North and South Shores of Long Island. In any event, for reasons already discussed, we think that deciding how much of a "core" to preserve, as against other redistricting considerations, is itself a highly subjective—and potentially partisan—endeavor. As with protecting incumbents, a factor to which we give no weight, judicial competence and neutrality signal caution in assigning considerable weight to factors best resolved by the political branches.[21]

Finally, the Senate Majority Defendants complain that Smithtown is split between Recommended Districts 1 and 2, and should instead be placed wholly in Recommended District 1. This warrants no change to the Recommended Plan. The Senate Majority Defendants have not offered a solution for how we would unite Smithtown's 80,000 residents into a single district, see Persily Aff., App. J at 23, a task that would require swapping thousands of people between Recommended Districts 1 and 2. Such a population

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[21] Indeed, it is not easy to distinguish core preservation from incumbent protection in this case. While the two goals may be distinguishable, it is telling that the Senate Majority Defendants themselves have previously equated them, see Skelos Defs.' Letter Regarding Incumbency (Feb. 29, 2012), Dkt. Entry 145 ("Preserving the cores of existing districts—sometimes also referred to as incumbency protection—is a well-established, traditional districting principle in New York.") (citations omitted)), and noteworthy that maps reflecting these defendants' proposed districts label them most prominently with the names of the incumbent representatives for whom they have apparently been designed. We are thus wary of giving "core preservation" the weight urged.

swap would compromise both Recommended Districts' compactness and preservation of existing cores. We are especially reluctant to make such a change because, as is, Recommended District 1 maintains 96.81% of existing district 1, see Persily Aff., App. E, thus achieving the preservation that defendants separately urge for Recommended Districts 2 and 3.

For these reasons, we conclude that this objection provides no persuasive reason to alter the district lines in the Recommended Plan.

b. Recommended District 5 (Long Island/Queens)

The Senate Majority Defendants raise a number of objections to Recommended District 5: (1) it pairs incumbents and fails to preserve cores of prior districts; (2) it fragments (along with several other districts) Jewish communities; and (3) it needlessly crosses the Nassau County border. The first objection is unpersuasive for reasons already fully discussed. The second objection is addressed in our discussion of specific issues raised by public commentators on behalf of the affected Jewish communities. See infra Part II.B.3.

With respect to the county border, the Senate Majority Defendants argue that crossing the county line renders Recommended District 5 non-compact. This contention is without merit. Some piercing of the Queens-Nassau line is necessary to achieve the constitutionally mandated population of 717,707 people. After the 2010 Census, Suffolk and Nassau counties together contain just below four districts' worth of population. See Persily Aff. ¶ 69. Thus, a breach of the Queens-Nassau border is mathematically inevitable. Indeed, the

Senate Majority Defendants' own plan also breaches the border in its proposed District 4, though it does so farther north. We therefore reject this argument.[22]

c. Remaining Objections

Because the Senate Majority Defendants' remaining arguments are less detailed, we consider them together.

First, persisting in their argument for preserving the cores of prior districts, defendants argue that Recommended Districts 8 and 11 should exchange the Marlboro Housing Development for Coney Island and a small part of Midwood. The specific plan offered by defendants to accomplish this change does not suggest an even population swap and, thus, is unconstitutional as proposed. Moreover, any change to move the Marlboro Housing Development would detract from the compactness of Recommended District 8 by creating a "finger" reaching up from Coney Island. Given the weakness of the core-preservation argument, and the difficulties with the defendants' proposed alternative, we decline to alter the Recommended Plan's entirely logical border between Districts 8 and 11.

Second, the Senate Majority Defendants argue that Recommended District 19, which covers much of the state's eastern border with Connecticut, Massachusetts, and Vermont, fails to preserve the core of existing district 20. But defendants' proposal for this district is

[22] To the extent that defendants contend that the district is drawn along racial lines, we note that a substantial African American community straddles the county border in this area in an entirely compact unit, and that to divide that community, in preference to other ways of solving the inevitable breach of the county line, might well justly draw objection as a deliberate fragmentation of a compact minority community.

far less compact than Recommended District 19, perhaps because their attempt to preserve the oddly shaped existing district 20 results in another oddly shaped district. As with Long Island's Recommended Districts 2 and 3, discussed supra in Part II.B.1.a, we place greater weight on compactness and, therefore, reject defendants' core-preservation objection to Recommended District 19.

Finally, the Senate Majority Defendants propose small changes to the boundaries of Recommended Districts 23, 25, and 27 to unite towns and counties in the western part of the state. These suggestions are logical and modest, and we have adopted them. See supra n.5.

2. Drayton and Ramos Intervenors

The Drayton and Ramos Intervenors urge us to remove the Brooklyn neighborhoods of Greenpoint and east and central Williamsburg from Recommended District 12 and to place them in Recommended District 7. They do not contend that such a change is necessary to unite a compact community of interest. They seek only to align the Greenpoint and east and central Williamsburg communities with other constituents who, the intervernors submit, share common socioeconomic features and, historically, congressional representation. See Drayton Intervenors' Letter (Mar. 14, 2012), Dkt. Entry 226; Ramos Intervenors' Letter (Mar. 14, 2012), Dkt. Entry 228. We decline to adopt this suggested change.

First, these intervenors offer no record evidence that the Greenpoint and Williamsburg communities have more in common with the communities of Recommended District 7 than with those of Recommended District 12. Although intervenors posit that

Greenpoint and Williamsburg residents lack affinity with the distant wealthier enclaves of Manhattan in Recommended District 12, they do not contend that Greenpoint and Williamsburg residents lack commonality with other neighborhoods in the Recommended District, such as Long Island City and Astoria to their immediate north. Nor do these intervenors demonstrate Greenpoint and Williamsburg's commonality with distant neighborhoods they would join in Recommended District 7, such as Chinatown and Woodhaven. Insofar as intervenors express a need for any representative of Greenpoint and Williamsburg to be attentive to ongoing environmental clean-up projects in Newtown Creek, there is no record basis for concluding that such attention could not be secured if these neighborhoods were included in Recommended District 12, which spans both shores of the East River, the waterway into which the creek's pollution would continue to be dispersed if not remedied.

Second, the Drayton and Ramos Intervenors do not contend that their suggested change will improve the compactness, contiguity, or respect for political subdivisions of either Recommended District 7 or 12. Indeed, the urged change could well upset the balance of those traditional redistricting factors in surrounding districts, whose boundaries would have to be redrawn to accommodate transplanting Greenpoint's and Williamsburg's sizeable populations, representing tens of thousands of people, from Recommended District 12 to Recommended District 7.

Third, the transfer of such a sizeable population could require population adjustments

to as many as six surrounding districts to maintain the equal populations mandated by the Constitution. Moreover, these surrounding districts are within jurisdictions covered under Section 5 of the Voting Rights Act and, in the case of Recommended Districts 8 and 9, are majority-minority districts under Section 2. Thus, moving Greenpoint and Williamsburg would entail a complex rearrangement of the surrounding districts to ensure that there is no retrogression in minority voting strength and that majority-minority districts are maintained. In these circumstances, we conclude that federal law mandates caution about adopting the urged discretionary change.

Because the totality of these concerns outweighs the arguments advanced by the Drayton and Ramos Intervenors, we maintain Recommended Districts 7 and 12 without change in the Ordered Plan.

3. Preserving a Jewish Community

Turning now to objections and comments from members of the public, we begin with a concern raised by the Orthodox Alliance for Liberty ("Orthodox Alliance"), which describes itself as "an alliance of Orthodox Jewish grass roots advocacy groups based in the New York City area." Orthodox Alliance Letter to District Court at 1 (Mar. 13, 2012), Dkt. Entry 240, Ex. 17. The Orthodox Alliance argues that congressional district lines, primarily but not exclusively in South Brooklyn, historically have caused Orthodox Jewish communities in the New York City area to be "egregiously" under-represented in Congress. Id. The Orthodox Alliance maintains that past plans have "divided into oblivion" and

"gerrymandered into political irrelevance" these communities by splitting them among too many separate congressional districts, Orthodox Alliance Letter to Magistrate Judge Mann at 2 (Mar. 2, 2012), Dkt. Entry 222; and that the Recommended Plan "aggravates the injustice" by breaking up "the large Orthodox Jewish neighborhood of Flatbush" and "subsum[ing]" it "in neighboring African American communities," and by splitting Orthodox communities in Queens County and in Nassau County among multiple districts, Orthodox Letter to District Court at 2 (Mar. 13, 2012), Dkt. Entry 240, Ex. 17. Thus, the Orthodox Alliance submitted its own plan to the magistrate judge and now objects to the Recommended Plan for failing to adopt its proposal. It asks this court to redraw a number of congressional districts in Kings, Queens, and Nassau Counties to unify Orthodox Jewish neighborhoods into as few congressional districts as possible.

At the March 15 hearing, a representative of the Orthodox Alliance and several other members of the public spoke in support of the objection, or urged other changes to the Recommended Plan in furtherance of the Alliance's goal of unifying Orthodox Jewish communities within fewer congressional districts. In addition, two speakers argued that the court should also avoid splitting Russian Jewish neighborhoods across districts and splitting Russian Jewish neighborhoods from Orthodox Jewish neighborhoods. We have carefully considered all of these arguments as well as the Orthodox Alliance proposal, and we conclude that we cannot adopt the requested changes.

We have considerable sympathy for the concerns expressed by these commentators

about the Recommended Plan and can easily take judicial notice of the fact that a number of distinctive Jewish communities exist in the areas in question, that these communities are significant and growing in population, and that, in some configuration, these communities (and particularly the Orthodox communities) share significant commonalities of interest. Nevertheless, as explained in more detail below, the record before us does not contain adequate information either to evaluate fully the objectors' claims, or to attempt to map the contours of the neighborhoods to which they refer with the precision necessary for redistricting purposes. Even assuming for the sake of argument the theoretical possibility of drawing lines on a map that would incorporate more of these communities into a contiguous district than does the Recommended Plan, the difficulties of doing so under the circumstances confronting us make it impossible either to adopt the plan proposed by the Orthodox Alliance or to revise the Recommended Plan ourselves in a way that would satisfy the concerns of these objectors and still be consistent with constitutional and statutory requirements.

First, and most fundamentally, the plan submitted by the Orthodox Alliance cannot be adopted because—as some of the plan's proponents conceded at the public hearing—its proposed districts vary too widely from the population numbers required to satisfy the Constitution's requirement of "one person, one vote."[23] See, e.g., Mar. 15, 2012 Hr'g Tr. at

[23] The Recommended Plan achieves populations of 717,707 or 717,708 in every district. The Orthodox Alliance plan, by contrast, would create districts with widely varying populations, from 707,204 in District 4 to 729,054 in District 8.

108–09, 154–55. Some speakers argued that the court could fix this defect in the Orthodox Alliance plan by various means. See, e.g., id. at 108–09. That turns out to be an all-but-impossible task under the conditions facing the court, for reasons we discuss in the following paragraph. In any event, the fact remains that the only actual plan presented by those raising the noted concerns is unconstitutional as submitted and, thus, must be rejected for that reason alone.

Second, while we have grouped together a number of commentators' concerns pertaining to the treatment of "Jewish communities," that characterization oversimplifies a number of distinct but overlapping concerns and masks significant differences in the problems presented by various objectors. Thus, while the Orthodox Alliance emphasizes the specific concerns of Orthodox Jewish communities, other speakers concentrated on the concerns of Russian Jewish communities in South Brooklyn. Still others proposed larger concerns about Jewish voters generally, and some commentators presented combinations of concerns. The proposed solutions also varied. One public official noted that the Orthodox population was insufficient to constitute a majority in any single district. He suggested that the Recommended Plan adequately concentrated what he characterized as about half of the Orthodox residents of South Brooklyn (those residing in Borough Park) in Recommended District 10, but he argued that more easterly residents were divided among several districts and could beneficially be unified. See id. at 183–86. Still other speakers proposed linking Orthodox communities with Russian Jewish communities; with other groups of ethnically

or religiously Jewish residents in other parts of Queens, Brooklyn, or Nassau; or with other groups that purportedly share conservative political values with members of the Orthodox communities. These divergences suggest the difficulties, even under ideal conditions, of identifying and satisfying the particular concerns of the objectors.

Third, the record of this case is not in any event adequate for us to evaluate fully these concerns and determine whether a plan could be created that both satisfies them and complies with constitutional and statutory mandates. While we can take judicial notice of the existence and vibrancy of a number of Orthodox communities in Brooklyn and other counties, we can similarly take notice that, as with other neighborhoods in New York, even highly distinctive, concentrated, and cohesive population groupings most often exist cheek-by-jowl with other, quite different neighborhoods. Several Orthodox areas exist, close to and separated by communities of widely divergent natures.[24] Census data—the primary concrete information available in the record for us to perform our task—does not reflect information about religion and, thus, does not permit us to identify whether a particular census block is part of an "Orthodox Jewish" neighborhood.[25] Such precision is necessary, however, in the

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[24] Indeed, because some of the Orthodox Jewish and Russian Jewish communities identified by the Orthodox Alliance and its supporters are geographically distant from each other, unifying these communities (particularly those outside of South Brooklyn) within single districts would create significant contiguity and compactness problems.

[25] One objector argued that Orthodox neighborhoods could be identified from census data by noting areas in which there was a significant spread between the percentage of white residents and the percentage of voting age white residents, because Orthodox families have more children than other population groups. See Mar. 15, 2012 Hr'g Tr. at 135. Even if this sociological generalization is accurate—a proposition that we cannot test on the underlying

drawing of district lines. Its absence here is all the more noteworthy because, at the March 15 hearing, objectors presented different, and sometimes conflicting, descriptions of the locations, boundaries, and "cores" of Orthodox Jewish and Russian Jewish neighborhoods in the New York City area.[26] As we have repeatedly emphasized, the knowledge required to identify the boundaries of a community of interest, and the ability to make essentially political decisions about how best to do so, reside in the legislature, not in a court required to operate by the most neutral principles it can devise, using often dry mathematical data. See supra Part II.A.4.c.

Finally, even if these formidable difficulties could somehow be overcome, the proposals before us, like other objections that focus specifically on the aspirations of individual communities and seek the creation of particularized districts tailored to their interests, fail to take into account the ripple effects entailed in configuring a district to meet

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record—it is obviously impractical to perform that kind of calculation under the constraints facing us.

[26] To illustrate the divergence between professed local knowledge and the official data available to the court, one public commentator emphasized his view that the core of a cohesive Orthodox community was "Flatbush," but agreed that what he meant by the term is "not what's on the map as Flatbush." See Mar. 15, 2012 Hr'g Tr. at 88. Indeed, his definition is quite different from the area designated as Flatbush by New York City's Community District Profiles. See N.Y. City Dep't of City Planning, Community District Profiles (Brooklyn Community District 17), http://www.nyc.gov/html/dcp/html/lucds/cdstart.shtml (last visited Mar. 18, 2012). The speaker may well be right about local usage of the term within the Orthodox community, but it is not possible for the court to identify the contours of a neighborhood, or to consider objections to the Recommended Plan's treatment of that neighborhood, under these circumstances.

their priorities. Some objectors contended that the Brooklyn communities that they want to unite are located in as many as five Recommended Districts. Accommodating the objectors could require completely reconfiguring not only those districts, but a number of others bordering them. In addition to presenting constitutional and statutory challenges, such widespread changes risk entirely unpredictable effects on residents satisfied with the Recommended Plan, who might have valid unanticipated objections to the reconfiguration. Like the magistrate judge, we have carefully considered the objections presented, and the implications of the Orthodox Alliance's proposals. We conclude that there is no way to adopt those and similar proposals while complying with the constitutional mandate of "one person, one vote," the Voting Rights Act, and the redistricting principles of contiguity and compactness. Accordingly, we do not adopt these objectors' proposals, and we conclude that, on the present record, the objections do not provide sufficient reason not to adopt the Recommended Plan.

4. Dominican American National Roundtable

The court received objections, through both written submissions and oral statements made at the March 15 hearing, from members of the Dominican American community requesting that the court revise the Recommended Plan to conform to a map proposed by non-party Dominican American National Roundtable ("DANR"), which creates a Hispanic majority district that snakes through northwestern Manhattan, northern and eastern sections of the Bronx, and southward into the Corona, Jackson Heights, Woodside neighborhoods of

Queens (the "DANR Plan"). See DANR Objection (Mar. 13, 2012), Dkt. Entry 240, Ex. 7. DANR argues that this proposed district better unites Hispanic communities, whereas Recommended District 13 fuses Harlem and the rest of northern Manhattan with the Kingsbridge section of the Bronx, purportedly putting together disparate African American and Hispanic communities. DANR contends that the magistrate judge erred in not considering its partial plan and claims that the creation of the Recommended Plan was unduly rushed. DANR requests that the court either adopt its proposed district or remand this matter to the magistrate judge for further proceedings.

We understand and are sympathetic to the concerns animating support for the DANR Plan, in much the same way that we understand and are sympathetic to the concerns animating arguments by members of Jewish communities seeking to have district lines drawn to enhance their electoral voice. See supra Part II.B.3. Upon careful consideration of the DANR Plan, however, the court is not persuaded to adopt the proposal.

First, DANR's claim that the Recommended Plan effectively "cracks" the Hispanic community and dilutes its vote is not supported by the record. The Recommended Plan does not retrogress and, in fact, increases the Hispanic voting age population ("VAP") percentage from 43.8% in existing district 15 to 52.7% in Recommended District 13, thereby adding a second majority-minority Hispanic congressional district in New York State. See Persily

Aff., App. C.[27] At the same time, the Recommended Plan effectively maintains the percentage of Hispanic VAP in the single majority-minority Hispanic congressional district in the existing plan, see Persily Aff., App. C (showing 65.3% Hispanic VAP in existing district 16, and 64.3% Hispanic VAP in Recommended District 15), as well as in the existing Hispanic-plurality district from which DANR's proposed district would cull voters, see id. (showing 42.1% Hispanic VAP in existing district 7, and 45.0% Hispanic VAP in Recommended District 14).[28] These facts belie DANR's claim that the Recommended Plan simply maintains the status quo and fails to increase the ability of a growing Hispanic community to obtain political representation, or, worse, dilutes the voting power of that community.

Second, DANR's proposed district is barely contiguous and not compact, factors that militate against changes to a carefully crafted Recommended Plan that we find strengthens, rather than dilutes, the electoral voice of the Hispanic population. But beyond these concerns, DANR proposes a district so oddly shaped that, if we were to adopt it, an inference

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[27] This increase in the proportion of Hispanic voters reflects the reality of the fast-changing demographics of New York City, New York State and, indeed, the country, where Hispanics are the fastest growing demographic group. See Michael Martinez & David Ariosto, Hispanic Population Exceeds 50 Million, Firmly Nation's No. 2 Group, available at http://articles.cnn.com/2011-03-24/us/census.hispanics_1_hispanic-population-illegal-immigration-foreign-born, Mar. 24, 2011 (last visited Mar. 18, 2012).

[28] The Recommended Plan also maintains the percentage of Hispanic VAP in the remaining existing congressional district with a Hispanic plurality. See Persily Aff., App. C (showing 41.4% Hispanic VAP in existing district 12, and 41.5% Hispanic VAP in Recommended District 7).

might arise that the court had segregated large numbers of Hispanic voters into a particular congressional district because of their nationality or ethnicity. See Miller v. Johnson, 515 U.S. at 916–17; Shaw v. Reno, 509 U.S. at 644–49. Indeed, statements made at the March 15 hearing in support of the DANR Plan could be construed to urge the creation of a "Dominican District." See, e.g., Mar. 15, 2012 Hr'g Tr. at 77–78; id. at 140–42. We ascribe no improper purpose to any of the speakers, each of whom disrupted his or her daily routine and waited patiently to address the court. We emphasize only our own constitutional obligation to protect against discrimination in redistricting while at the same time avoiding the use of race or ethnicity as "the predominant factor" in delineating a district. Miller v. Johnson, 515 U.S. at 916.

Third, DANR's proposed district would be carved out of a densely populated area and potentially traverse five Recommended Districts. This would require not only a reconfiguration of these five Recommended Districts, but of other adjacent districts as well. As we have noted with respect to other proposals for changes that would have sizeable ripple effects throughout the Recommended Plan, this presents the court with major constitutional challenges in ensuring that the affected districts contain equal populations and that the population mix of these districts avoids minority vote dilution or retrogression. Neither the DANR Plan nor its supporters have demonstrated to the court how this could be done.

DANR cannot minimize our concerns with its proposal by claiming that it was denied access to the redistricting process or that the magistrate judge only considered statewide

plans. The record is clearly to the contrary. In its own letter objecting to the Report and Recommendation, DANR details all the submissions it made to the magistrate judge. See DANR Objection at 1 (Mar. 13, 2012), Dkt. Entry 240, Ex. 7. Further, at the March 5, 2012 hearing before the magistrate judge, DANR's counsel, in urging adoption of its proposed partial plan, thanked Magistrate Judge Mann for "making the process open to the public, to people who frequently don't have a chance to have their voices heard." Mar. 5, 2012 Hr'g Tr. at 116 (Mar. 8, 2012), Dkt. Entry 221. The magistrate judge's consideration of the DANR Plan is evident both in her Report and in the accompanying affidavit of Dr. Persily. See Report at 2 (incorporating Dr. Persily's affidavit); Persily Aff. ¶¶ 149, 159 (describing submission by Voting Rights for All, which included DANR proposed partial plan, and explaining that rejected suggestions "would likely entail violations of the Constitution or VRA," among other problems).

In any event, as noted supra n.12, the court has itself carefully reviewed all plans, whether statewide or partial, submitted by any party or member of the public. This includes the DANR Plan. In short, we have not categorically rejected any plan on the ground that it was partial. Rather, we have done our best to determine whether any statewide or partial plan identifies a remediable weakness in the Recommended Plan. Nevertheless, like the magistrate judge, we note that partial plans, by virtue of their narrower focus, frequently fail to consider the ripple effect of a discrete proposal on surrounding districts. The need to reconfigure adjoining districts often presents a variety of problems, some of constitutional

or statutory dimension. DANR's partial plan presents such insurmountable problems, and it is for this reason that we do not adopt it.

Nor is there merit to DANR's claim that more time is needed to craft a fair and responsible redistricting plan. To be sure, the court has had to work on a punishing schedule to achieve the Ordered Plan, but the four judicial officers who have adhered to that schedule (along with Dr. Persily) have put in the hours necessary to ensure that every aspect of the plan received thorough and careful consideration. In any event, prompt implementation of the Ordered Plan is necessary to permit the 2012 congressional elections to go forward as scheduled in an orderly manner.

The concerns identified with DANR's proposed plan are significant. Meanwhile, we are not persuaded that the Recommended Plan fails to create districts fair to Hispanic voters. Accordingly, we reject DANR's proposal and adopt the Recommended Plan.

5. Objections to Recommended District 13: Harlem and the Bronx

Voting Rights for All, representing a coalition of elected officials and community advocates, including DANR, New York County Democratic Committee Leader Keith L.T. Wright, Assemblyman Carl E. Heastie, and Hazel M. Dukes, President of the NAACP New York State Conference, have objected in writing or at the March 15 hearing to Recommended District 13 on the ground that it would not adequately protect African American voters in existing district 15. See Voting Rights for All Objection (Mar. 14, 2012), Dkt. Entry 240, Ex. 19; Keith L.T. Wright Objection (Mar. 14, 2012), Dkt. Entry 240, Ex. 20; Carl E. Heastie

Objection (Mar. 14, 2012), Dkt. Entry 240, Ex. 13; Mar. 15, 2012 Hr'g Tr. at 97–100 (statement of Hazel M. Dukes). Some urge the court to adopt a district proposed by Keith Wright (the "Wright Plan"), to extend the boundaries of existing district 15, which covers Harlem, from Manhattan to the western shore of the Bronx, across the northern Bronx, to the northeastern corner of Bronx County, as well as to two Queens housing projects near the Queensboro Bridge and into Westchester County. Like DANR's proposed district, the Wright Plan is oddly shaped and lacks compactness and contiguity. As such, it is inferior to Recommended District 13.

Recommended District 13 achieves population equality while avoiding dilution of African American voting strength by joining Harlem with East or "Spanish" Harlem and adjacent areas of the Bronx. See Persily Aff. ¶ 139, App. C. This results in a higher percentage of Hispanic voters in Recommended District 13 (52.7%) than had been in existing district 15 (43.8%). See id. ¶¶ 120–21, App. C. But it does not decrease African American voting strength in Recommended District 13. On the contrary, African Americans increase their voting population share in the district to 35.7%, compared to 34.1% in existing district 15, see id., even though the district had to gain 77,834 people in order to comply with the constitutional mandate of "one person, one vote," see Persily Aff. at 30, tbl. I. The Recommended Plan thus avoids retrogression with respect to the African American population while also increasing the Hispanic population share of the district. Moreover, in

contrast to other proposals received by the court, the Recommended Plan achieves both of these goals without splitting Harlem between districts.

Accordingly, the court adopts Recommended District 13 without change.

6. Remaining Objections

We have considered the remaining objections by the parties and members of the public, and we conclude that none warrants any change to the Recommended Plan.

III. Conclusion

In the face of an outdated congressional districting plan, the application of which would plainly violate the requirements of federal law, and of the New York legislature's complete abdication of its congressional redistricting duty, this court is obliged not only to recognize a violation of law but also to create a new redistricting plan to ensure against the disenfranchisement of state voters in the 2012 congressional elections.

Judicial redistricting has correctly been described as an "unwelcome obligation." Conner v. Finch, 431 U.S. 407, 415 (1977); accord Perry v. Perez, 132 S. Ct. at 940; Puerto Rican Legal Def. & Educ. Fund, Inc. v. Gantt, 796 F. Supp. at 684. That is particularly so in this case because of the extremely limited time frame within which the court has had to create the Ordered Plan. But the task is unwelcome for reasons that go beyond the practical to implicate the proper division of power within our federal republic. While congressional district lines must always be drawn to conform to federal law, the power to draw such lines is committed in the first instance to the states, not to the federal government, and is properly

exercised by the most democratic branch of state government, the legislature. See U.S. Const. art. I, § 2. Indeed, when such power is duly exercised, a federal court's review authority is limited to ensuring an enacted plan's compliance with federal law, and will not extend to state policy choices. See Perry v. Perez, 132 S. Ct. at 941. But when, as here, a state completely abdicates its congressional redistricting duties, it effectively cedes state power to the federal government. Further, it transfers power that should be exercised by democratic bodies to a judiciary ill equipped to resolve competing policy arguments. Such a twin recalibration of important power balances in a federal republic is itself "unwelcome."

In prior redistricting challenges, New York has avoided such a wholesale transfer of state legislative power to the federal courts through last-minute enactments of new redistricting plans. In this case, however, New York has been willing to let even the last minute pass and to abdicate the whole of its redistricting power to a reluctant federal court. Confronted with this unwelcome failure of state government, and consistent with its obligations under federal law, the court hereby

(1) GRANTS judgment in favor of plaintiffs, declaring that New York's existing plan for delineating congressional districts fails to comply with the Constitution; and accordingly,

(2) ADOPTS the March 12, 2012 Report of Magistrate Judge Mann in its entirety and the Recommended Plan referenced in the Report with the changes indicated in note 5 of this opinion and reflected in the attached Ordered Plan;

(3) ORDERS defendants promptly (a) to implement the attached Ordered Plan so that the 2012 elections for the House of Representatives can go forward as scheduled, and (b) to confirm to the court in writing, on or before noon on Wednesday, March 21, 2012, that they have taken the steps necessary to do so;[29] and

(4) DIRECTS all parties to appear before the court for a status conference on Wednesday, March 21, 2012, at 3:00 p.m., in the Ceremonial Courtroom on the second floor of the Brooklyn Federal Courthouse, located at 225 Cadman Plaza East.

SO ORDERED.

DATED: Brooklyn, New York
March 19, 2012

_____/s/_____
REENA RAGGI
United States Circuit Judge

_____/s/_____
GERARD E. LYNCH
United States Circuit Judge

_____/s/_____
DORA L. IRIZARRY
United States District Judge

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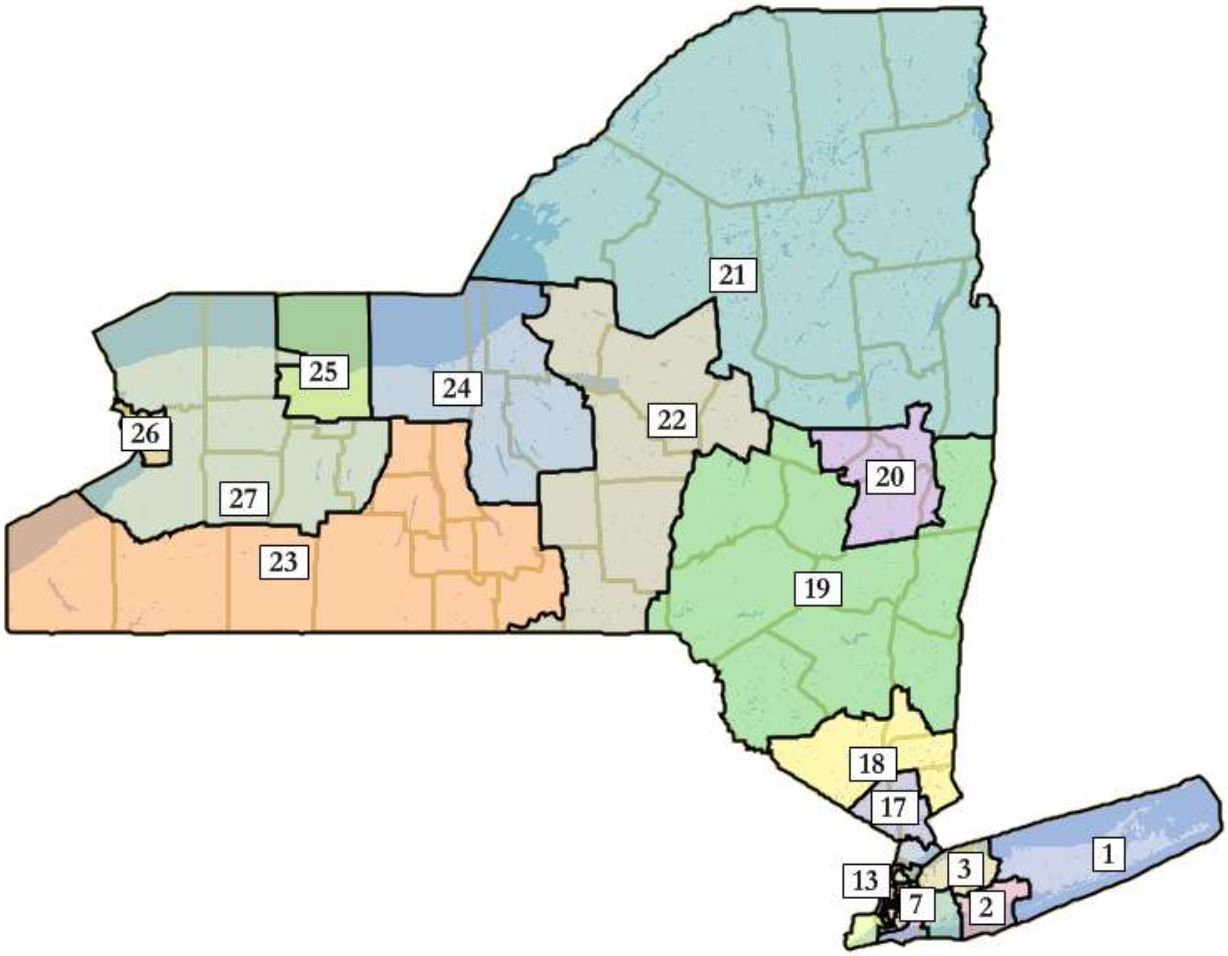
[29] The parties—as well as interested members of the public—may access the block equivalency data files through a link that will be provided on the court's public website, located at www.nyed.uscourts.gov, or at the following two addresses: https://www.nyed.uscourts.gov/pub/docs/cv/11-5632/panel/final/FINAL%20COURT%20PLAN.txt; https://www.nyed.uscourts.gov/pub/docs/cv/11-5632/panel/final/FINAL%20COURT%20PLAN.DCC.

Final Court Congressional District Plan



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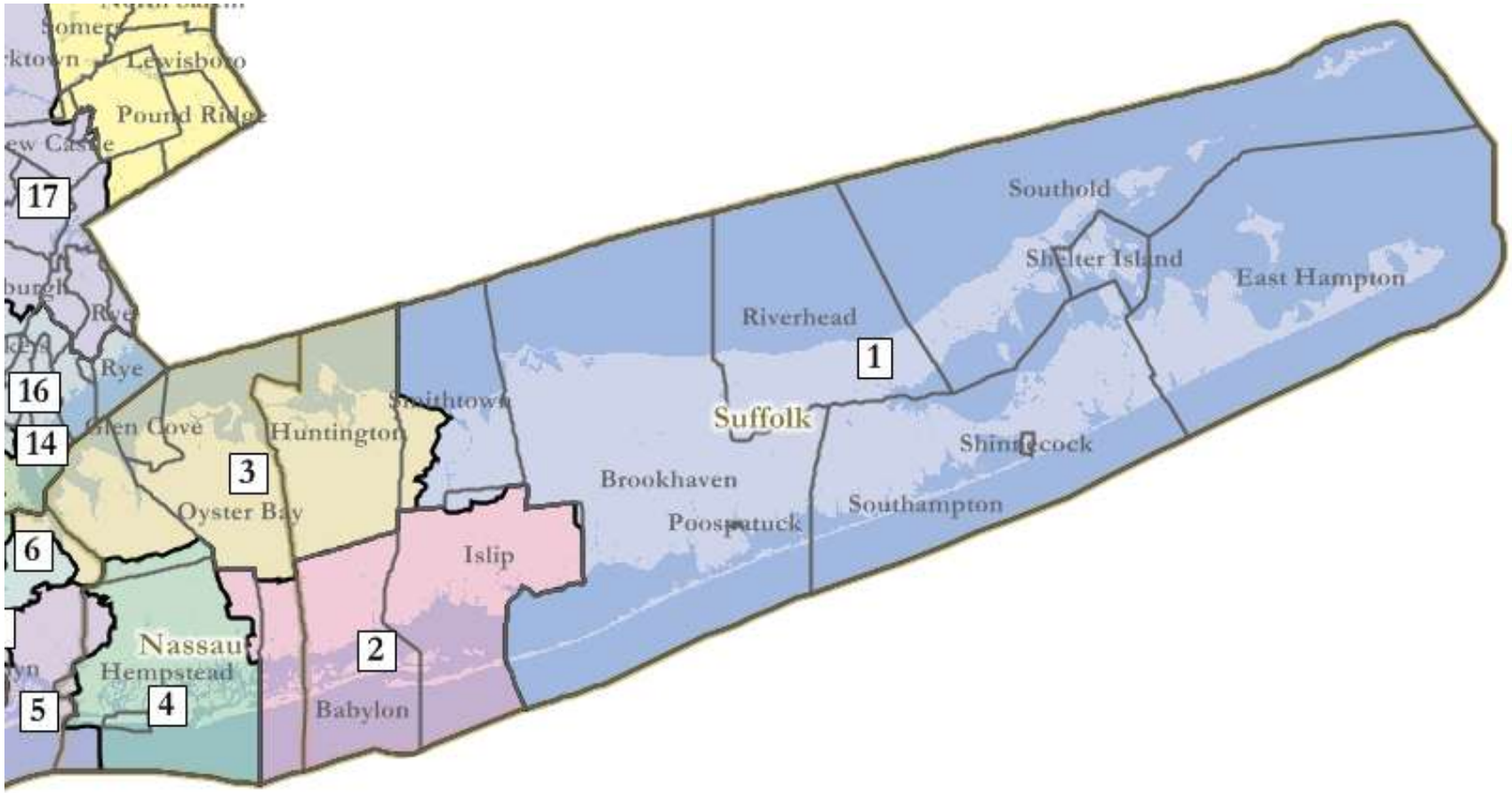
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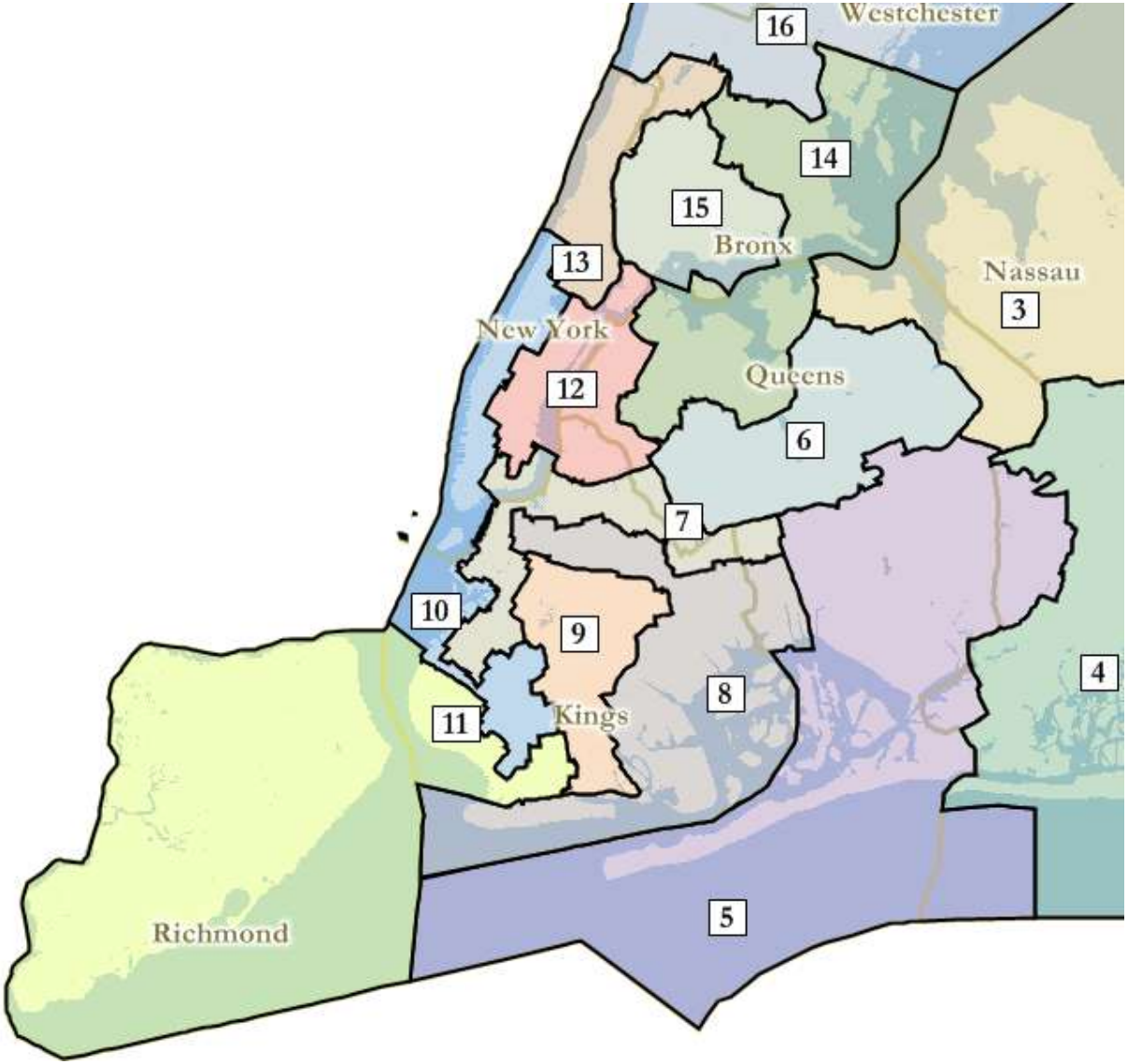

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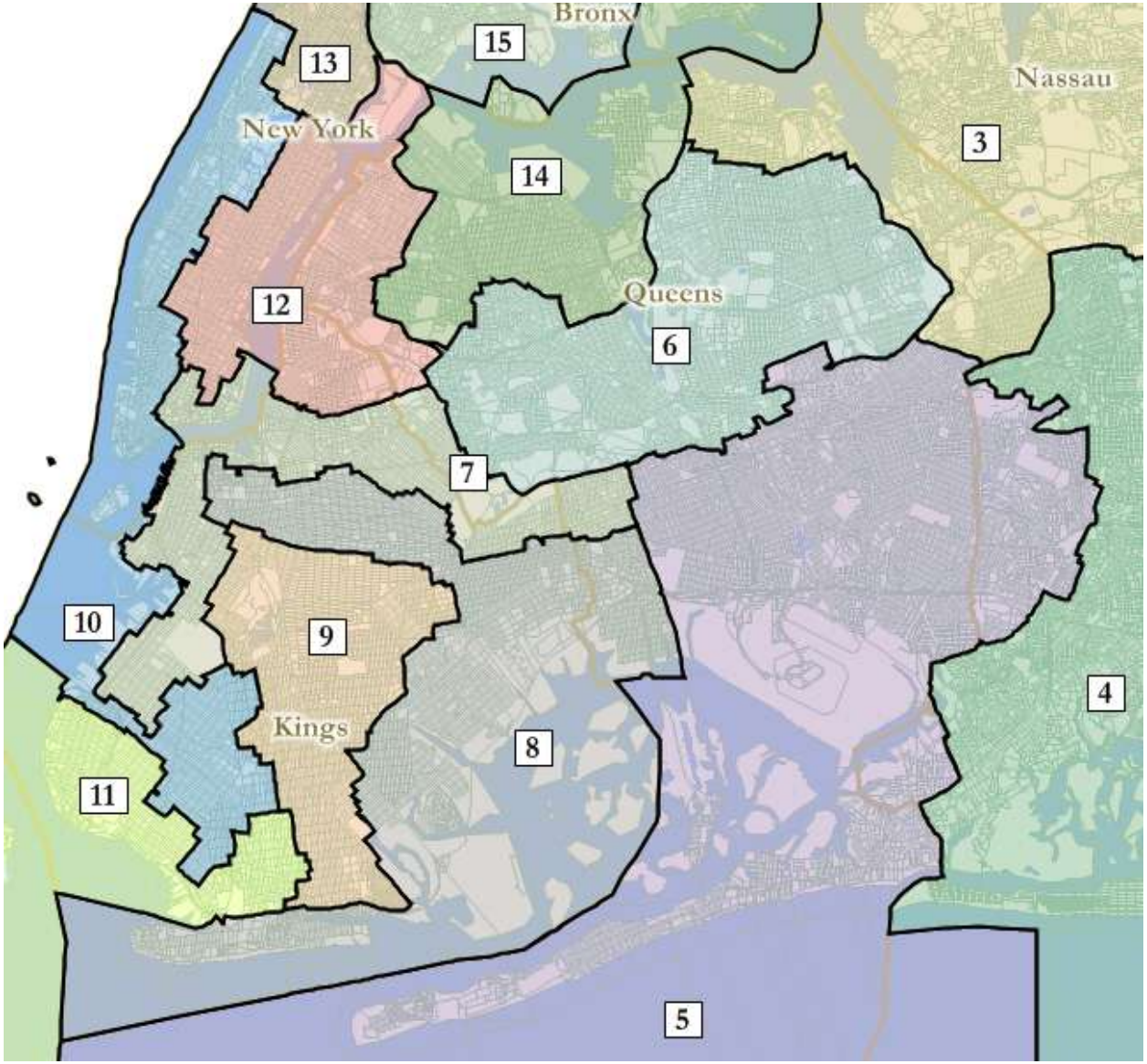

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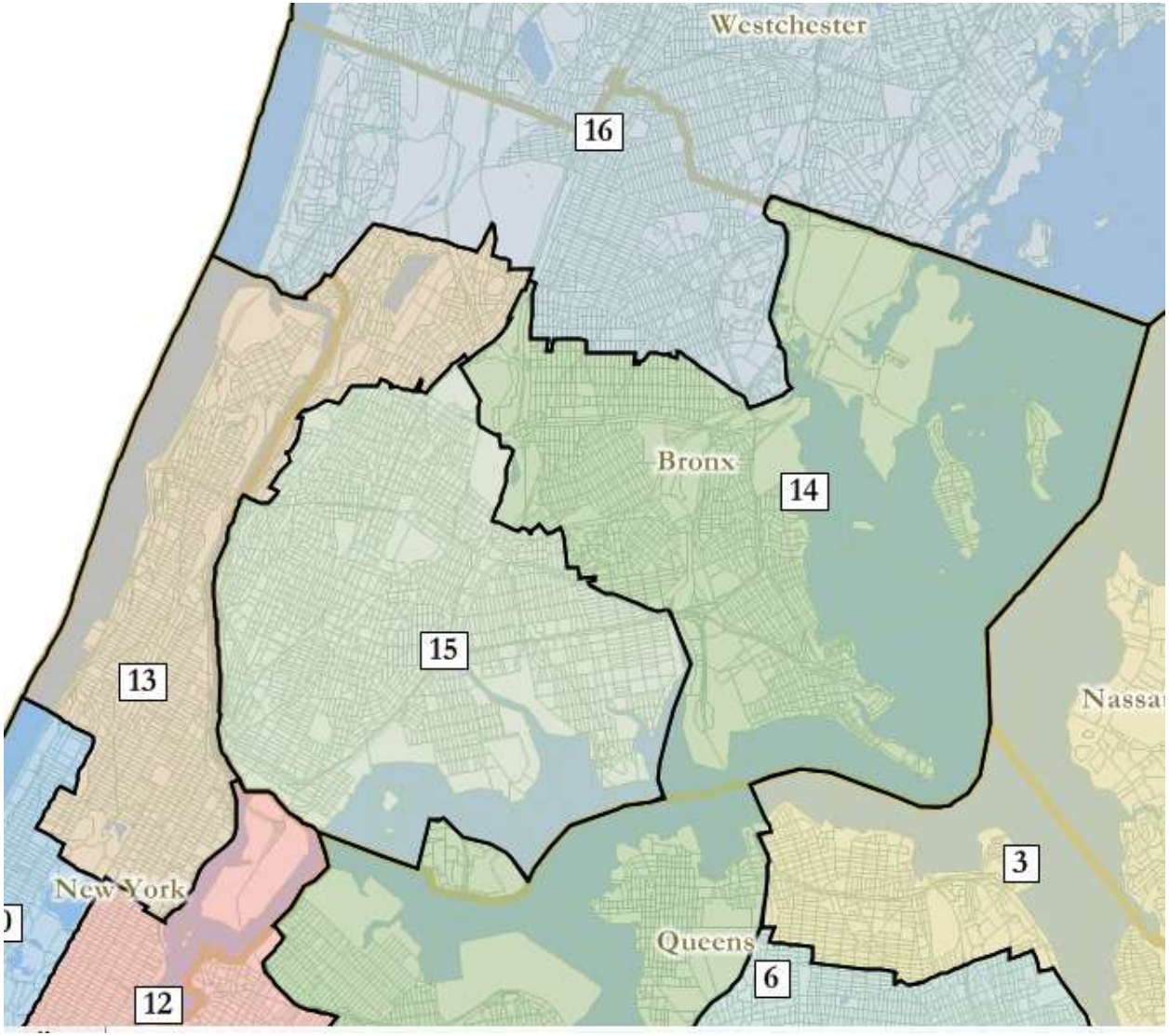

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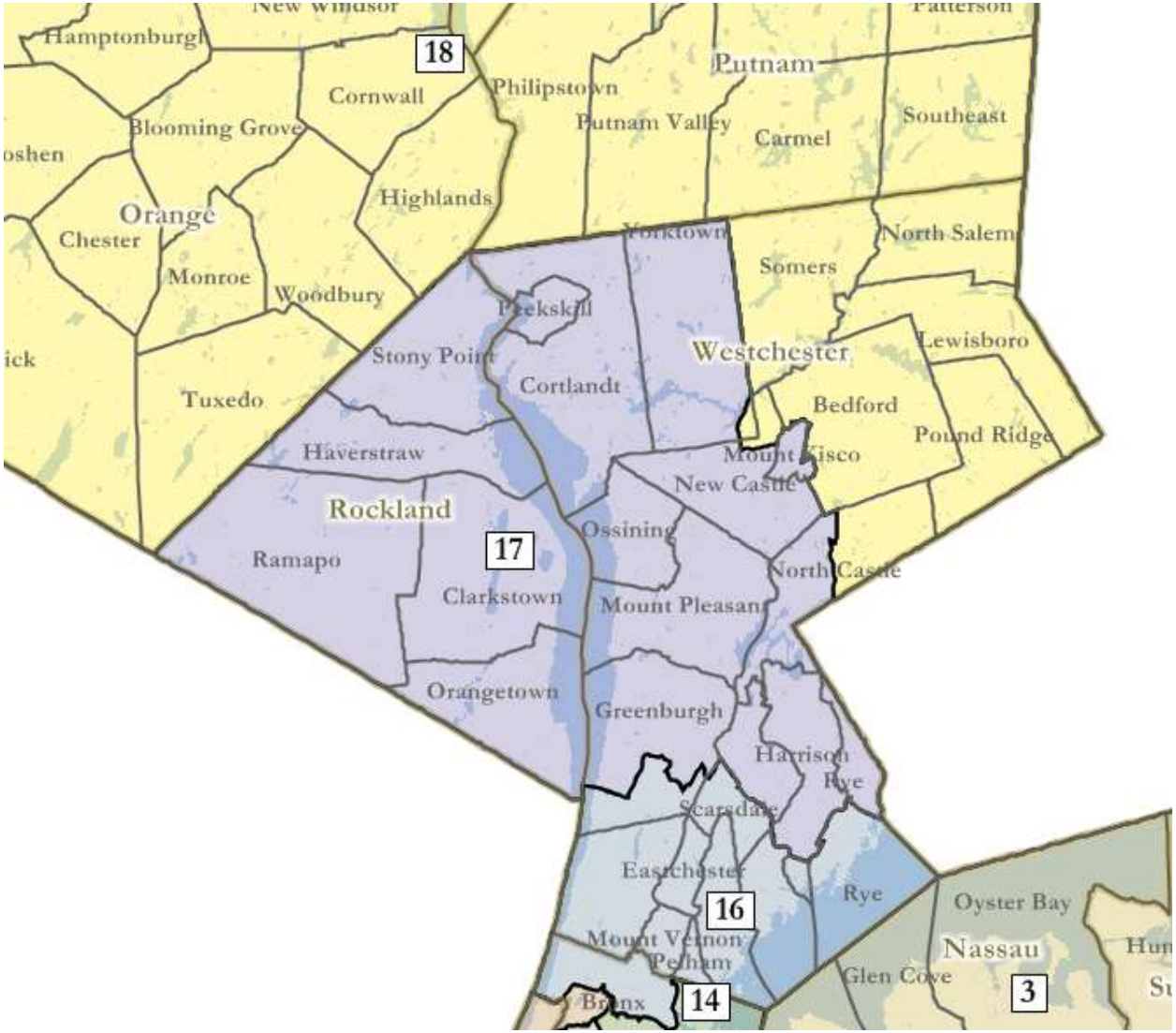

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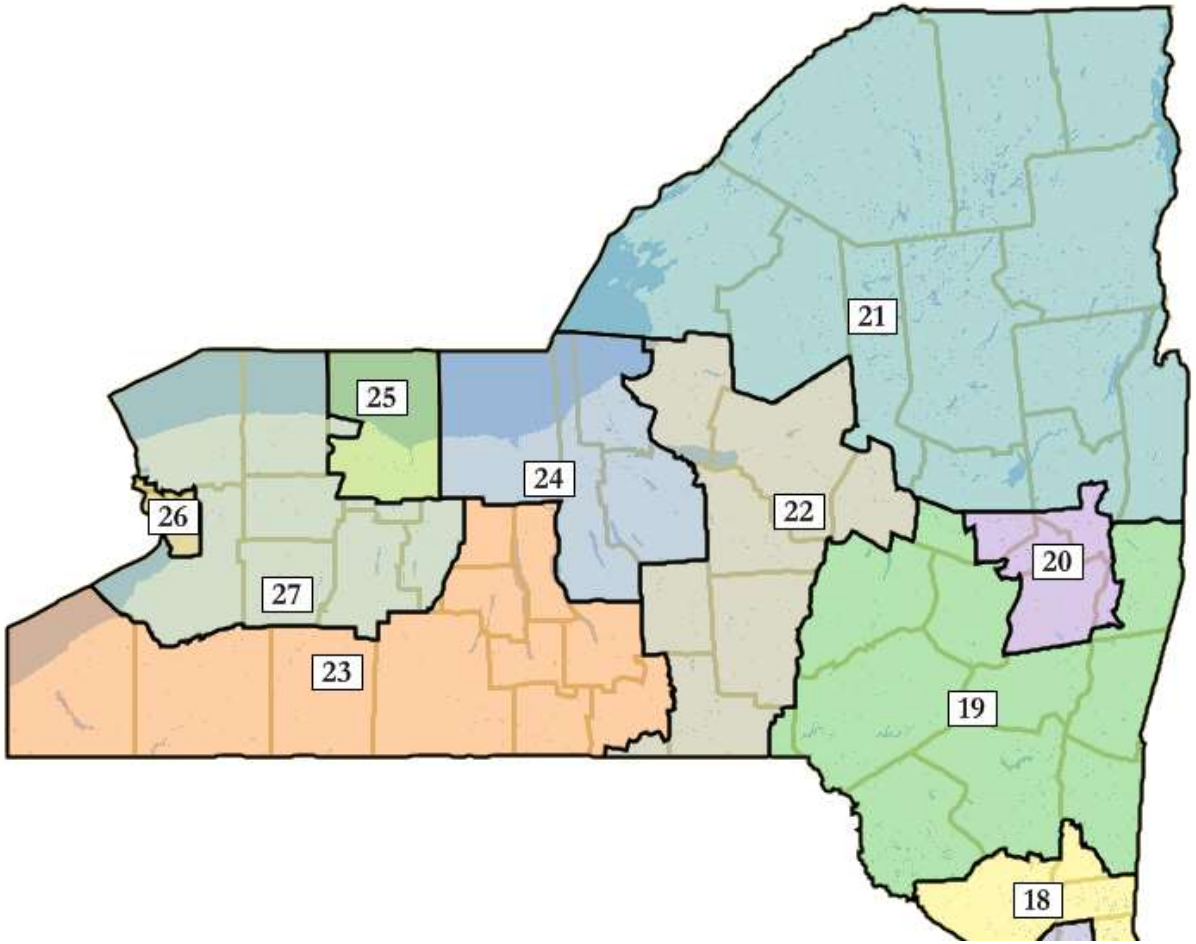

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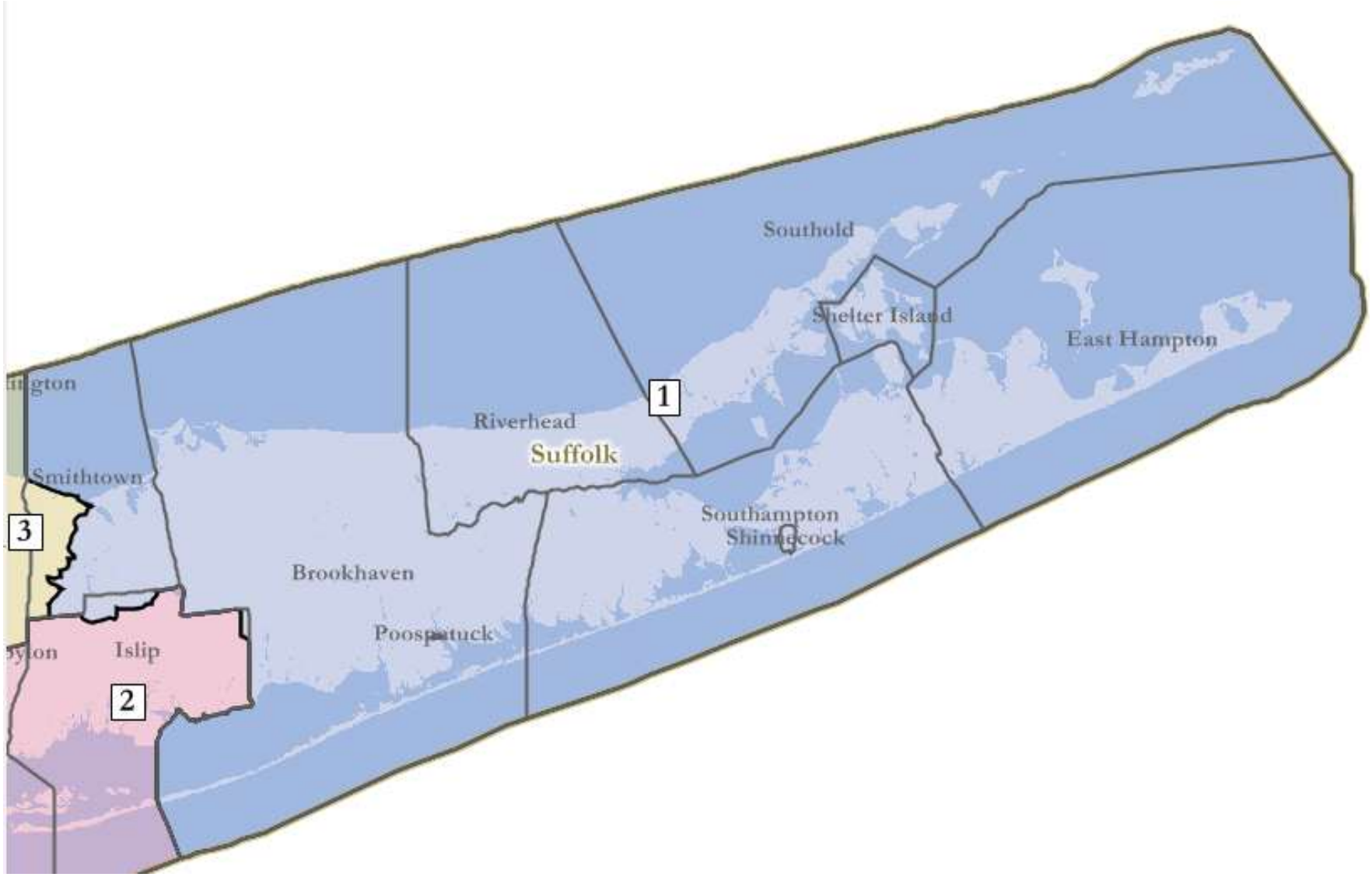
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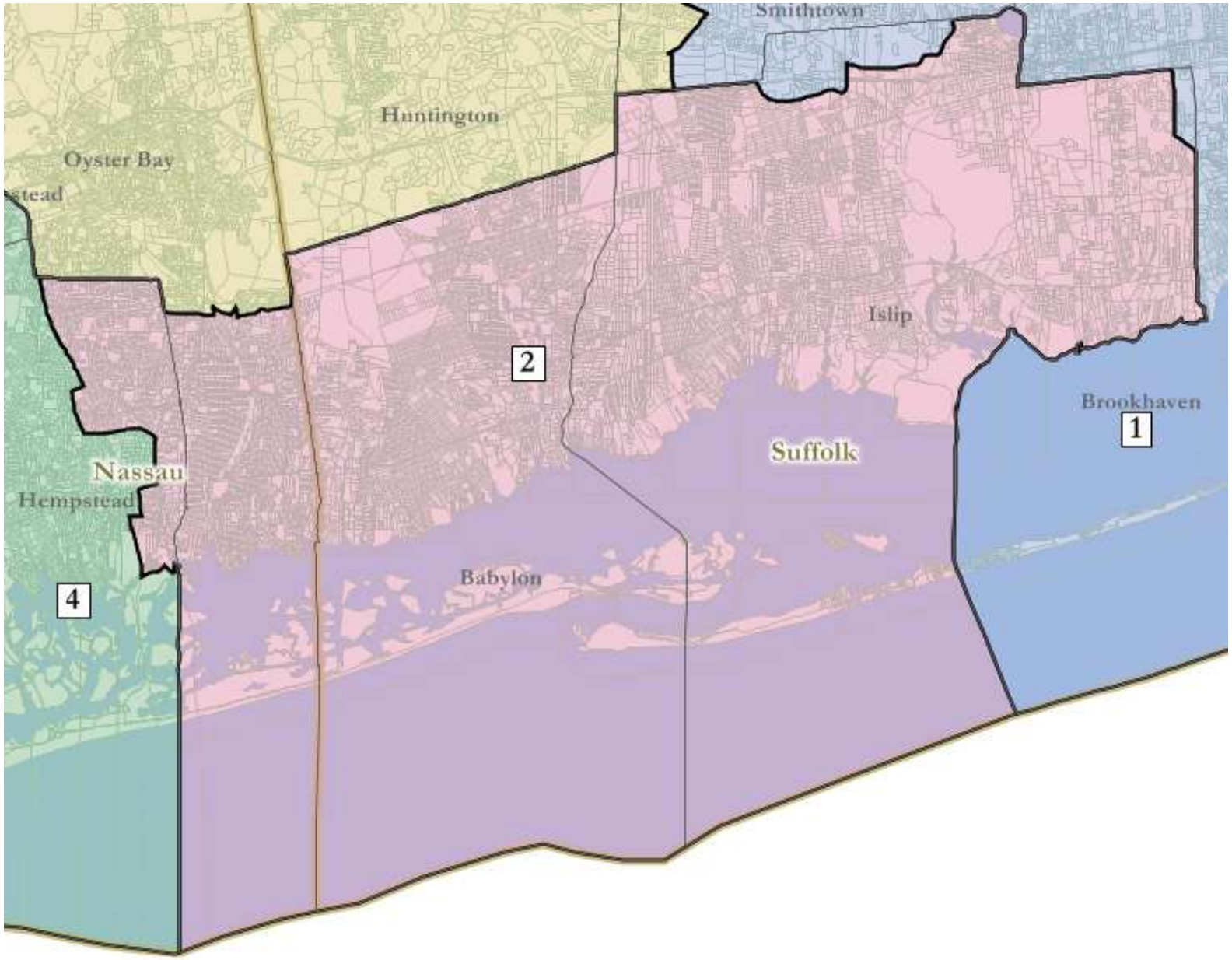
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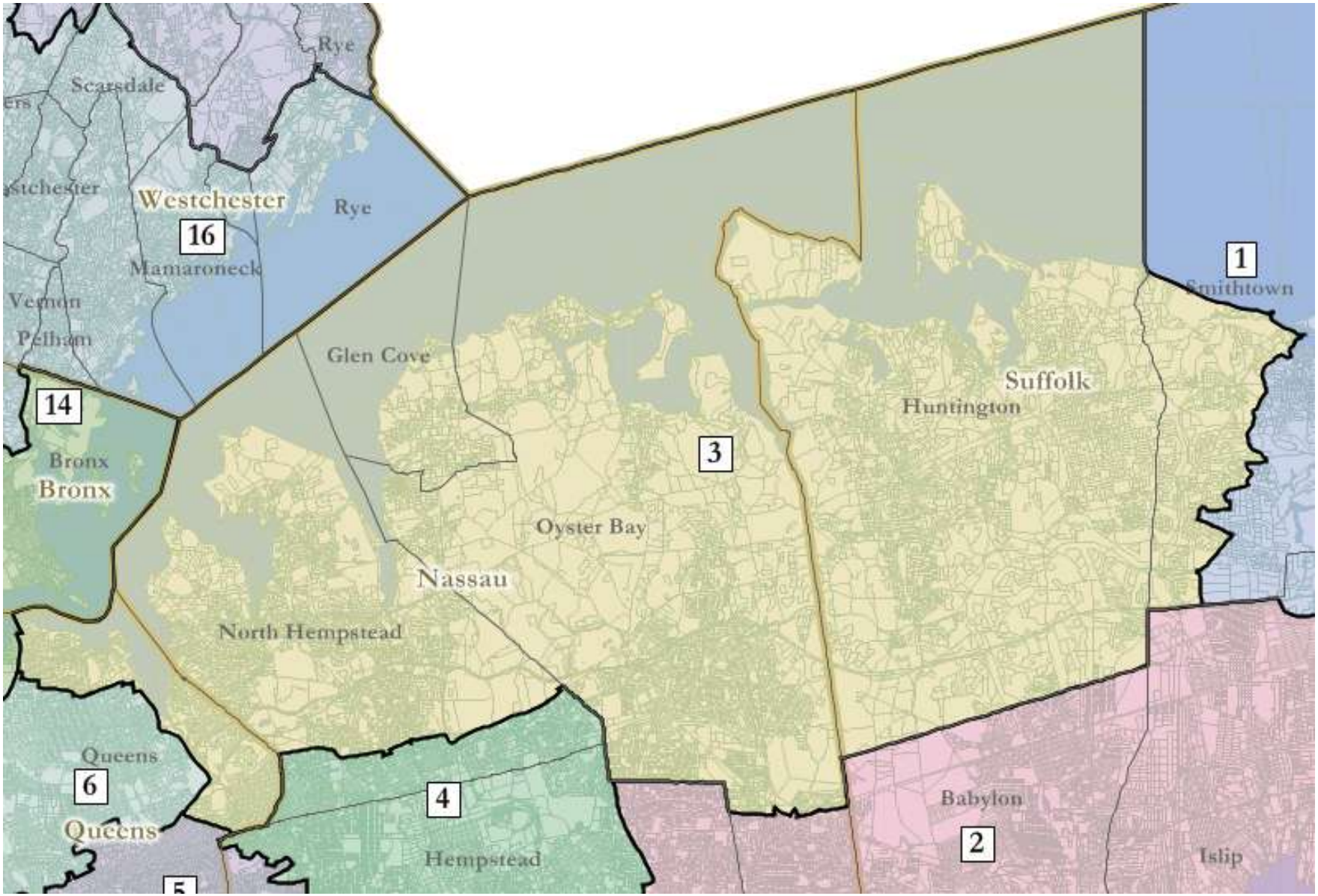
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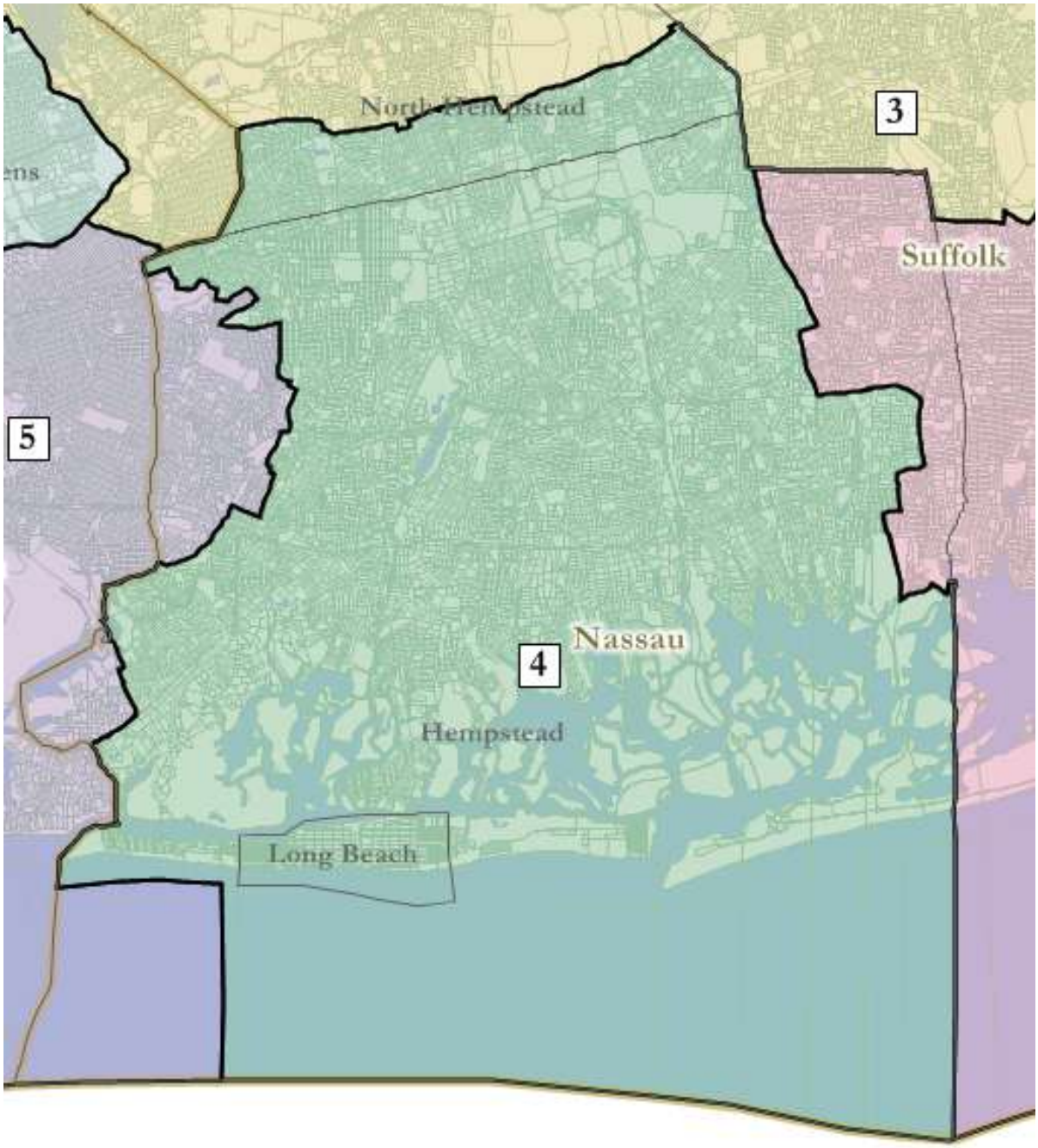

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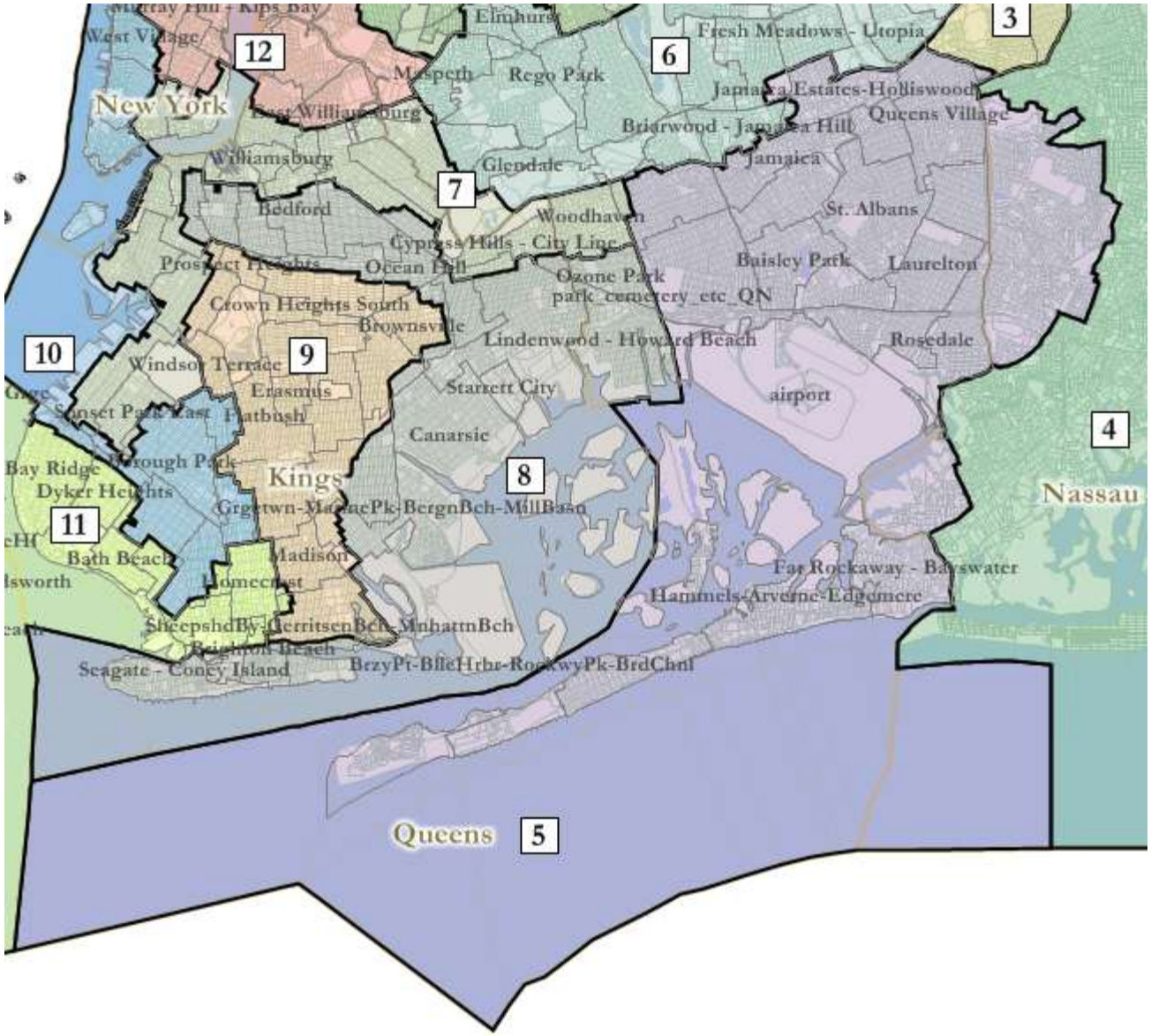
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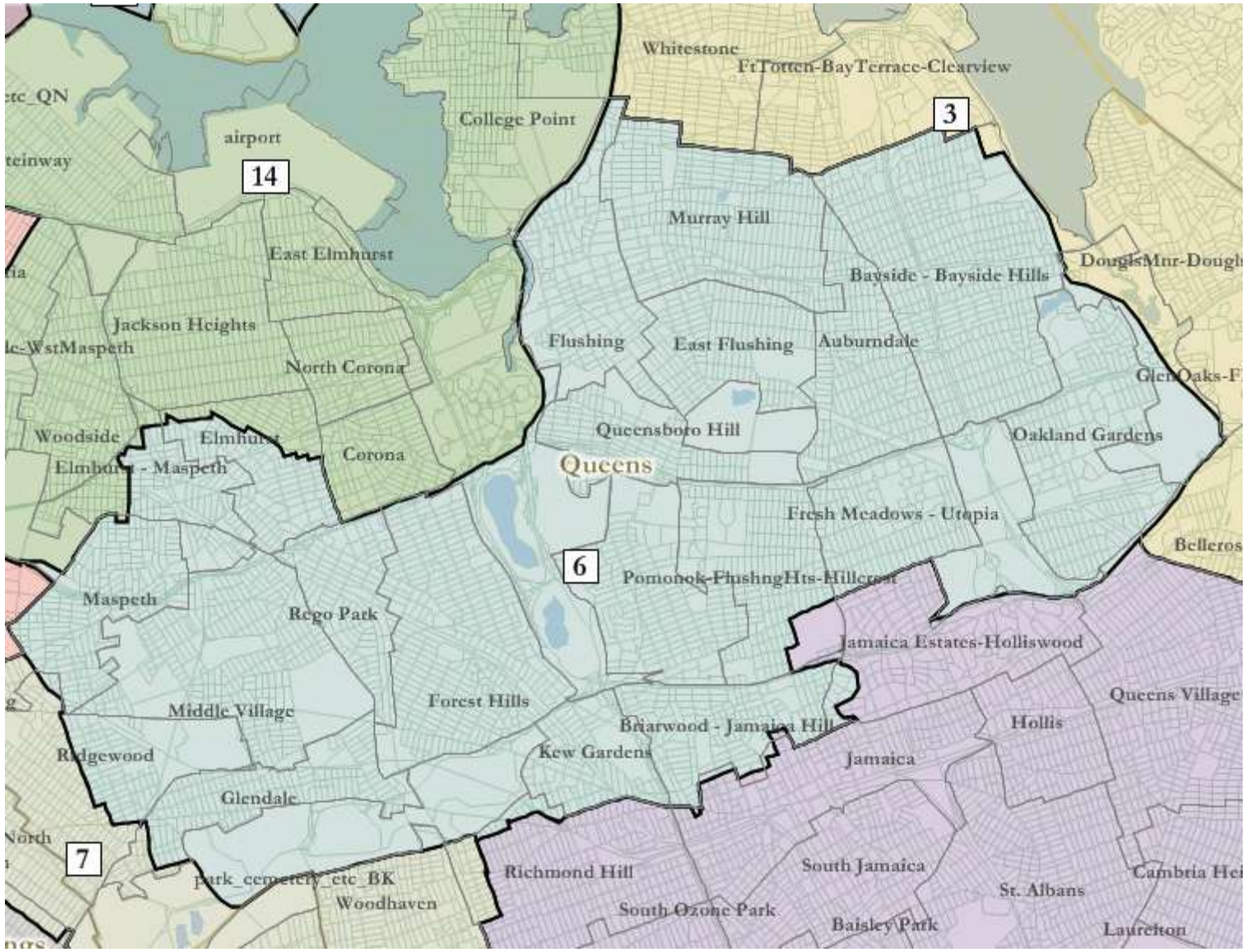
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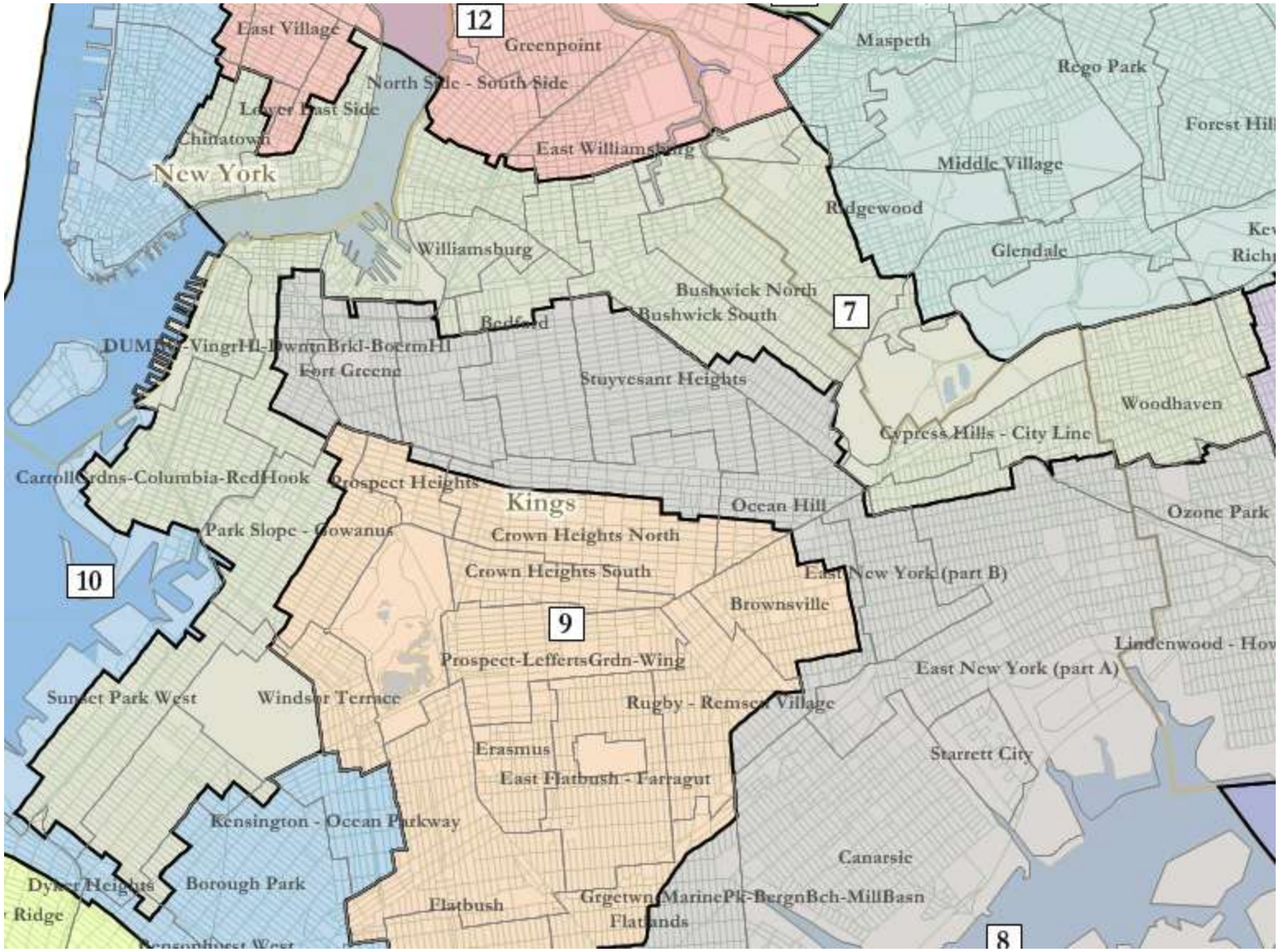
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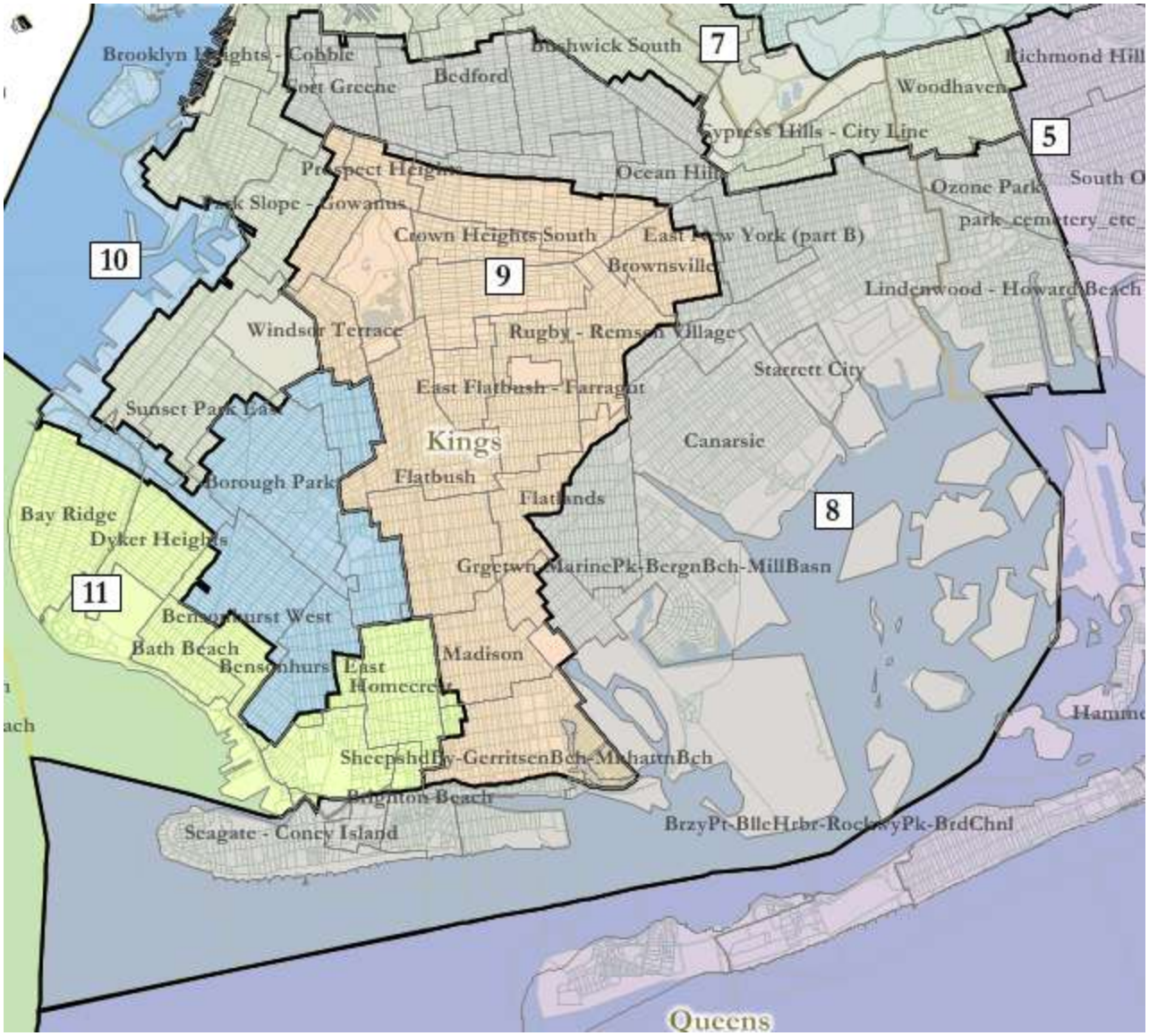
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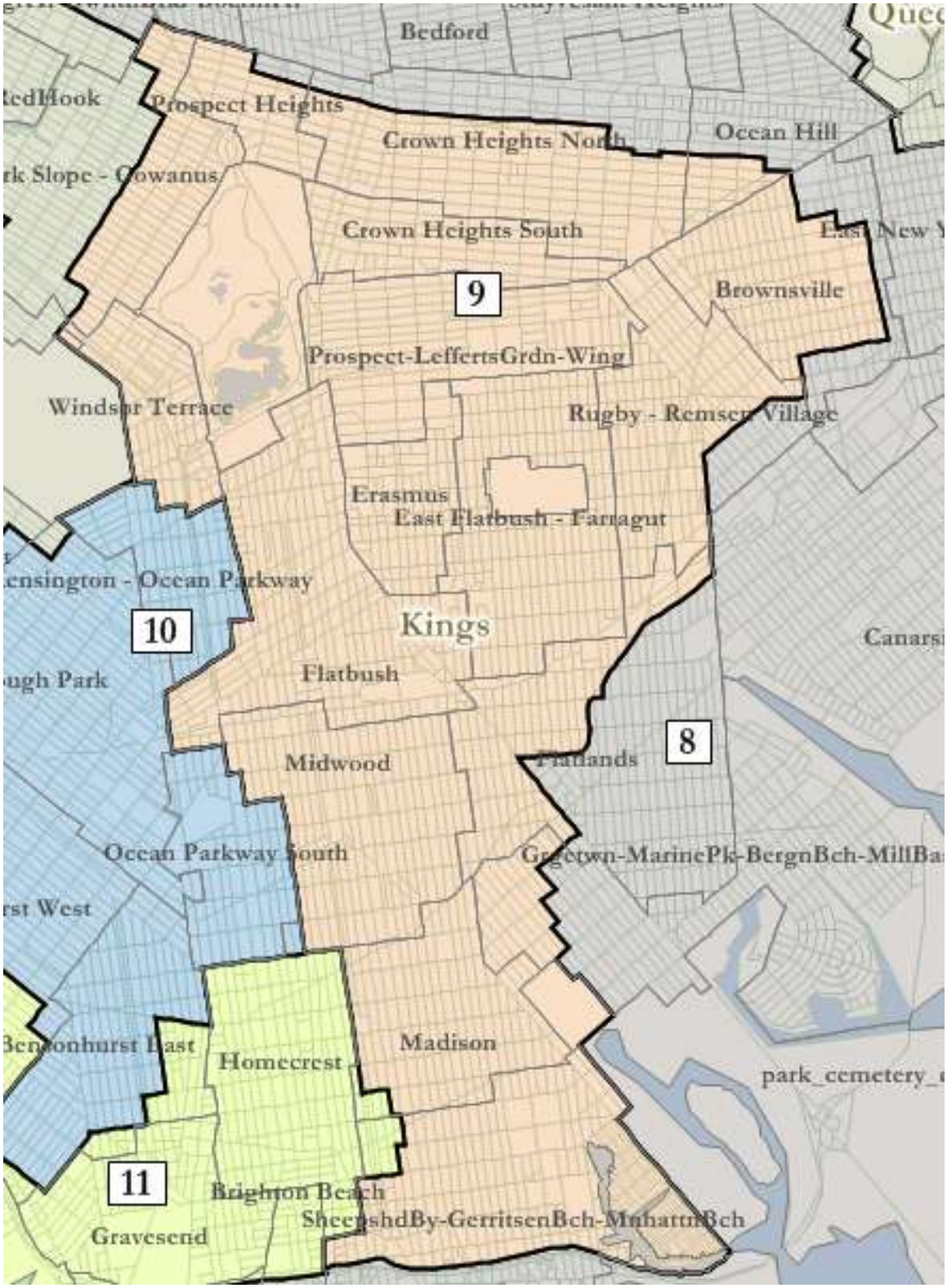
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Crown Heights South
9
Brownsville
Prospect-LefferttsGrdn-Wing
Windsor Terrace
Rugby - Remsen Village
Erasmus
East Flatbush - Farragut
Kings
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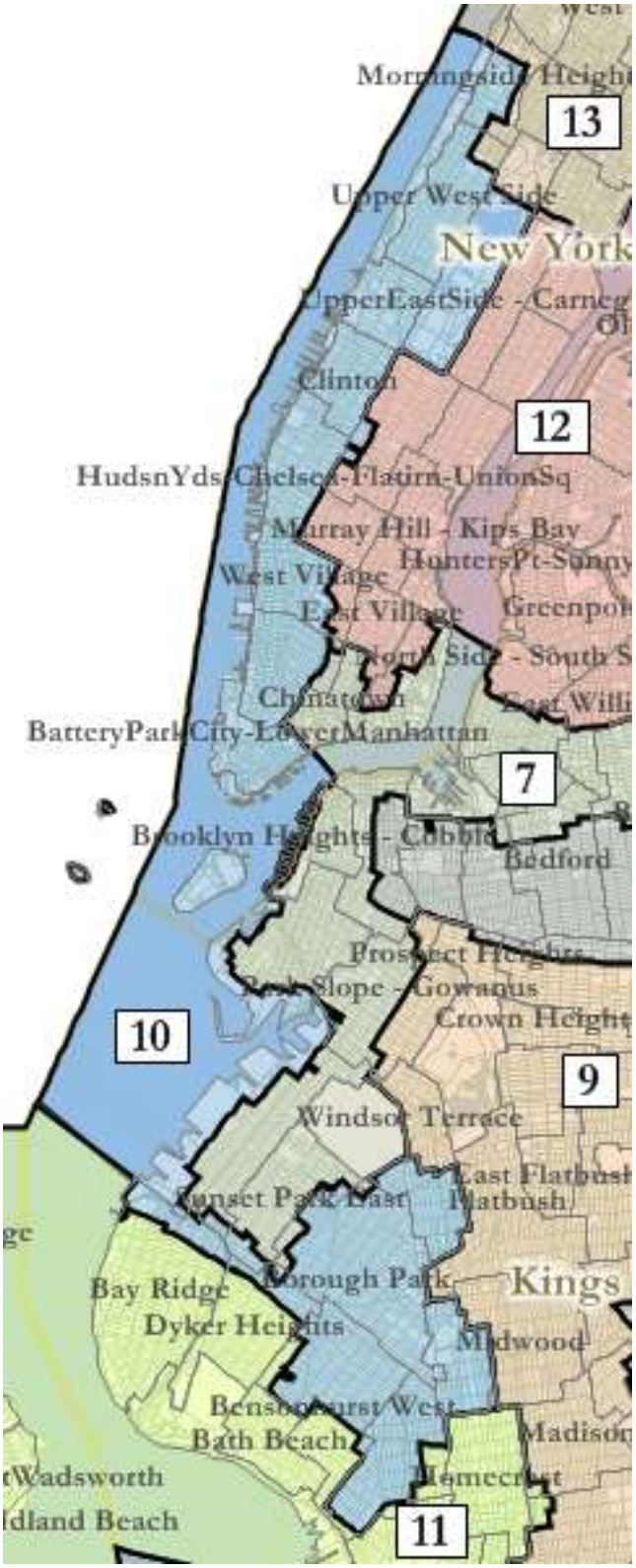
Flatbush
Midwood
8
Ocean Parkway South
Madison
Homecrest
11
Brighton Beach
Gravesend

District 10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New York
Clinton
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Murray Hill - Kips Bay
West Village
East Village
Chinatown
BatteryPark City-LowerManhattan
7
Bedford
Prospect Heights
Park Slope - Gowanus
Crown Heights
10
9
Windsor Terrace
Sunset Park East
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Bensonhurst West
Bath Beach
Madison
Wadsworth
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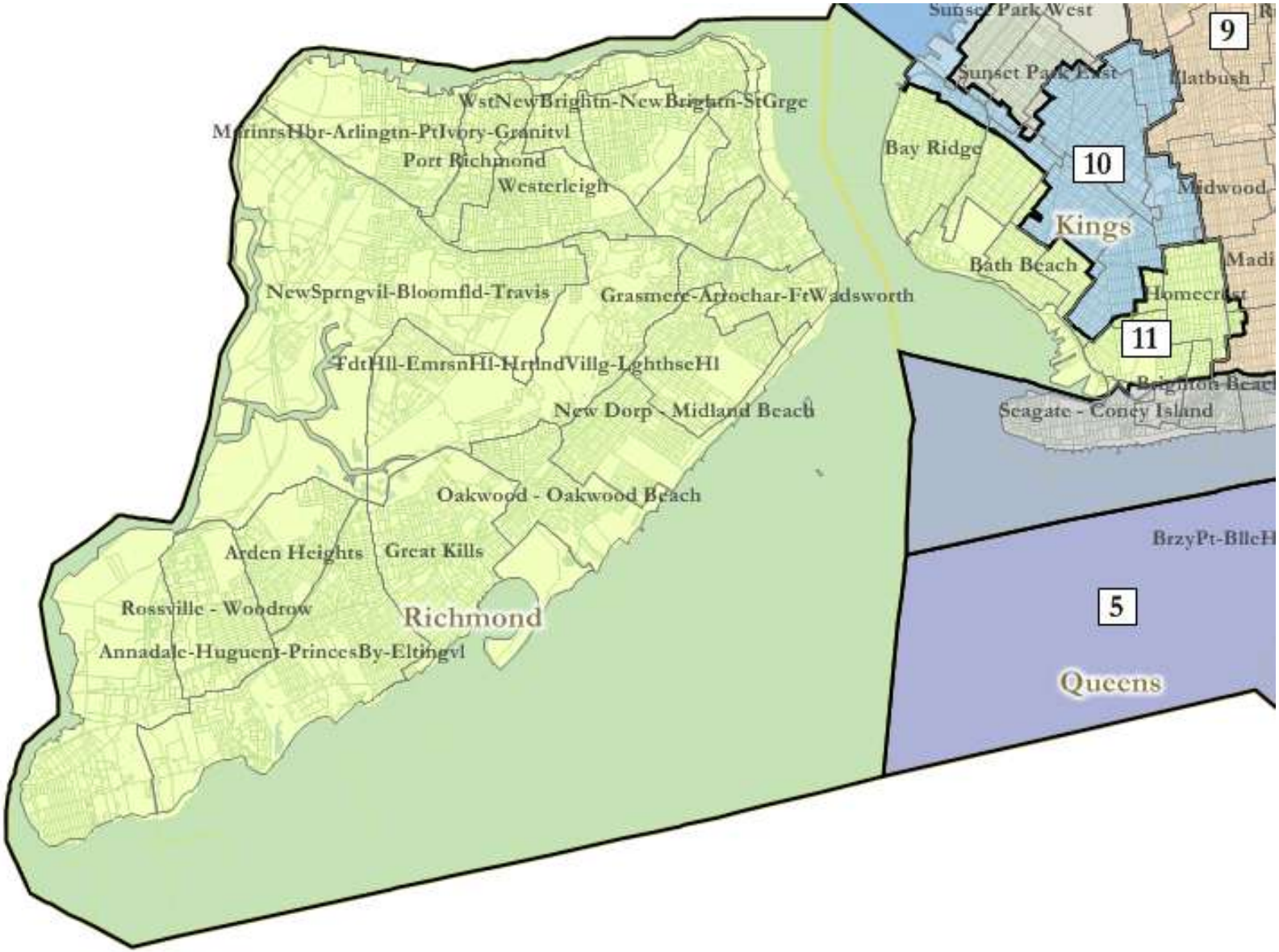
District 11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Port Richmond
Westerleigh
Bay Ridge
10
Midwood
Kings
Bath Beach
Madi
NewSprngvil-Bloomfld-Travis
Grasmere-Arrochar-FtWadsworth
Homecrest
11
FdtHll-EmrsnHl-HrlndVillg-LghthseHl
Brighton Beach
New Dorp - Midland Beach
Seagate - Coney Island
Oakwood - Oakwood Beach
BrzyPt-BlleH
Arden Heights
Great Kills
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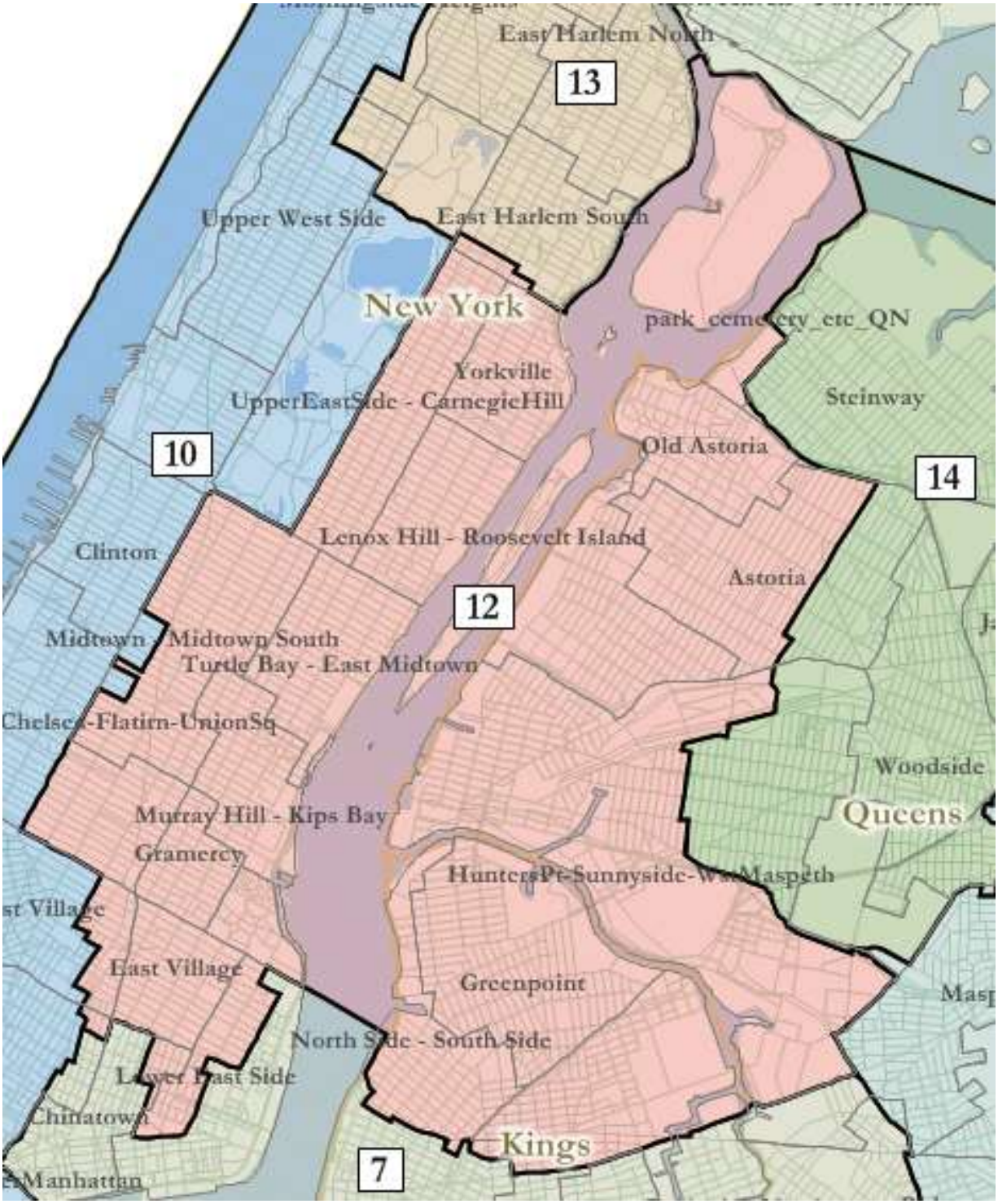
Rossville - Woodrow
Richmond
Annadale-Huguenot-PrincesBy-Eltingvl
Queens

District 12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Upper West Side
East Harlem South
New York
park_cemetery_etc_QN
Yorkville
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Steinway
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Old Astoria
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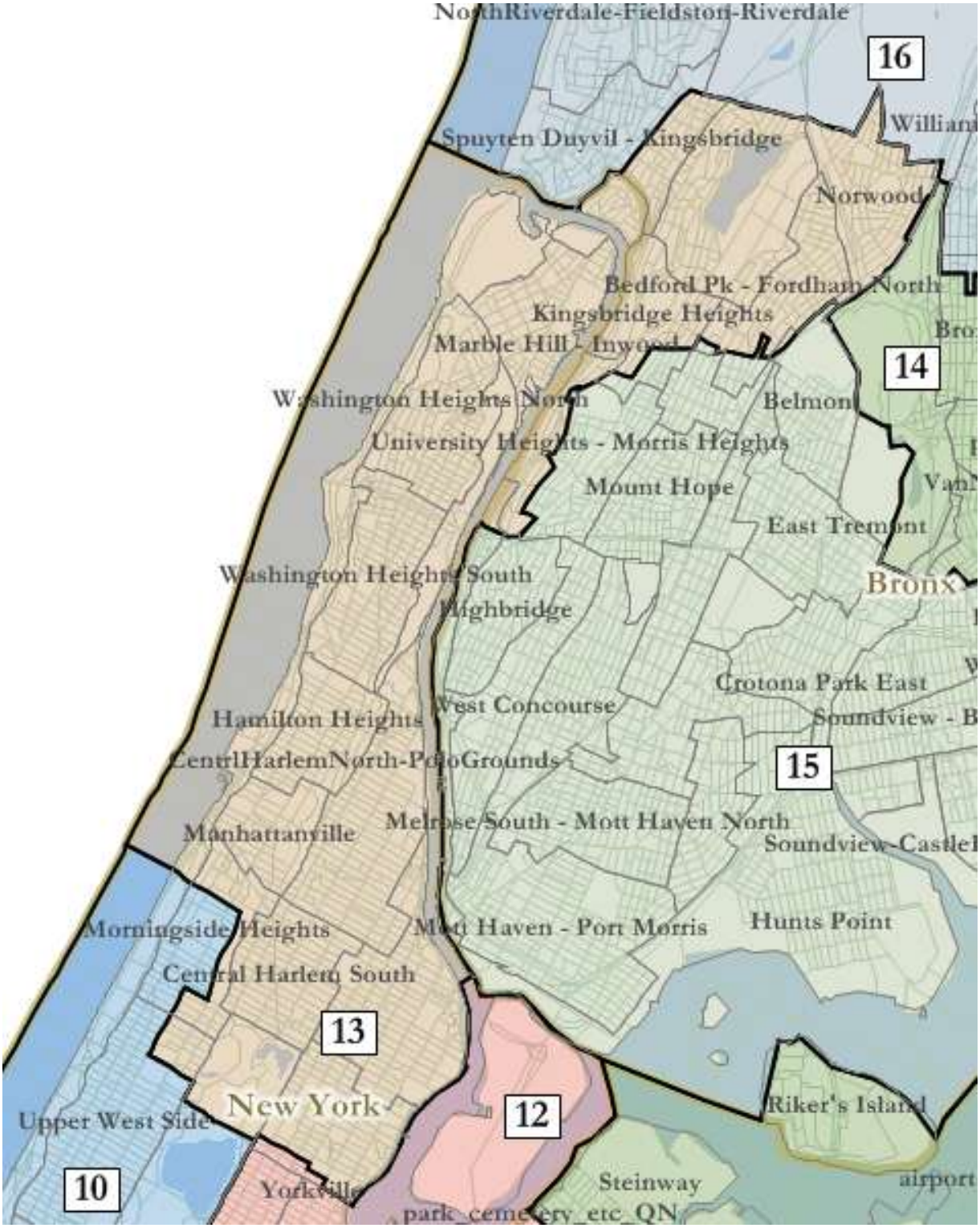
Lenox Hill - Roosevelt Island
Clinton
Astoria
12
Midtown
Midtown South
Turtle Bay - East Midtown
Chelsea-Flatiron-UnionSq
Woodside
Murray Hill - Kips Bay
Queens
Gramercy
HuntersPt-Sunnyside-WoodMaspeth
East Village
Greenpoint
North Side - South Side
Lower East Side
Chinatown
Kings
7
Manhattan

District 13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Norwood
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Kingsbridge Heights
Marble Hill - Inwood
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Belmont
University Heights - Morris Heights
Mount Hope
East Tremont
Washington Heights South
Bronx
Highbridge
Crotona Park East
Hamilton Heights
West Concourse
Soundview - B
CentrlHarlemNorth-PolloGrounds
15
Melrose South - Mott Haven North
Manhattanville
Soundview-Castle
Morningside Heights
Mott Haven - Port Morris
Hunts Point
Central Harlem South
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New York
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Riker's Island
Upper West Side
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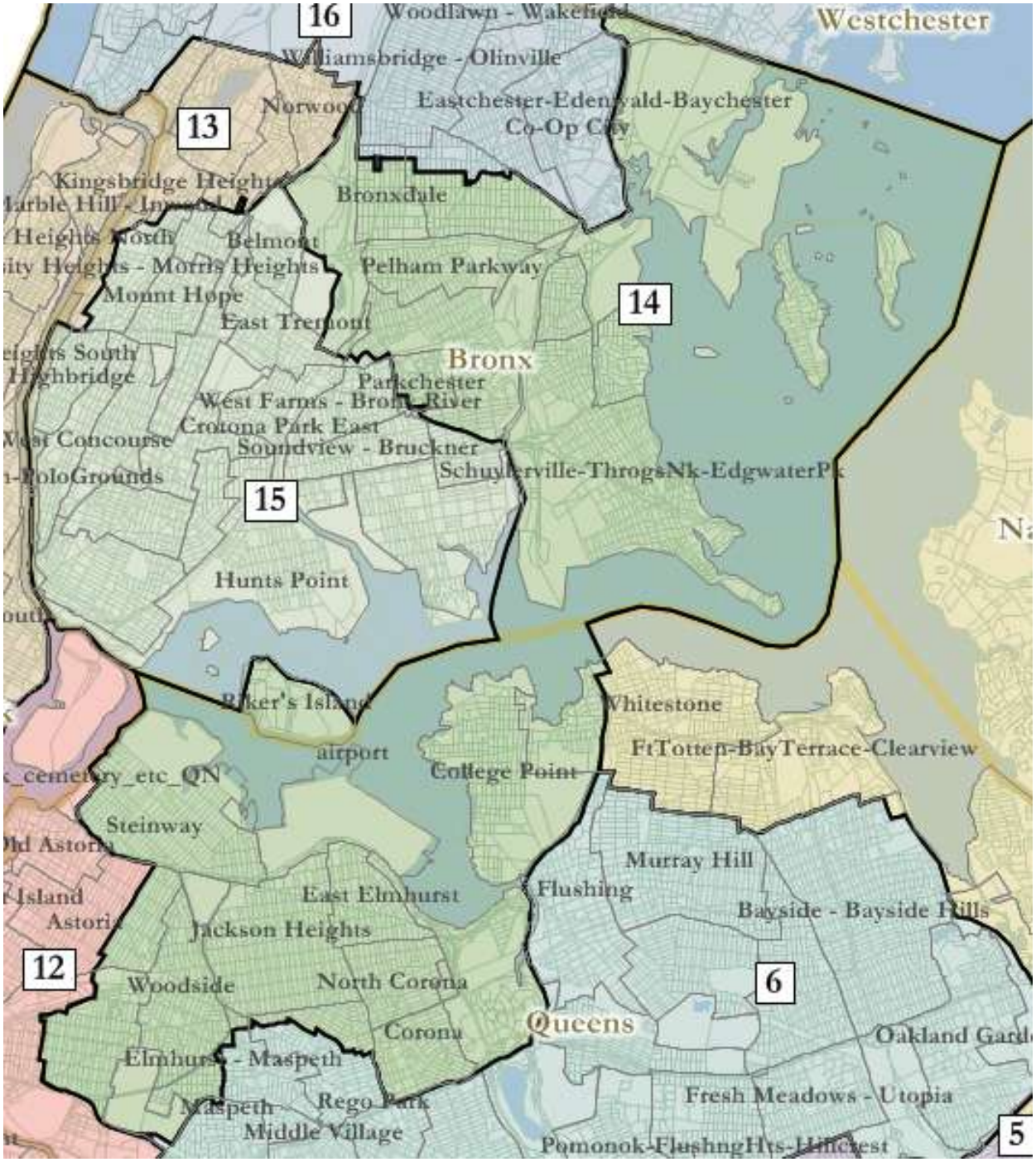
Yorkville
Steinway
airport
park_cemetery_etc_QN

District 14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Westchester
Williamsbridge - Olinville
Norwood
Eastchester-Edenwald-Baychester
Co-Op City
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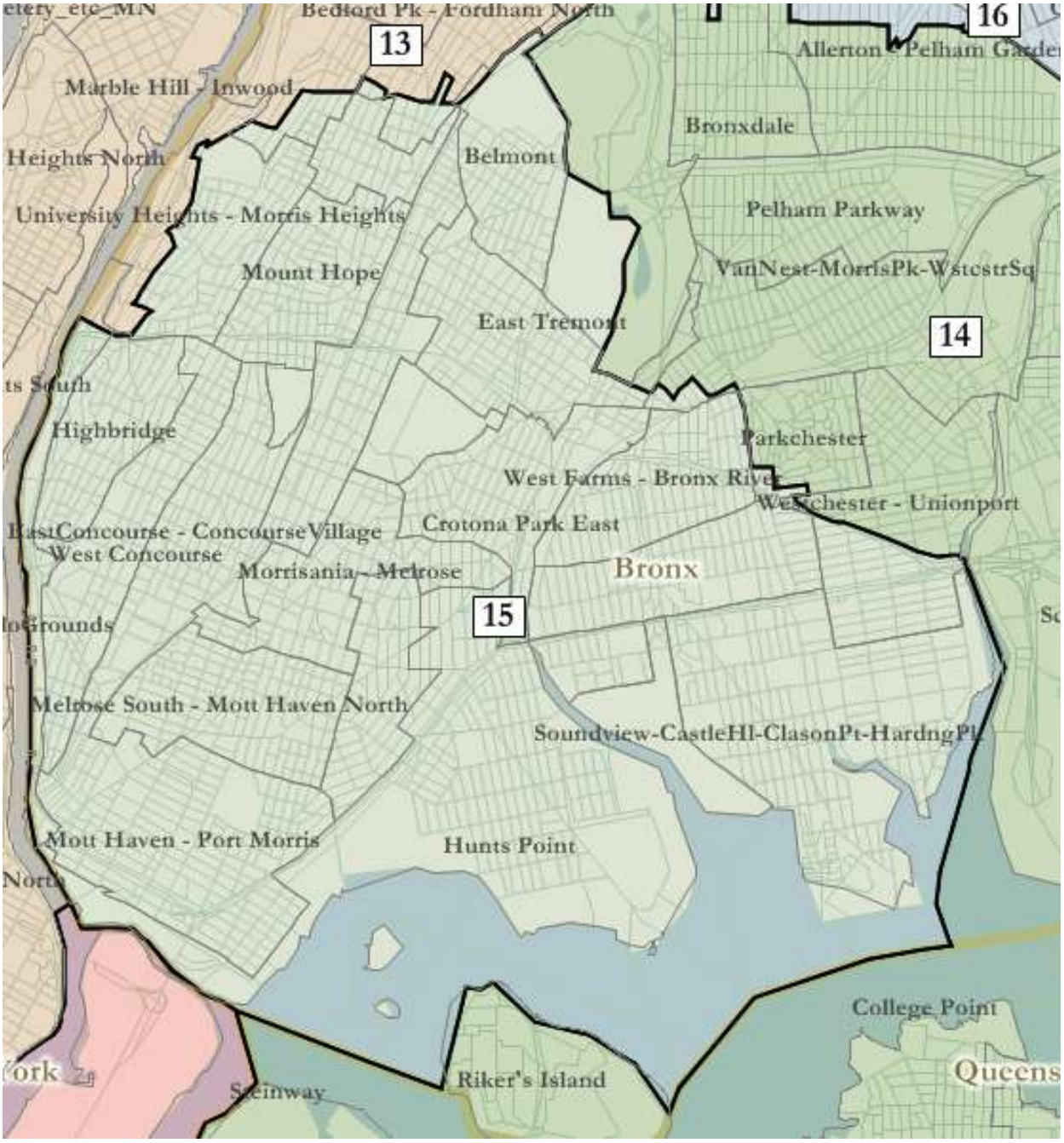
Kingsbridge Heights
Bronxdale
Belmont
Pelham Parkway
Mount Hope
East Tremont
14
Bronx
Parkchester
West Farms - Bronx River
Crotona Park East
Soundview - Bruckner
Schuylerville-ThrogsNk-EdgwaterPk
15
Hunts Point
Riker's Island
Whitestone
airport
College Point
FtTotten-BayTerrace-Clearview
Steinway
Murray Hill
Flushing
East Elmhurst
Bayside - Bayside Hills
Jackson Heights
12
Woodside
North Corona
6
Queens
Corona
Elmhurst - Maspeth
Fresh Meadows - Utopia
Maspeth
Rego Park
Middle Village
Pomonok-FlushngHts-Hillcrest
5

District 15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Heights North
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Mount Hope
Belmont
East Tremont
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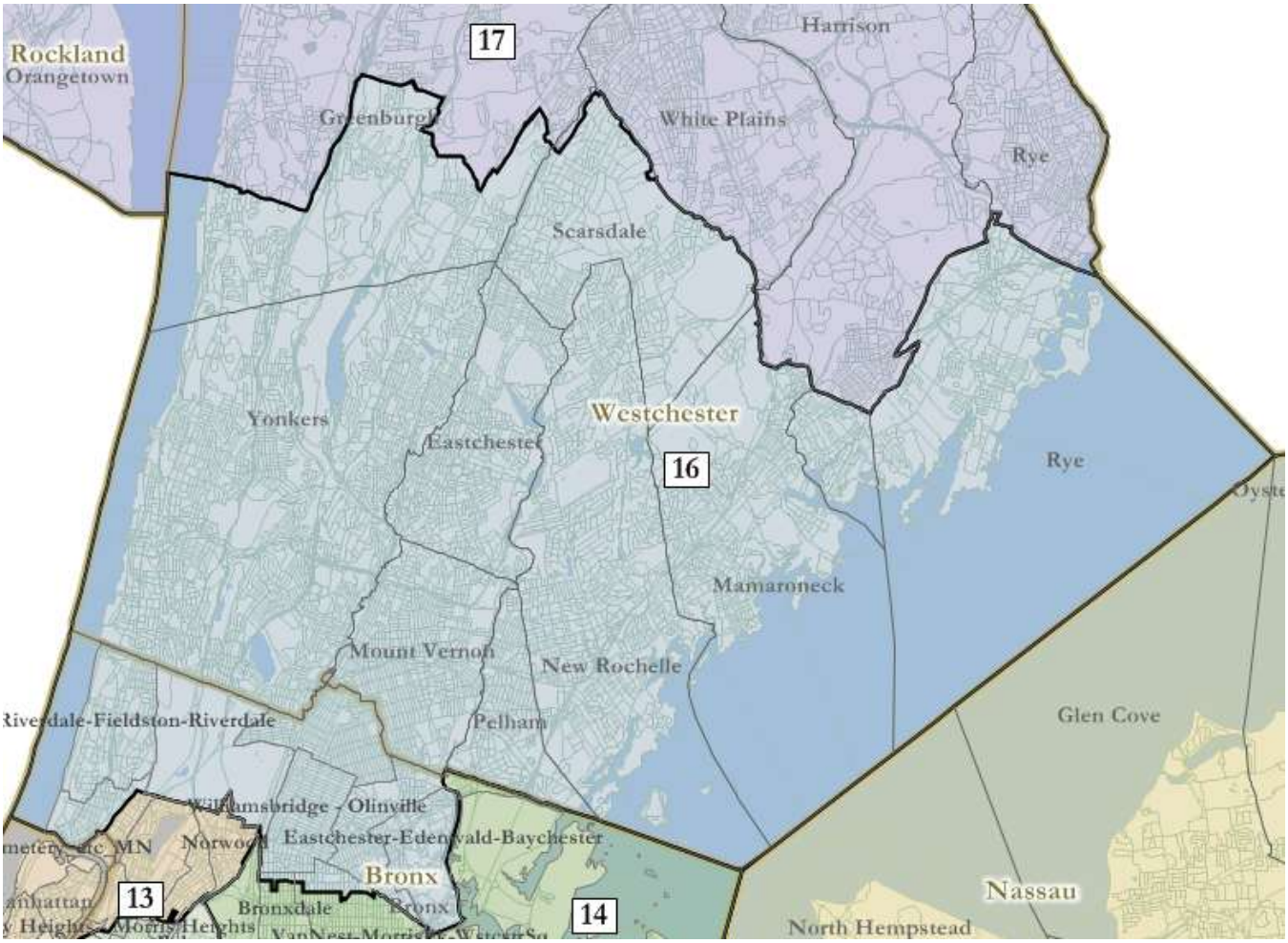
Allerton - Pelham Garde
Pelham Parkway
VanNest-MorrisPk-WstcstrSq
Highbridge
Parkchester
West Farms - Bronx River
Westchester - Unionport
Crotona Park East
EastConcourse - ConcourseVillage
West Concourse
Morrisania - Melrose
Bronx
Melrose South - Mott Haven North
Soundview-CastleHl-ClasonPt-HardngPl
Mott Haven - Port Morris
Hunts Point
College Point
Queens
Riker's Island
Steinway

District 16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Greenburgh
White Plains
Harrison
Rye
Scarsdale
Yonkers
Eastchester
Westchester
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Rye
Mamaroneck
Mount Vernon
New Rochelle
Pelham
Glen Cove
Williamsbridge - Olinville
Eastchester-Edenwald-Baychester
Norwood
Bronx
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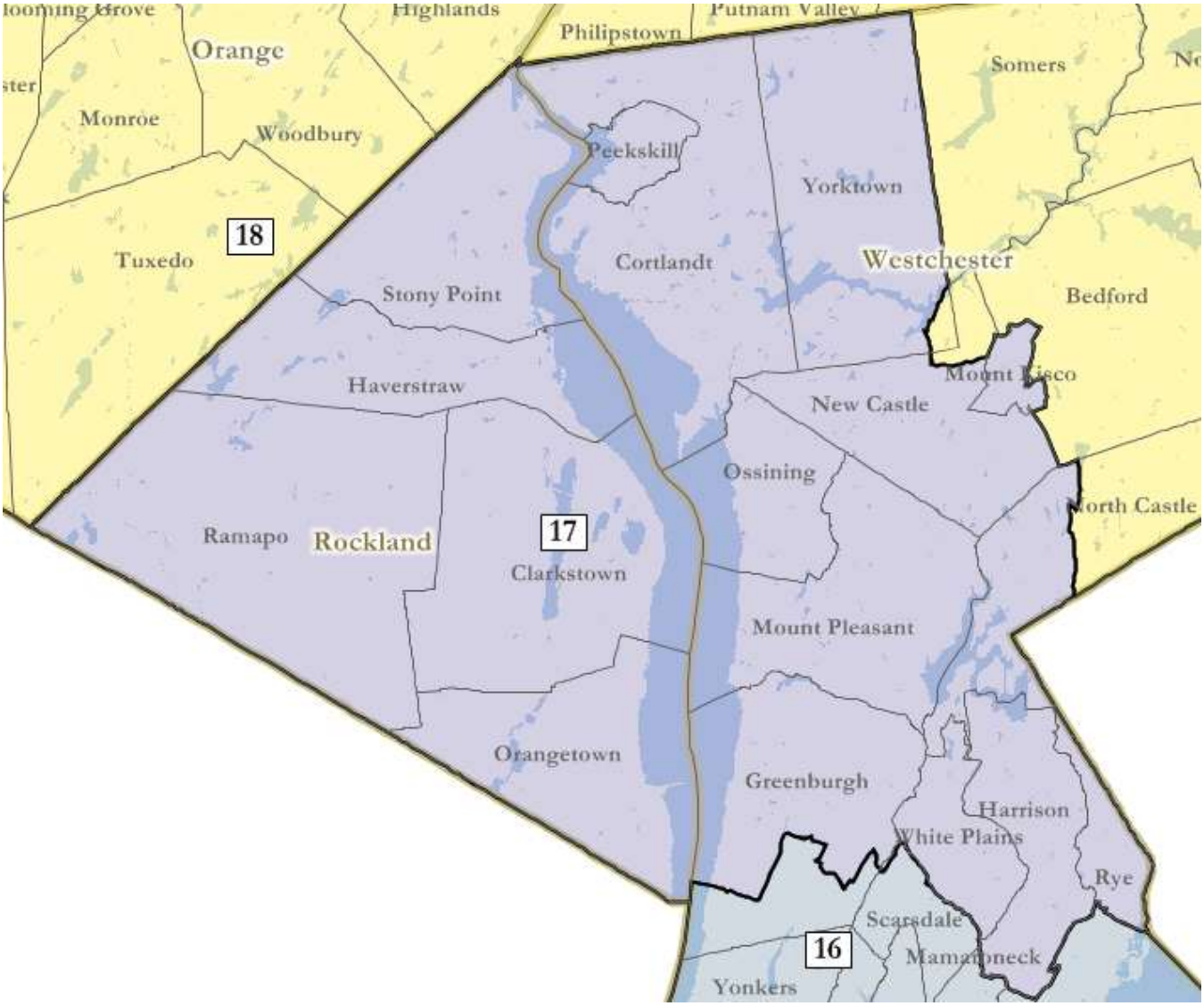
Bronxdale
14
Nassau
North Hempstead

District 17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Highlands
Philipstown
Putnam Valley
Somers
Monroe
Woodbury
Peekskill
Yorktown
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Tuxedo
Cortlandt
Westchester
Stony Point
Bedford
Haverstraw
New Castle
Ossining
Ramapo
Rockland
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Clarkstown
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Harrison
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Rye
Scarsdale
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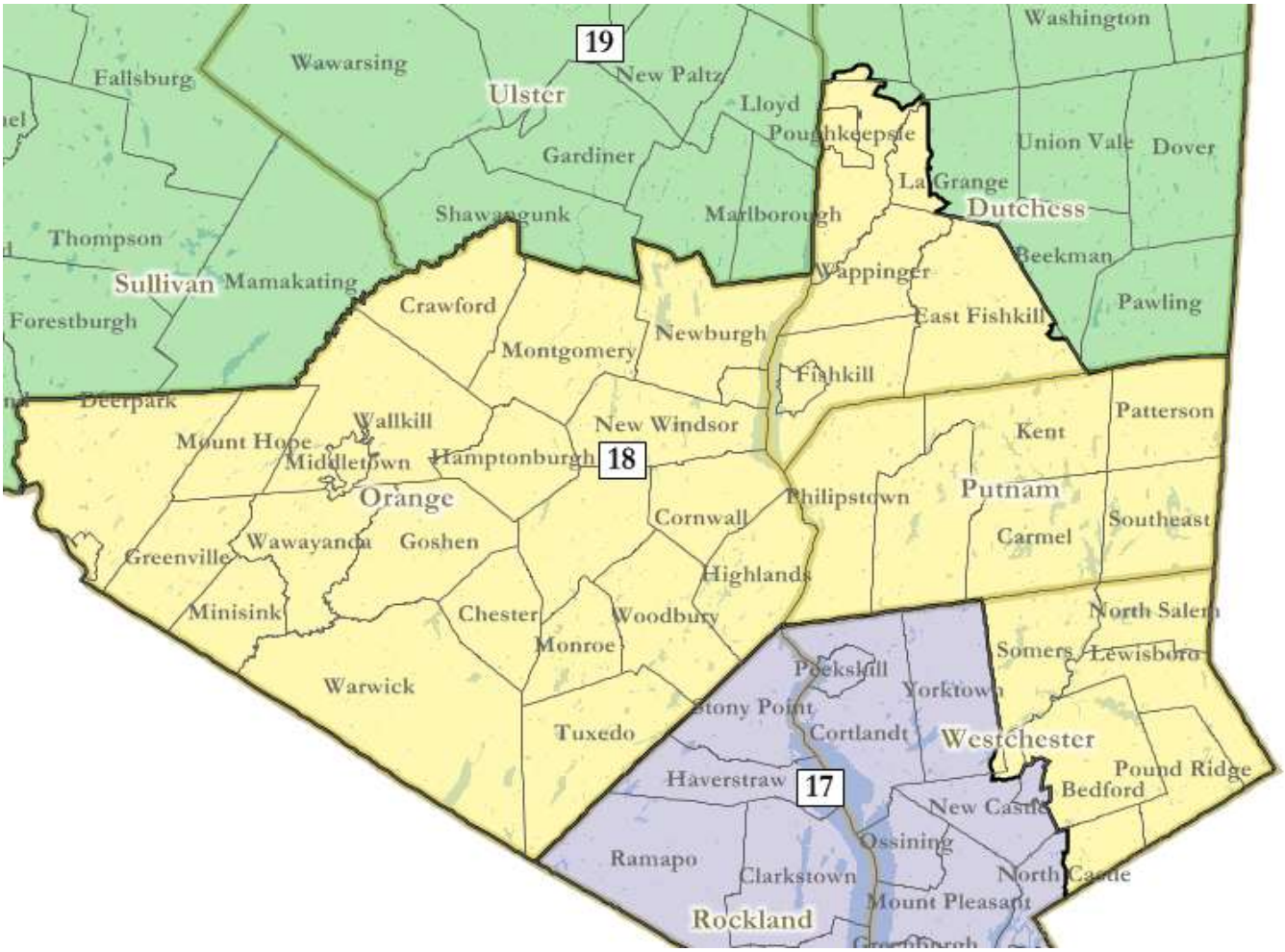
Yonkers

District 18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Lloyd
Poughkeepsie
Washington
Union Vale
Dover
Gardiner
La Grange
Dutchess
Shawangunk
Marlborough
Thompson
Beekman
Sullivan
Mamakating
Wappinger
Pawling
Forestburgh
Crawford
East Fishkill
Newburgh
Montgomery
Fishkill
Deerpark
Wallkill
New Windsor
Patterson
Kent
Mount Hope
Middletown
Hamptonburgh
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Orange
Philipstown
Putnam
Cornwall
Southeast
Carmel
Greenville
Wawayanda
Goshen
Highlands
Minisink
Chester
Woodbury
North Salem
Monroe
Somers
Lewisboro
Pocksfill
Warwick
Yorktown
Stony Point
Tuxedo
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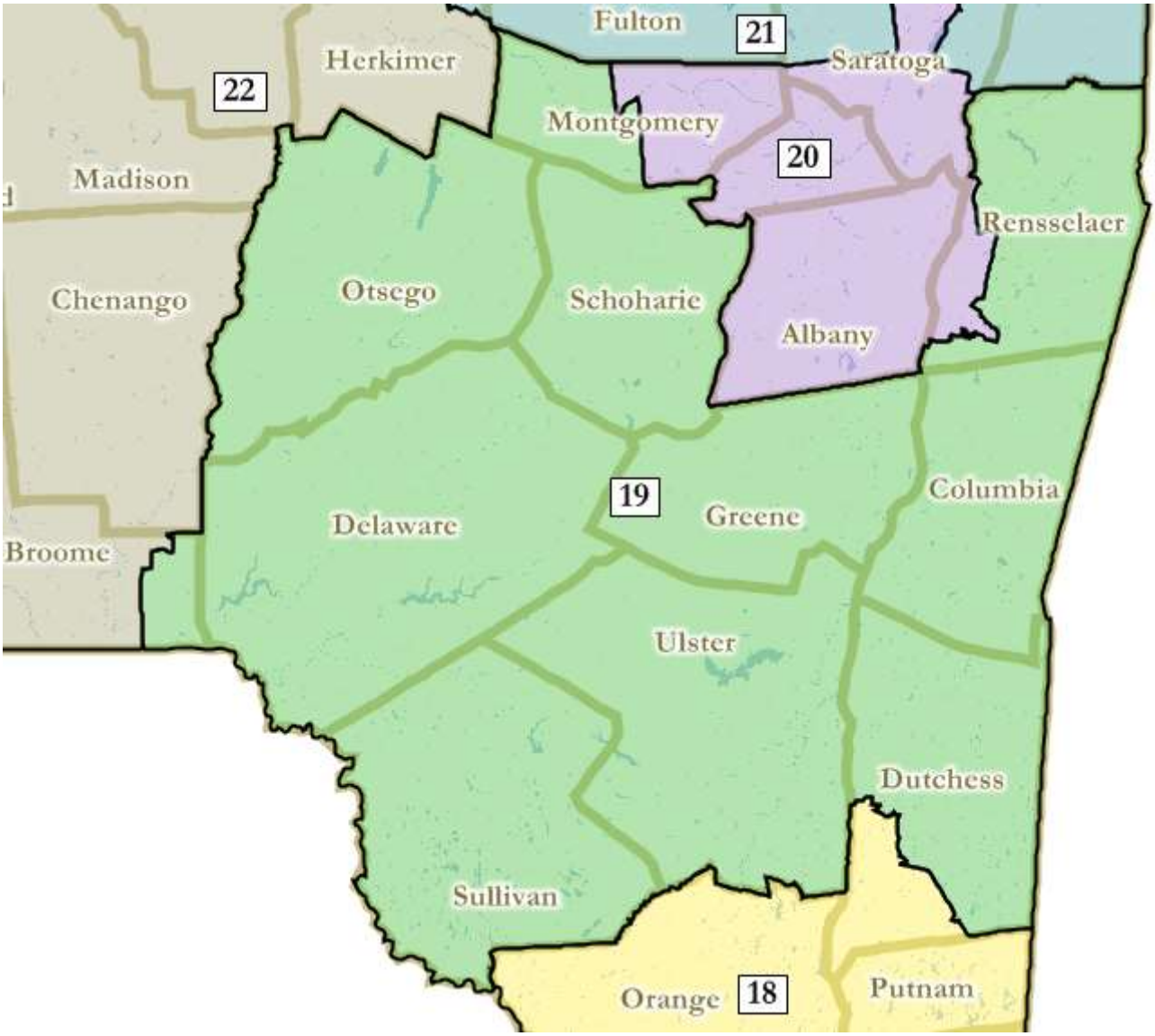
Ossining
Ramapo
Clarkstown
North Castle
Mount Pleasant
Rockland

District 19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Madison
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Broome
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Dutchess
Sullivan
Orange
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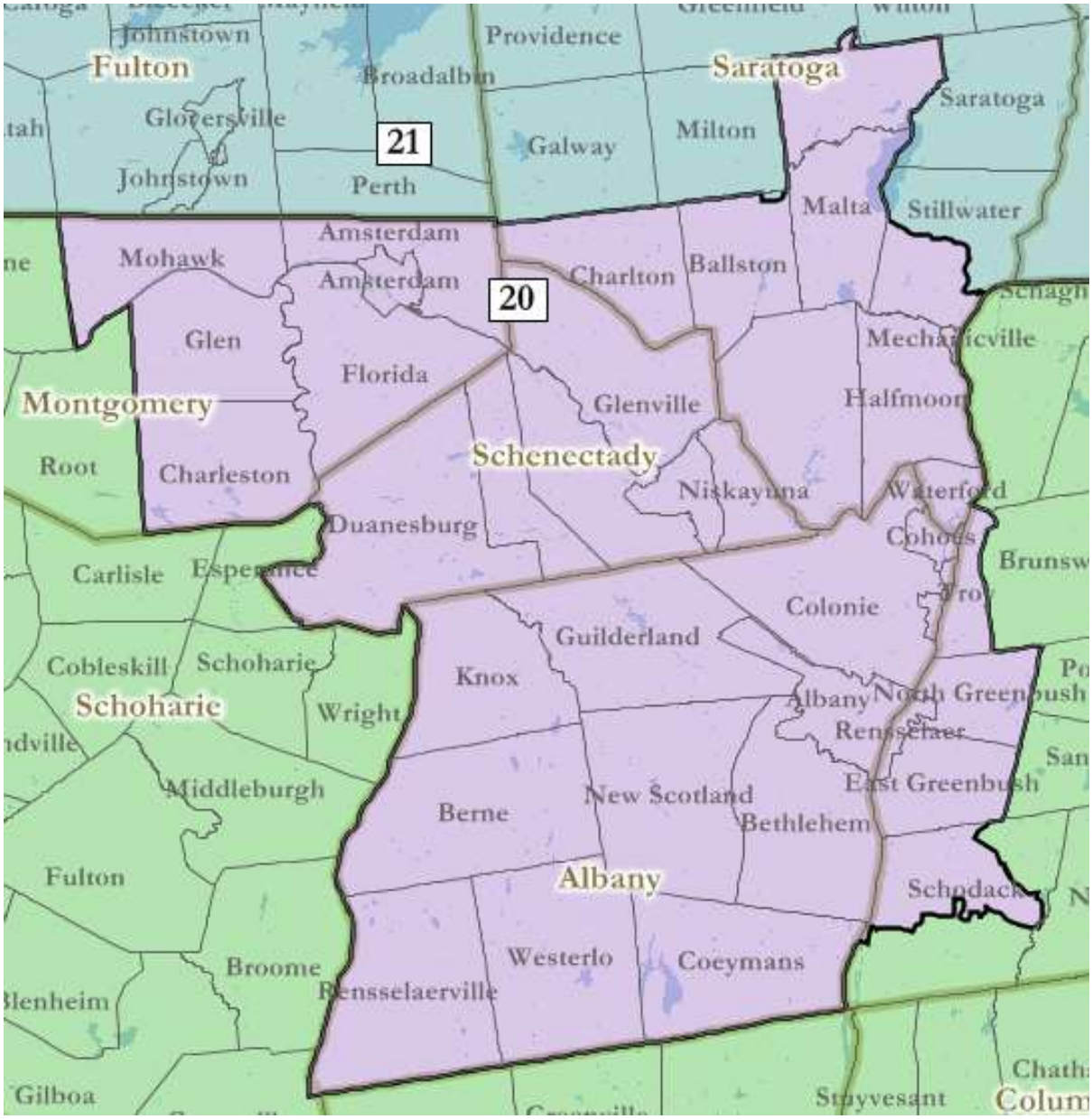
Putnam

District 20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Gloversville
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Galway
Milton
Johnstown
Perth
Malta
Stillwater
Amsterdam
Mohawk
Amsterdam
Charlton
Ballston
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Glen
Florida
Glenville
Halfmoon
Montgomery
Schenectady
Root
Charleston
Niskayuna
Duanesburg
Cohoes
Carlisle
Colonie
Guilderland
Cobleskill
Schoharie
Knox
Schoharie
Wright
Albany
North Greenbush
Rensselaer
Middleburgh
East Greenbush
Berne
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Albany
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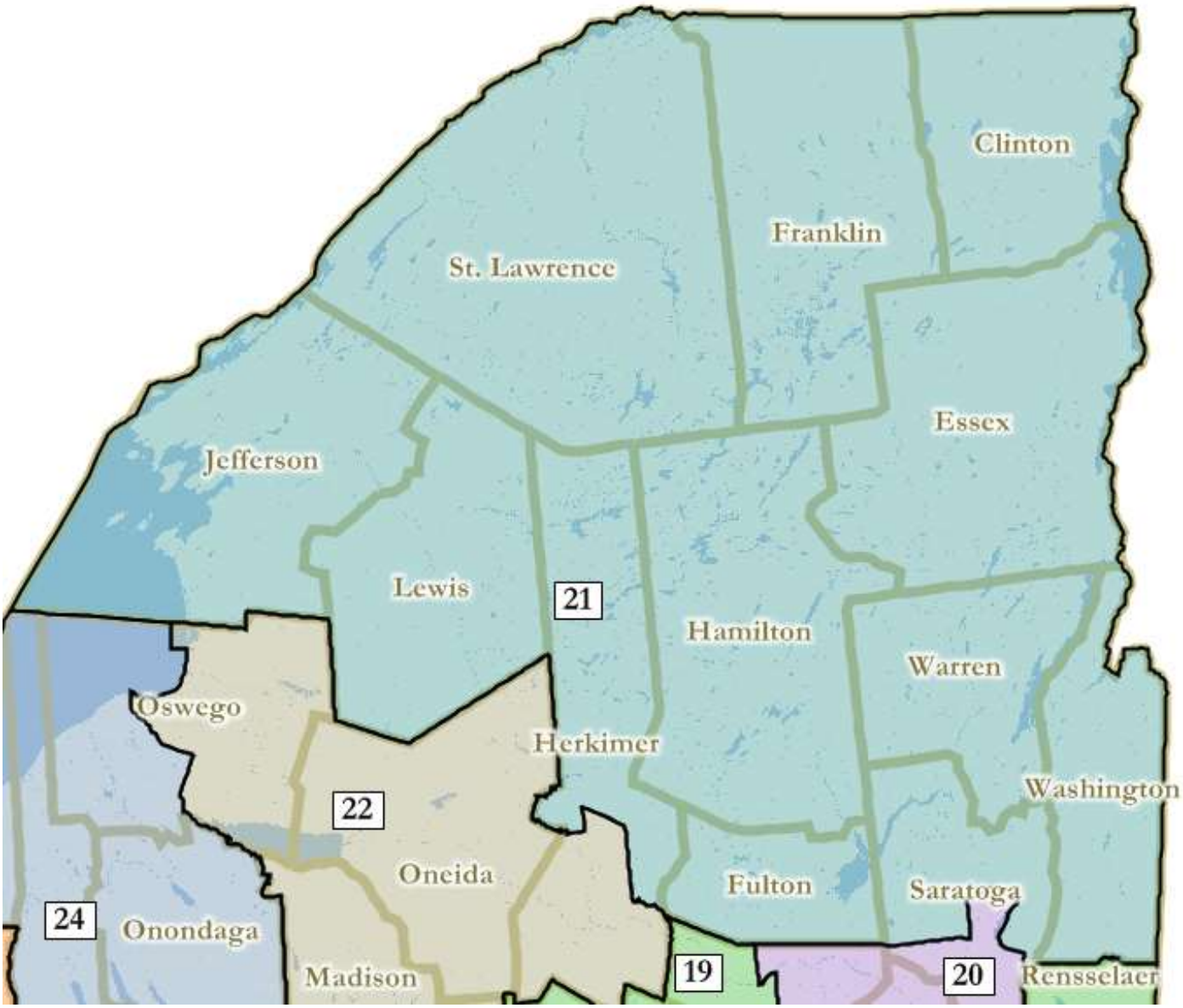
Westerlo
Coeymans
Rensselaerville
Gilboa
Stuyvesant

District 21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Franklin
St. Lawrence
Essex
Jefferson
Lewis
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Hamilton
Warren
Oswego
Herkimer
Washington
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Oneida
Fulton
Saratoga
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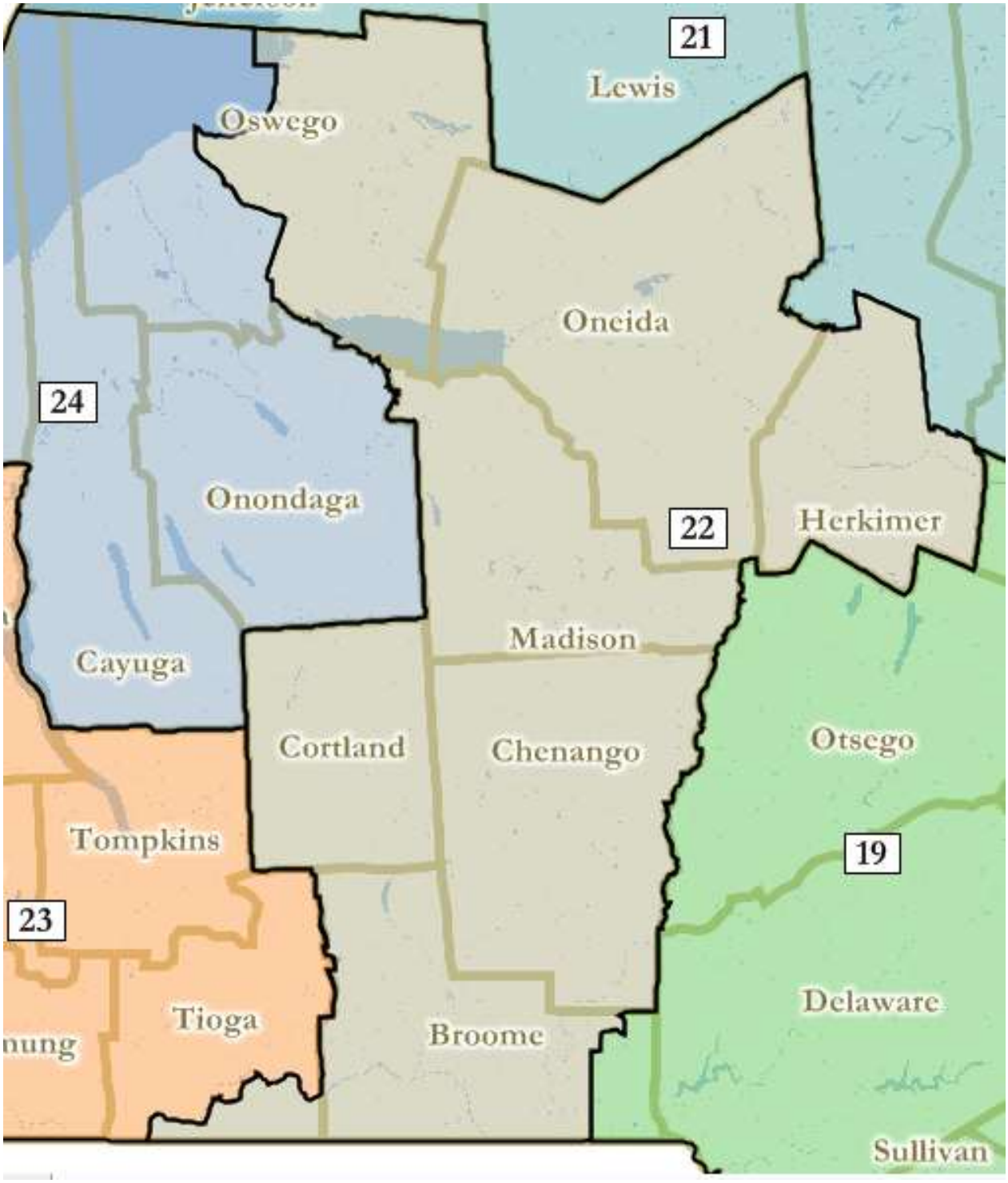
Onondaga
Madison
19
20
Rensselaer

District 22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Oneida
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Onondaga
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Herkimer
Madison
Cayuga
Cortland
Chenango
Otsego
Tompkins
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23
Delaware
Tioga
Broome
Sullivan

District 23

Niagara
Orleans
Monroe
25
Wayne
Oswego
24
Onondaga
26
Genesee
Ontario
Seneca
Cayuga
Wyoming
Livingston
Erie
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Yates
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Tompkins
Schuyler
Chautauqua
Cattaraugus
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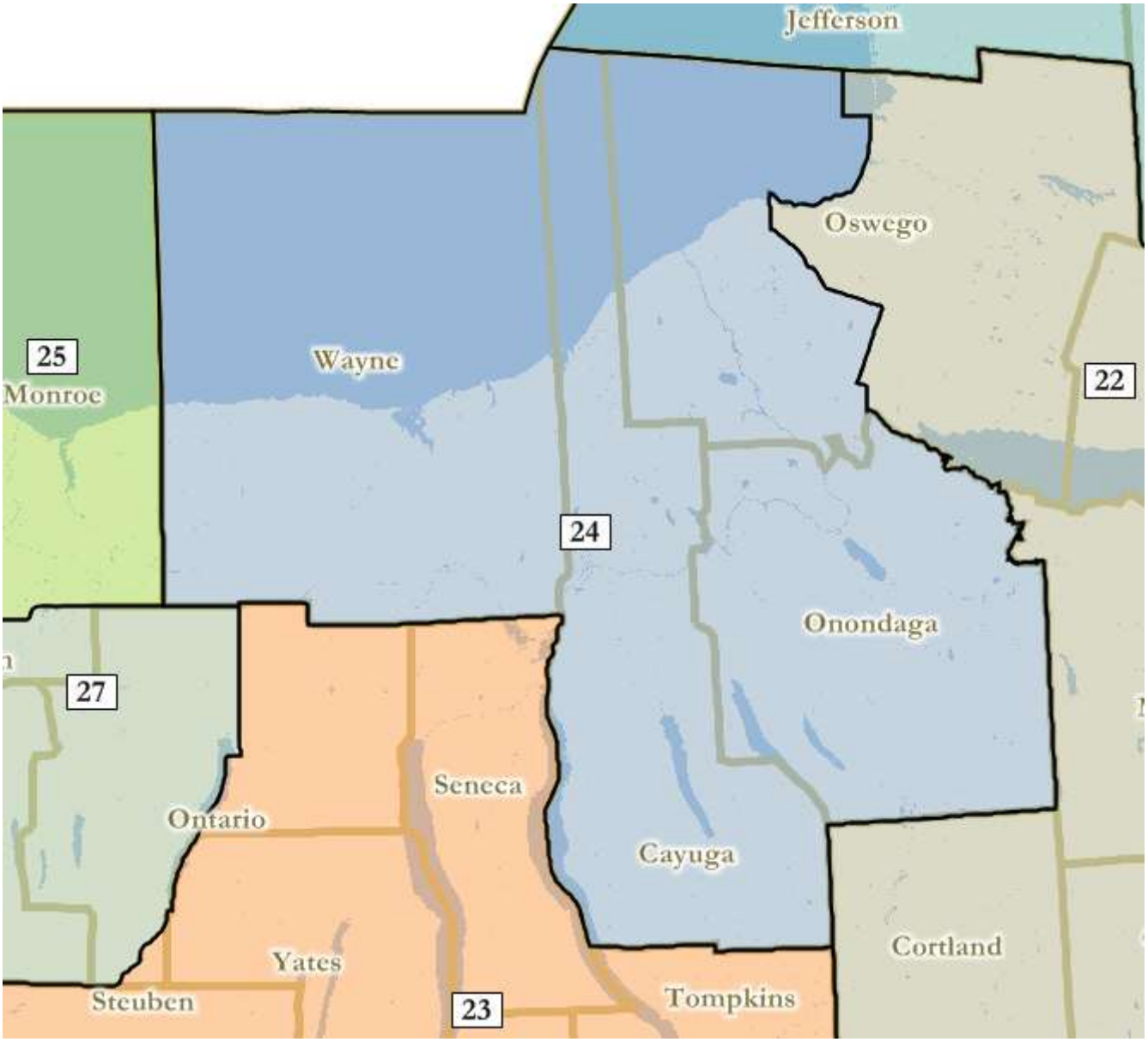
Allegany
Steuben
Chemung
Tioga

District 24


Jefferson
Oswego
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Wayne
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Seneca
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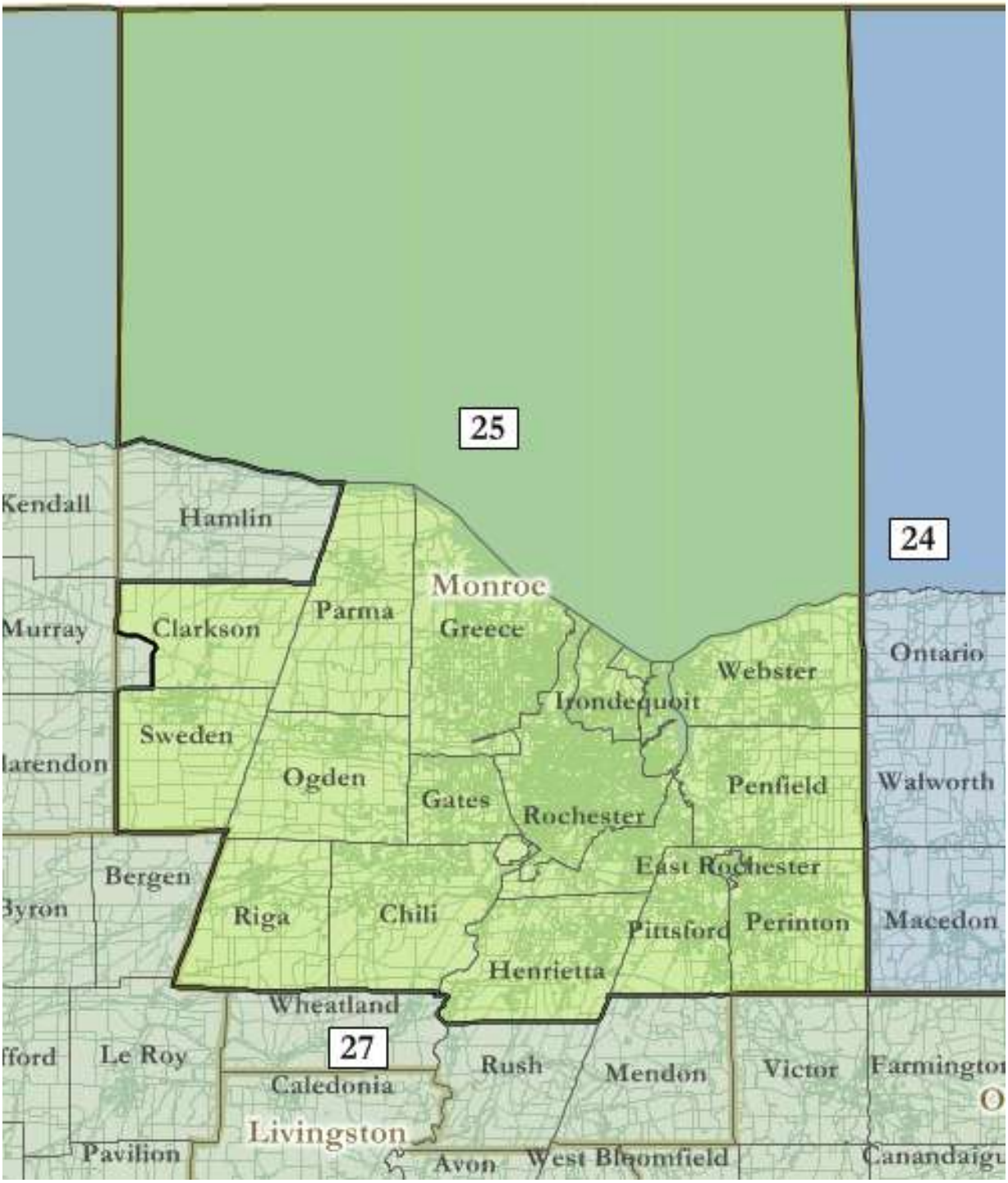
Cortland
Yates
Steuben
23
Tompkins

District 25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Monroe
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Greece
Ontario
Webster
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Sweden
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Penfield
Walworth
Gates
Rochester
Bergen
East Rochester
Riga
Chili
Pittsford
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Macedon
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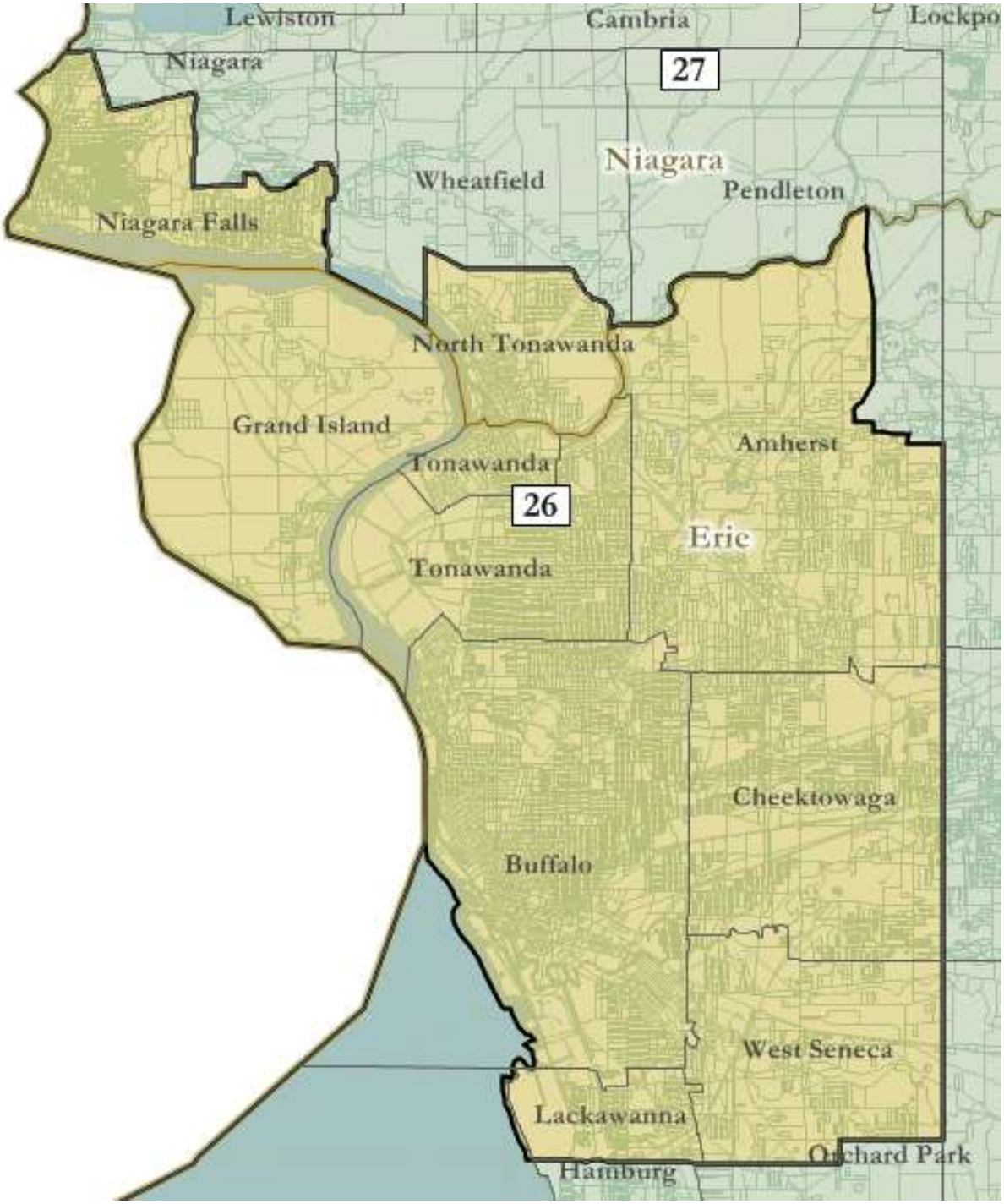
Wheatland
Le Roy
Rush
Mendon
Victor
Caledonia
Livingston
Pavilion
Avon
West Bloomfield

District 26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Lockpo
Niagara
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Niagara
Wheatfield
Pendleton
Niagara Falls
North Tonawanda
Grand Island
Amherst
Tonawanda
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Erie
Tonawanda
Cheektowaga
Buffalo
West Seneca
Lackawanna
Orchard Park
Hamburg

District 27

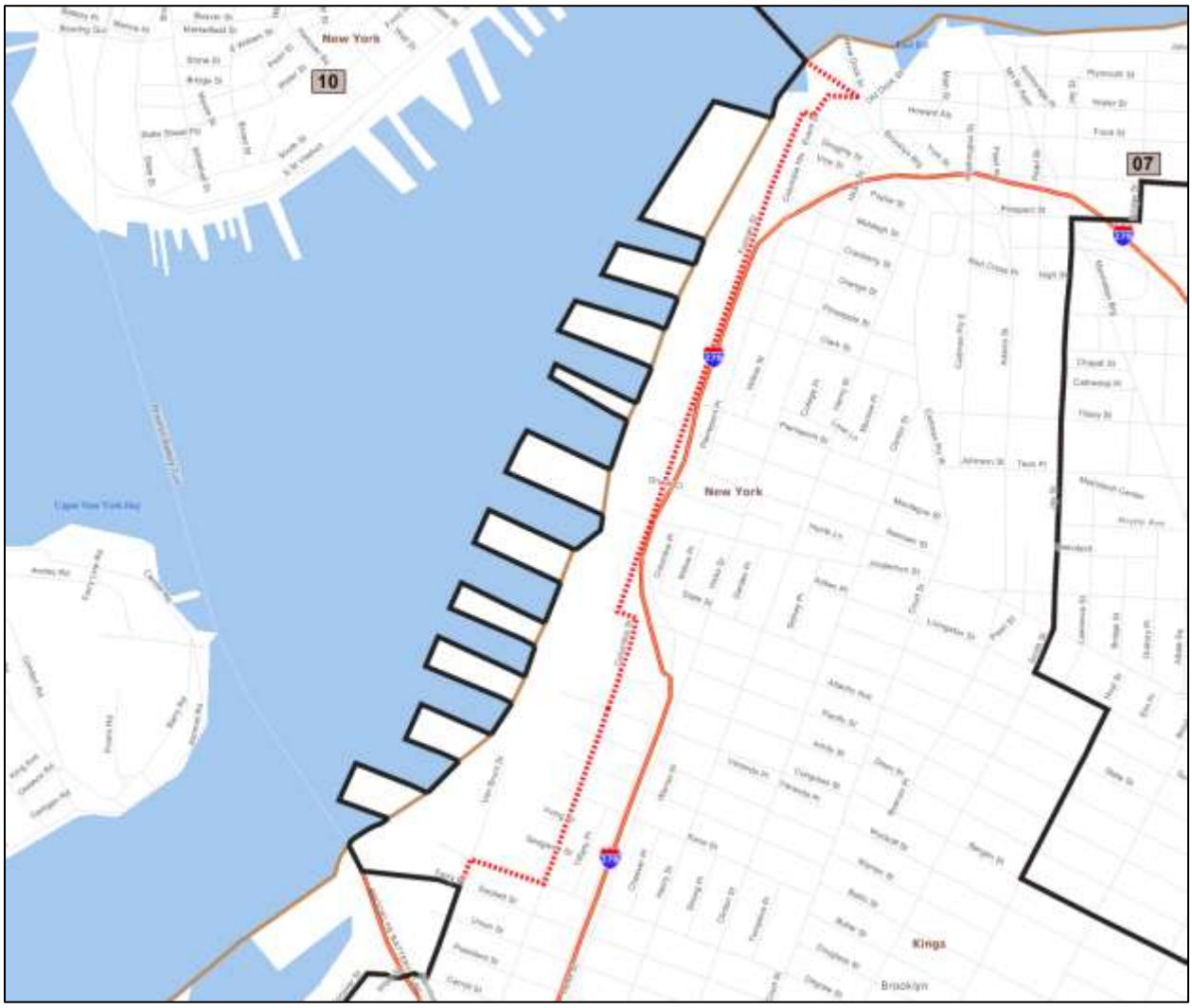
Niagara
Orleans
25
Monroe
Wayne
24
26
Genesee
Ontario
Wyoming
27
Eric
Livingston
Yates
Cattaraugus
23
Allegany
Steuben

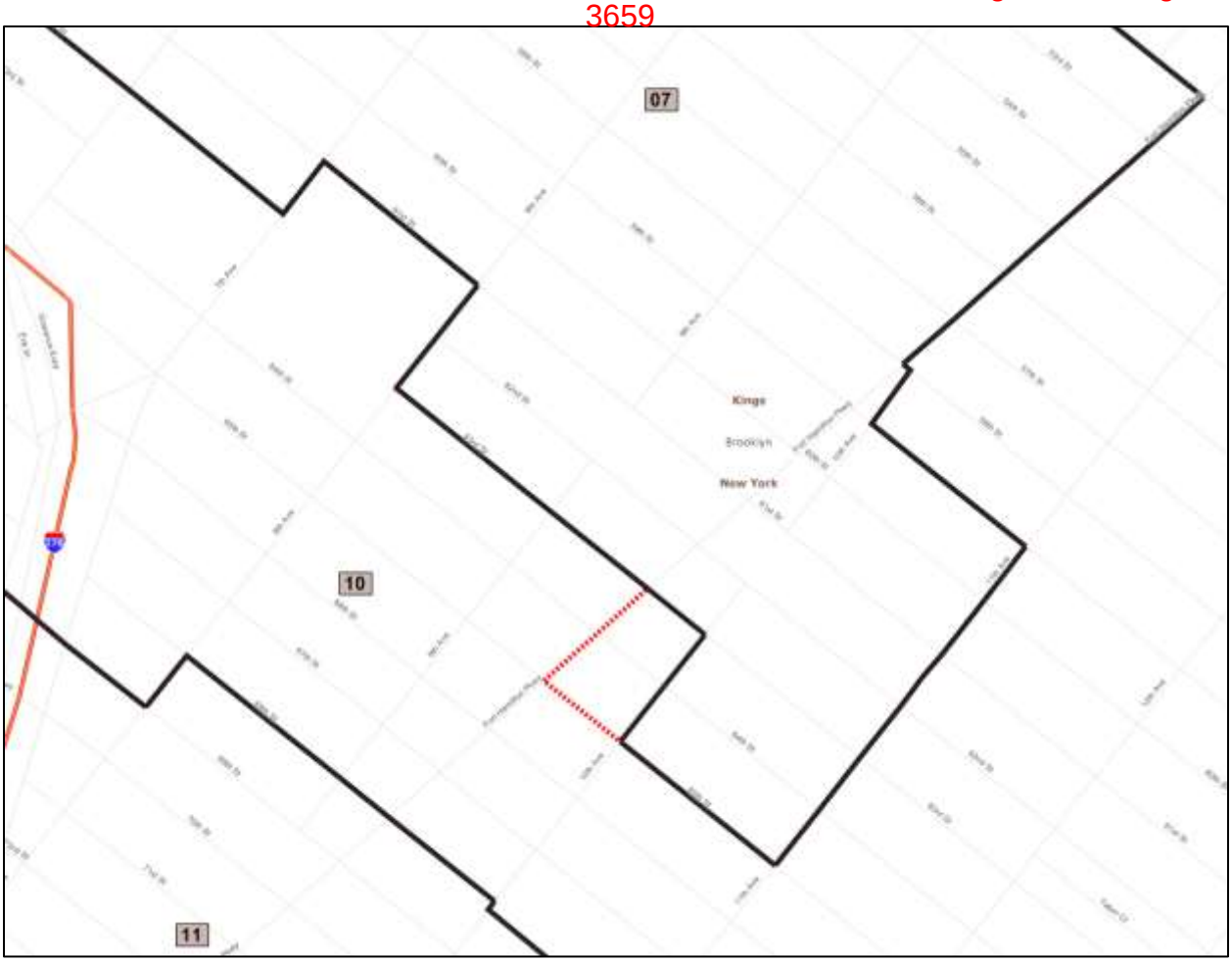
Changes from Recommended Plan to Final Court Plan

(Red dotted lines indicate boundaries of Recommended Plan; black solid lines indicate boundaries of Final Court Plan.)

1. Districts 7 and 10: The Brooklyn Waterfront Fix with Sunset Park Offset

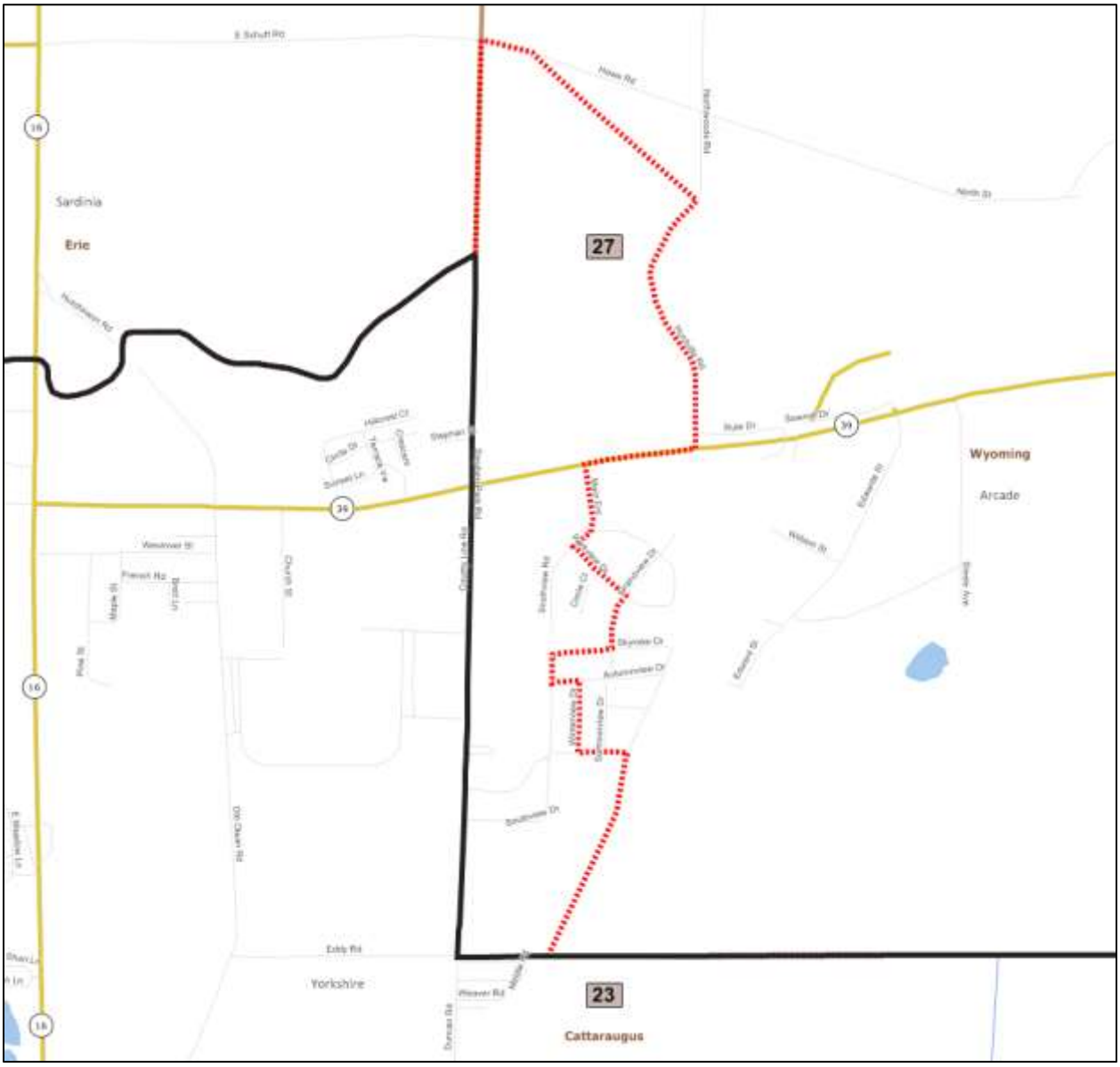
Move Brooklyn waterfront from Recommended District 10 to Recommended District 7; move two blocks in Sunset Park from Recommended District 7 to Recommended District 10)

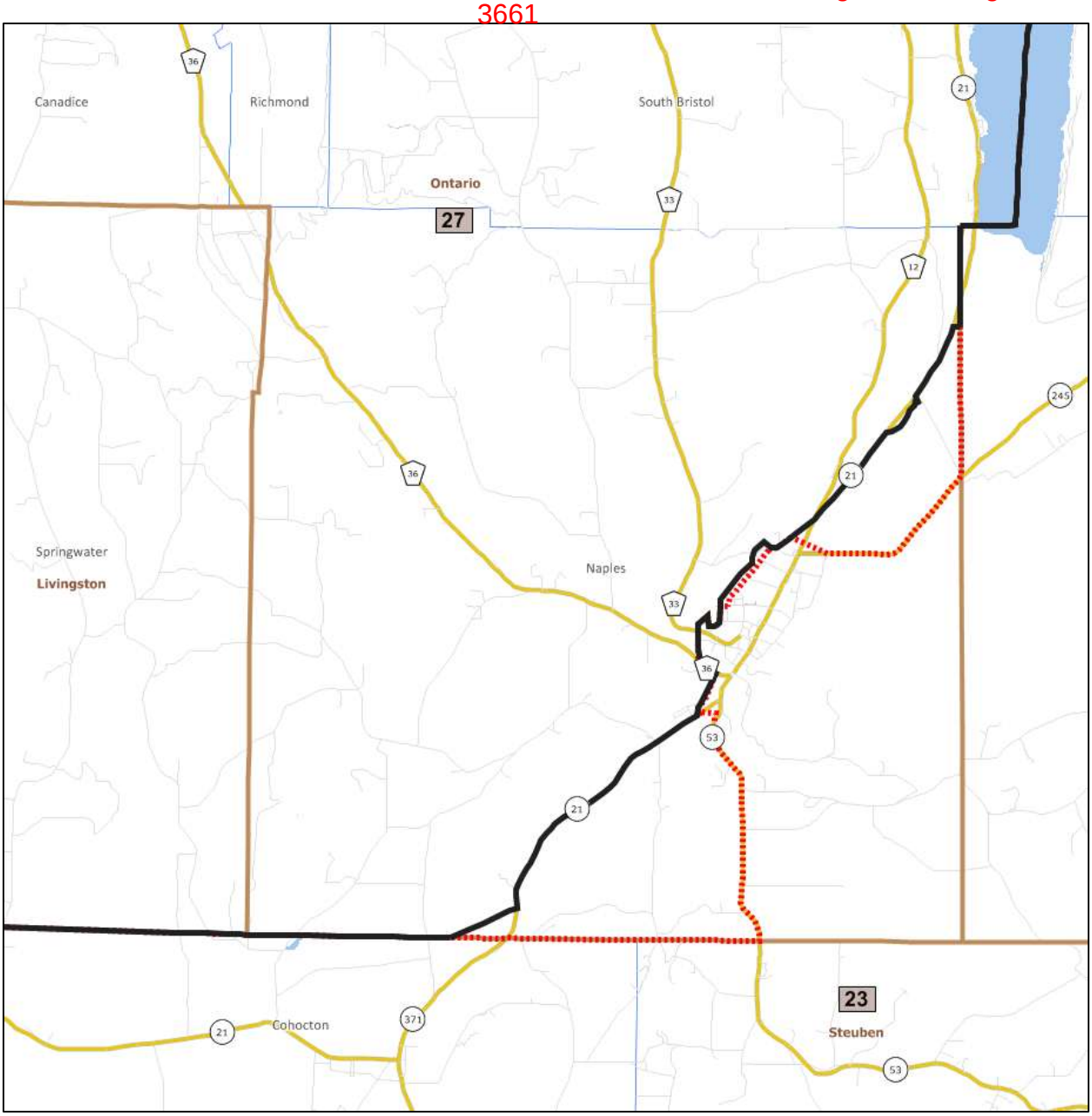



07
Kings
Brooklyn
New York
10
11

2. <u>Districts 23 and 27: Wyoming County Fix with Ontario County Offset</u>

Unite Wyoming County in Recommended District 27; modify the split in Ontario County so as to attain the requisite population for Recommended District 23.




Canadice
Richmond
South Bristol
Ontario
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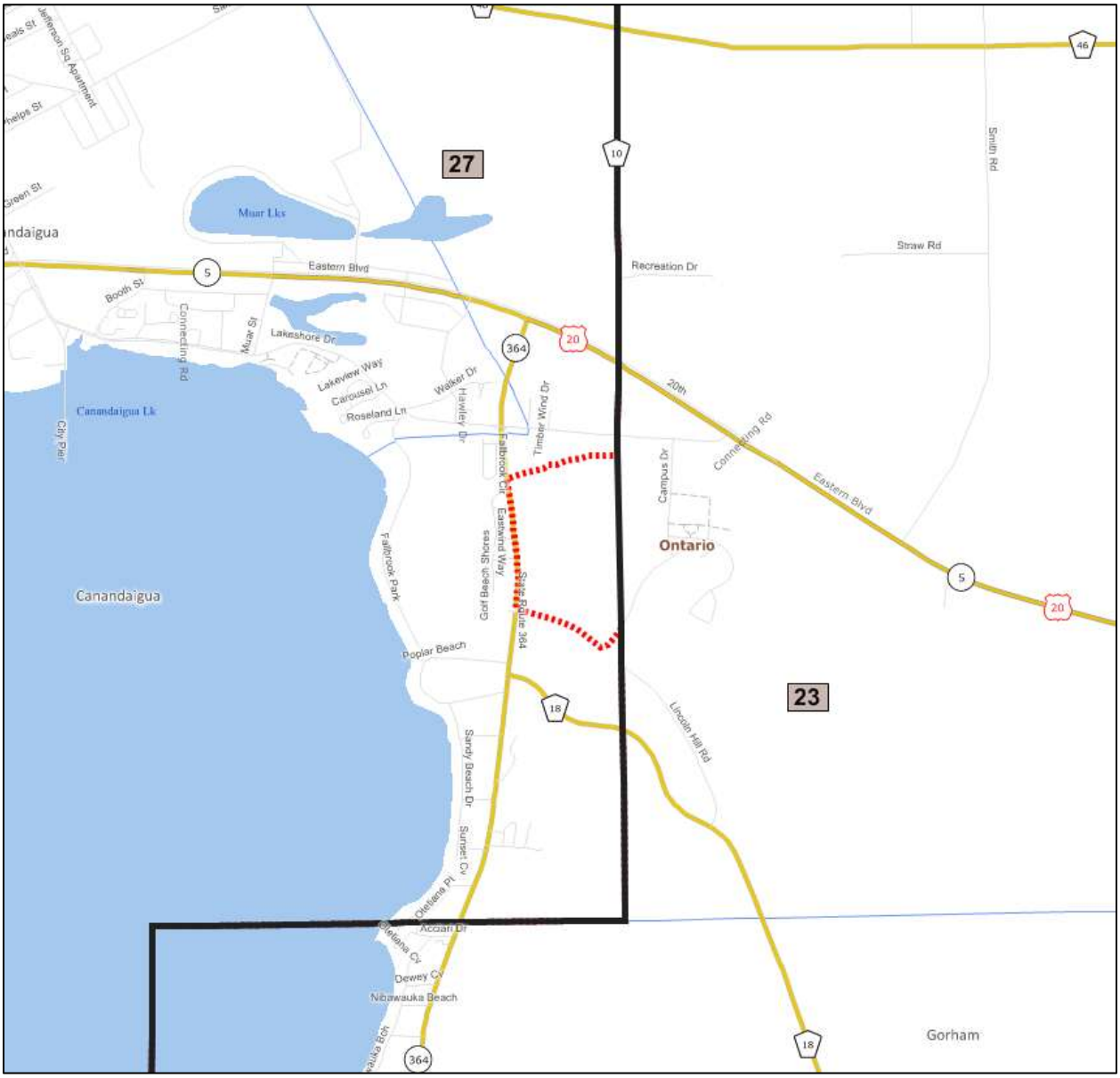
Springwater
Livingston
Naples
Cohocton
23
Steuben
36
33
21
12
245
53
371

3. Districts 23 and 27: Canandaigua Fix

Unite town of Canandaigua by moving zero population block from Recommended District 23 to District 27.



4. <u>Districts 25 and 27: Hamlin Fix with Clarkson Offset</u>

Unite town of Hamlin in Recommended District 27 by moving census block with two people; Move split in Clarkson so as to achieve perfect population equality.

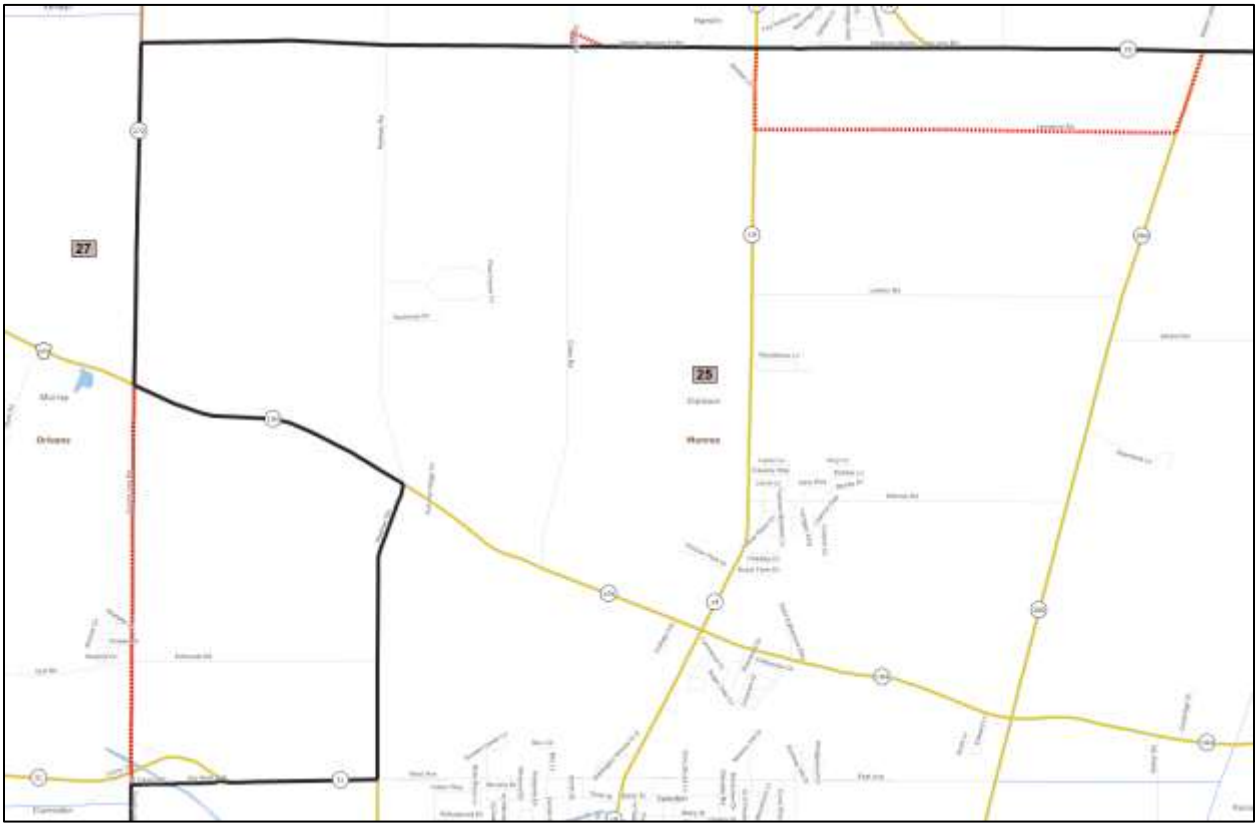


Exhibit 10

EMPIRE CENTER

Surprising upside in NY census total points to bigger shift in Albany

by E.J. McMahon April 27, 2021

The official 2020 U.S. Census headcount of New York State's population—topping 20 million for the first time—is significantly larger than previous estimates. While the news headlines from yesterday's Census Bureau release focused on the Empire State's narrow loss of one congressional seat, the census count also has potentially more significant implications for the political balance of power and influence within the state.

The last Census Bureau *estimate* of New York's population, released in December 2020, put the resident total at 19,356,776 as of July 1, 2020. This represented a 0.65 percent decline from the previous year, and indicated the state might be on its way to a net decline since the 2010 census, which counted 19,378,102 resident New Yorkers.

But the census data released yesterday for congressional apportionment purposes put New York's 2020 total resident population at 20,201,249. Compared to the 2010 census, this was an ***increase*** of 823,147 residents, or 4.25 percent—the Empire State's second fastest growth rate since the 1960s (it was 5.5 percent during the 1990s), and more than twice the 2000-2010 increase of 2.1 percent.

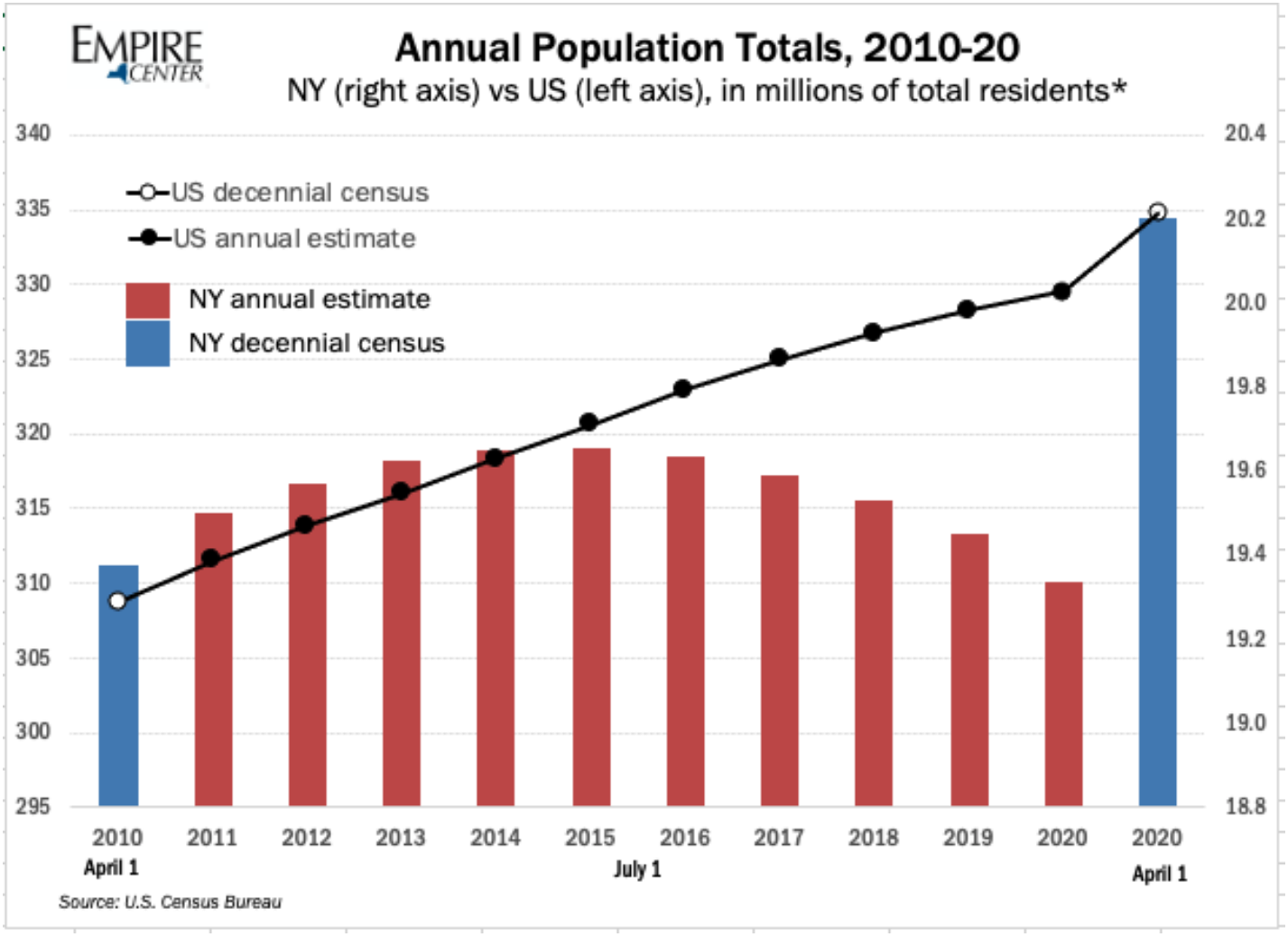
The official decennial census count also exceeded the 2019 estimate by 762,190 people, a difference of 3.9 percent. In percentage terms, the only state with a bigger change from its 2019 estimate was New Jersey, whose 2020 census population count was 4.6 percent higher than its estimate for a year earlier.

In the years between each decennial census—i.e., years not ending in a zero—the annual estimates of state and local populations as of July 1 are compiled from components including public records of births, and deaths, Medicare enrollments of those 65 and

older, and taxpayer migration as tracked by the Internal Revenue Service. The constitutionally mandated national census every ten years is based on a more thorough (but not complete) headcount as of April 1.

For New York, the difference between the latest census estimates and the decennial count is much larger than in any past census cycle of the modern era—and much larger than the national difference, which was just 1.4 percent. In 2010, the official census count for New York was 163,158 residents lower than the 2009 Census estimate, a difference of only 0.8 percent.

The sharp difference between the 2020 Census count and the estimated trend for New York is illustrated below.



While New York's percentage growth in population was below the (slowing) U.S. rate of 7.4 percent, it exceeded those of 17 other states. In absolute terms, New York's population gain of more than 800,000 people was seventh largest among the 50 states, exceeded only by Texas (4 million), Florida (2.7 million), California (2.3 million), Georgia (1 million), Washington (981,000) and North Carolina (904,000).

Where are all those people?

So what accounts for New York's estimate-census gulf? Demographic data grinders suggest at least three possible factors:

- Since 2010, the Census Bureau has changed its annual estimation methodology in a way that resulted in a lower count of foreign immigrants, which have accounted for an especially large share of New York's population growth over the past 40 years.
- New York State and New York City officials provided the Census Bureau with a large number of addresses that were not in the Bureau's master file.
- The Census Bureau had an expanded outreach program for 2020, which for the first time included the option of filling out census forms online. The federal outreach effort was heavily promoted and augmented by immigration activist groups, subsidized by the state and city, in the New York metropolitan area.

These factors don't explain the trends in all immigrant-intensive states, however. For example, the difference between Census estimates and the 2020 official Census in California, Florida and Texas were tiny at 0.2 percent, 0.4 percent and 0.6 percent respectively. New Jersey, on the other hand, had the largest percentage difference between its 2019 estimate and 2020 census count: 4.6 percent.

Such differences—much larger census counts than previous estimates in New York and New Jersey, but little difference at all in other large and well established immigrant-portal states—suggest local factors played a larger role in boosting the 2020 count here.

A final, huge factor was the coronavirus pandemic. Broad lockdowns and shelter-in-place orders took effect in late March, just as millions of residents were filling out their census forms. At the end of March, hundreds of thousands of students at New York

colleges and universities left their dorms and off-campus apartments and returned to their homes. For many resident students at SUNY and private college campuses upstate, "home" is downstate, or elsewhere in the northeast.

The decennial census normally includes resident undergraduate and graduate students in the towns and cities where they live during the school year; and the Census Bureau's estimates and decennial counts are aided enormously by access to college resident student rosters, room counts and off-campus landlord registers.

But, as noted, by the end of March 2020, dorms and rented apartments in college towns and cities across New York State had nearly emptied. How many of their previous occupants were nonetheless counted by the census as on- and off-campus student residents, and how many were included on their parents census forms at home in, say, Long Island and New York City?

We'll have a better idea of the answer to that question when block-level census data are released to government and private researchers in August.

In the meantime, without even considering the pandemic factor, it seems a safe guess that most of the 762,190 people not included in the last census estimate will turn up as residents of New York City and its inner suburbs.

If that's the case, the census data will translate into a net shift of ~~five to seven~~ up to four Assembly seats and ~~two to three~~ up to two state Senate seat~~s~~ to the downstate region (defined as the 12-county metropolitan commuter transportation district including New York City, Long Island and five counties of the lower Hudson Valley). Currently, 22 out of 63 Senate districts are upstate, including one (S.D. 42) located partially in downstate Orange County; and 50 of 150 Assembly districts are upstate, also including one (A.D. 100) partially in Orange County.

P.S. — As it happens, next Tuesday, May 4, is the scheduled release date for annual Census Bureau population *estimates* for states and counties as of July 1, 2020, including components of change such as births and deaths, and domestic and foreign migration. The data will remain interesting for purposes of tracking likely trends but will need to be

taken with an enormous grain of salt, since the total *estimated* state population as of July 1, 2020, will not reflect the 2020 census result, and thus is likely to be much lower than the 2020 census figure.

P.P.S. — One reader, Bill Mahoney of Politico's Albany bureau, immediately pointed to another possible explanation for the estimate-decennial census disparity: perhaps the 2010 census was actually a big undercount of New Yorkers, in which case the subsequent annual estimates would have been made off a base that was too low to begin with. (Then again, if that's was the case, it would also suggest the net change in state population since 2010 was actually small, and that much larger gains occurred between 2000 and 2010, although Great Recession would have squelched that in the last third of the decade.)

This blog post was revised to reflect an updated estimate of the possible shift in legislative seats from upstate to downstate, assuming the state's population growth since 2010 occurred entirely in the downstate region.

ABOUT THE AUTHOR

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Edmund J. McMahon is Empire Center's founder and a senior fellow.

Exhibit 11

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

2020 Census: Municipal Population Shifts in New York State

Overview

New York State's population totaled over 20.2 million in 2020, up 823,000 or 4.1 percent since 2010. This growth was nearly twice the rate seen in the prior decade (2.1 percent), although it was still well below the nationwide rate of 7.2 percent.[1] Most of this increase was in New York City, which grew 7.7 percent between 2010 and 2020, to 8.8 million, far faster than the aggregate rate for any class of local government in the rest of the State. (The remainder of this report highlights our decennial census analysis of the State's remaining cities, as well as its towns and villages.[2])

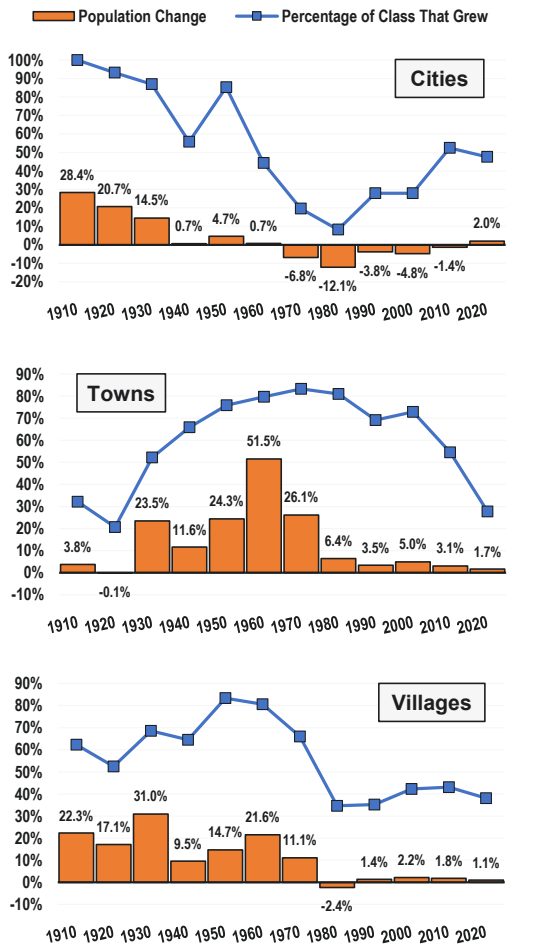
The combined population of the State's cities outside of New York City, nearly 2.3 million persons, has grown by 2 percent compared to 2010. (See Figure 1.) Although fewer than half of them – 29 out of 61 – experienced increases in population, their aggregate growth marks the first time since 1960 that total city population throughout the rest of the State has increased. (New York City's population, in contrast, has been increasing every decade since 1980.)

Statewide town population was over 9.1 million in 2020, an increase of only 1.7 percent over the past decade. This is the slowest growth in total town population in many decades. Only 259 towns or 28 percent saw population increases, much lower than the 55 percent of towns that grew between 2000 and 2010.

The total number of people living in villages in 2020 was 1.9 million, up only 1.1 percent since 2010. However, this slower growth was largely due to the fact that 22 villages dissolved over the decade. The aggregate population of the 533 villages that existed in both 2010 and 2020 grew 2.3 percent. Of these, only 203 had population increases during the period.

Figure 1

Population Change in New York State by Class of Local Government, 1910-2020



Source: U.S. Census Bureau, with calculations by the Office of the State Comptroller (OSC).
Notes: "Cities" does not include New York City.

The release of a new decennial census count can affect cities, towns and villages in several ways, and local officials should be aware of some of the major impacts. Population changes can affect certain revenues, such as local sales tax distributions and federal aid, and change the need for municipal services and infrastructure, among other things. (See page 7 for more details.)

FIND DETAILED DATA ONLINE. To view detailed Census data profiles for an individual county, city, town or village, readers can access our online Interactive Census Dashboard.

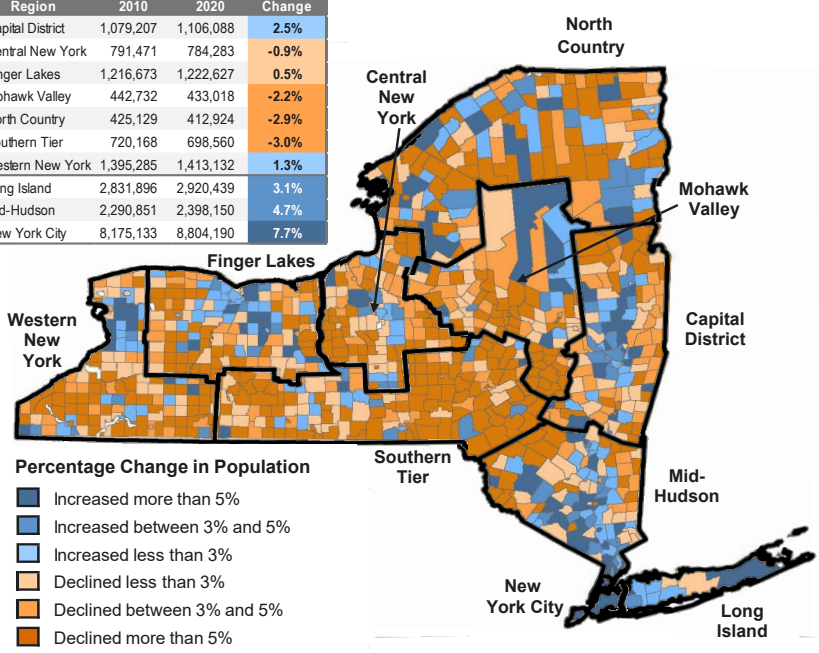
Regional Patterns

The Mid-Hudson region's population grew 4.7 percent to nearly 2.4 million, the largest percentage increase of any region outside of New York City. Long Island, the State's second-most populated region, increased by 3.1 percent from 2010 to over 2.9 million people. Conversely, the Southern Tier experienced the largest percentage decrease at 3.0 percent, closely followed by the North Country and Mohawk Valley, with declines of 2.9 percent and 2.2 percent, respectively. (See Figure 2.)

Figure 2

Regional Changes in Population, 2010 to 2020

	Region	Population 2010	Population 2020	Percentage Change
Upstate	Capital District	1,079,207	1,106,088	2.5%
Upstate	Central New York	791,471	784,283	-0.9%
Upstate	Finger Lakes	1,216,673	1,222,627	0.5%
Upstate	Mohawk Valley	442,732	433,018	-2.2%
Upstate	North Country	425,129	412,924	-2.9%
Upstate	Southern Tier	720,168	698,560	-3.0%
Upstate	Western New York	1,395,285	1,413,132	1.3%
Downstate	Long Island	2,831,896	2,920,439	3.1%
Downstate	Mid-Hudson	2,290,851	2,398,150	4.7%
Downstate	New York City	8,175,133	8,804,190	7.7%



Source: U.S. Census Bureau, with calculations by the OSC.
Notes: The subdivisions in each region show city and town boundaries.

Downstate, in the area surrounding fast-growing New York City, the aggregate population of cities, towns and villages all grew, although some individual local governments had declines.[3] Villages had the strongest total growth, at 6.8 percent, with those in the Mid-Hudson region growing fastest of all, at 8.5 percent. Long Island's towns – including eight of the State's largest (with populations exceeding 100,000) – grew by 3.1 percent in aggregate. Hempstead in Nassau County – the largest town in New York at over 793,000 – also added the most people from 2010 to 2020, increasing by nearly 34,000 (4.4 percent).

Upstate, in contrast, saw more decreases than increases. As a class, upstate villages collectively declined by 6.8 percent, and North Country villages were the hardest hit of any class in any region, declining by 12.2 percent. Upstate town population in aggregate dropped by 0.3 percent. However, total upstate city population increased by 0.8 percent, which was the first time these cities as a group had grown since 1950.

City Trends

Nearly all (11 out of 12) of the State's largest cities outside New York City experienced growth between 2010 and 2020, increasing by a total of 4 percent. Mount Vernon's population grew the fastest, at 9.8 percent, but Buffalo added the most people (17,039) – an increase of 6.5 percent – after losing more than half its population from 1950 to 2010. Growing at a brisk 8 percent, Yonkers passed Rochester as the State's third largest city. (See Figure 3.)

Conversely, almost all (10 out of 12) of the State's smallest cities shrank, declining in aggregate by 3.9 percent. Hudson saw its population drop by over 12 percent, to fewer than 6,000 residents, which was the largest percentage decline of any city in the State.

As shown in Figure 4, the population growth in the cities of Buffalo, Rochester and Syracuse was part of a pattern of growth within their metropolitan areas. In many cases the cities' growth was as strong, or in the case of Buffalo, even stronger than that of the towns and villages immediately surrounding them. The same pattern can also be seen in other cities that experienced growth, including in the Capital District, which is anchored by the medium-sized cities of Albany, Schenectady and Troy.

To a lesser degree, even some smaller cities that experienced growth, such as Ithaca, Kingston and Middletown, were part of overall metropolitan growth patterns.

This is notable because, while the towns and villages in larger metropolitan areas had experienced growth in recent decades, the central cities of these areas had often seen simultaneous population declines.

Figure 3

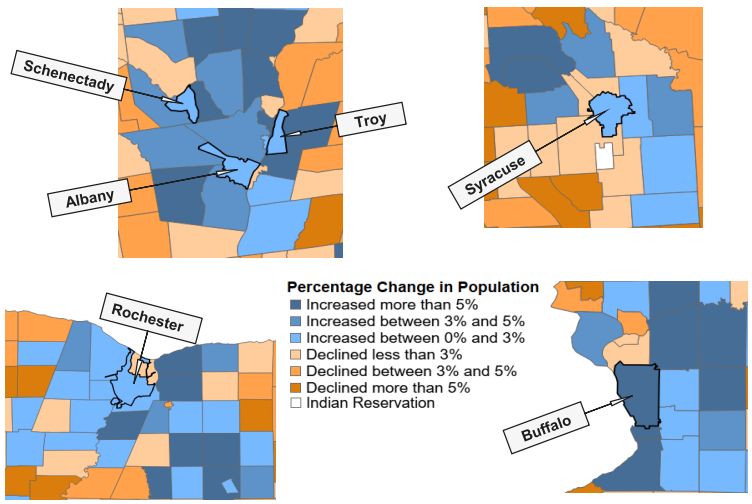
Population Changes in the Largest and Smallest Cities in New York State

City Name	Population 2010	Population 2020	Percentage Change
Buffalo	261,310	278,349	6.5%
Yonkers	195,976	211,569	8.0%
Rochester	210,565	211,328	0.4%
Syracuse	145,170	148,620	2.4%
Albany	97,856	99,224	1.4%
New Rochelle	77,062	79,726	3.5%
Mount Vernon	67,292	73,893	9.8%
Schenectady	66,135	67,047	1.4%
Utica	62,235	65,283	4.9%
White Plains	56,853	59,559	4.8%
Troy	50,129	51,401	2.5%
Niagara Falls	50,193	48,671	-3.0%
Oneida	11,393	10,329	-9.3%
Ogdensburg	11,128	10,064	-9.6%
Rensselaer	9,392	9,210	-1.9%
Port Jervis	8,828	8,775	-0.6%
Hornell	8,563	8,263	-3.5%
Johnstown	8,743	8,204	-6.2%
Norwich	7,190	7,051	-1.9%
Salamanca	5,815	5,929	2.0%
Hudson	6,713	5,894	-12.2%
Mechanicville	5,196	5,163	-0.6%
Little Falls	4,946	4,605	-6.9%
Sherrill	3,071	3,077	0.2%

Source: U.S. Census Bureau, with calculations by the OSC.
Notes: Does not include New York City.

Figure 4

Patterns of Population Growth Within Selected Metropolitan Areas, 2010 to 2020



Source: U.S. Census Bureau, with calculations by the OSC.

Demographic Changes

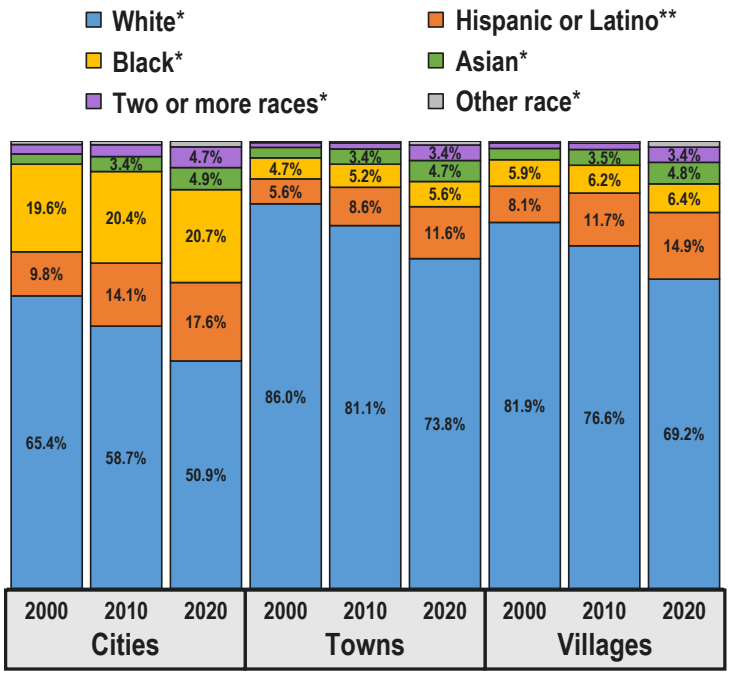
The ongoing shift toward a more diverse society in New York continued over the past decade. Statewide, the number of White persons declined by 6.2 percent, and the Black population fell by 0.9 percent. Meanwhile, all other racial and ethnic groups experienced population increases, including persons of Hispanic and Latino origin and Asian Americans, at 16 percent and 36 percent, respectively. White persons still accounted for just over half of the State's population in 2020, although that was down from more than 58 percent in 2010.

Generally speaking, the area of the State outside of New York City has been following a similar trend, with many cities, towns and villages becoming more diverse. For instance, the percentage of the population reported as White has been gradually decreasing in recent decades in all classes of local government. In cities outside of New York City, this group decreased by nearly 12 percent between 2010 and 2020 and now accounts for just under 51 percent of the aggregate population.[4] (See Figure 5.)

Figure 5

Race and Ethnicity Groups

Share of Total Population by Class of Local Government



Population Change by Class of Local Government

Race or Ethnicity	2010 to 2020		
	Cities	Towns	Villages
White*	-11.6%	-7.5%	-8.8%
Hispanic or Latino**	27.5%	37.9%	27.9%
Black*	3.5%	9.3%	4.2%
Asian*	48.7%	42.3%	38.4%
Two or more races*	83.2%	164.3%	141.8%
Other race*	54.9%	111.3%	194.7%

* Non-Hispanic ** All races

Source: U.S. Census Bureau, with calculations by the OSC.
Notes: "Cities" does not include New York City. The race categories do not include persons of Hispanic or Latino origin, which are shown as a single category inclusive of all races reporting that ethnicity. "Other race" includes American Indian and Alaska Native, Native Hawaiian and Other Pacific Islander, or some other reported race. Data labels less than 3 percent are not shown in the stacked bar chart above.

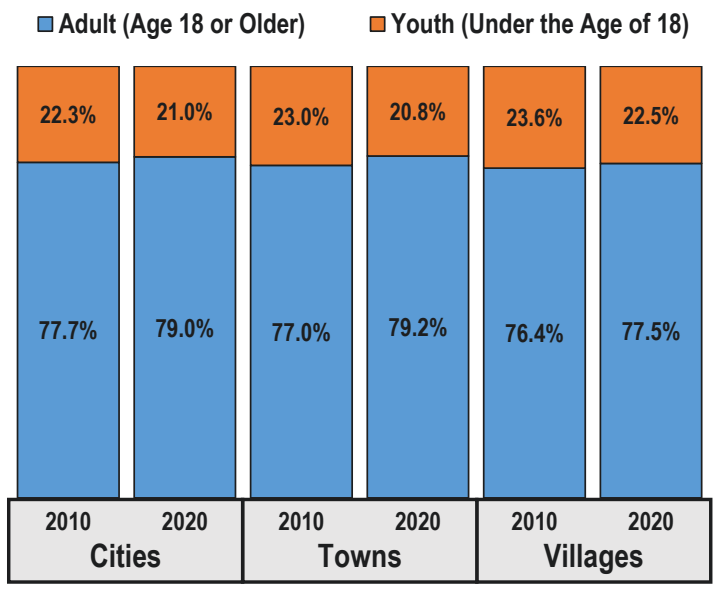
Conversely, the population that identifies as Hispanic or Latino increased anywhere from 28 percent to 38 percent by class of local government. Over the past few decades, this group has continued to increase steadily as a percentage of the population of cities, towns and villages alike, with the largest recent growth in towns. The Asian American population also had significant double-digit growth in all classes of local government, but only accounts for around 5 percent of the total population. The number of people reporting being of two or more races also increased significantly, but makes up an even smaller portion of the overall population.

Bucking the statewide trend, the number of Black persons actually increased in all classes of local government outside of New York City. Towns experienced the largest increase in Black population, at 9.3 percent.

Another change that has been happening across New York is the gradual aging of the overall population. In cities, towns and villages, the share of persons age 18 years or older is increasing. (See Figure 6.) In 2020, adults made up 80 percent of the total State population, up from nearly 78 percent in 2010. Meanwhile, the youth population dropped from 22 percent to just over 20 percent. More granular data by age have not yet been made available by Census.

Figure 6

Adult and Youth Populations as a Share of Total Population by Class of Local Government



Source: U.S. Census Bureau, with calculations by the OSC.
Notes: "Cities" does not include New York City.

Housing Statistics

Housing statistics tend to reflect changes in total population. Across New York, the number of housing units increased by 4.7 percent between 2010 and 2020. Occupied units grew by 5.4 percent and vacant units declined by 2.2 percent, dropping the State's vacancy rate from 9.7 percent to 9.1 percent.[5]

However, the changes in these measures outside of New York City indicate somewhat slower growth. By class, cities in the rest of the State experienced 3.6 percent growth in the number of residential properties, faster than towns or villages. Nearly 89 percent of all cities saw their housing stock increase over the past decade. However, aggregate growth by class in towns and villages was slower, and more than half of all towns and nearly 40 percent of all villages had declines in total housing units. (See Figure 7.)

The changes in occupied and vacant housing units outside New York City also differed from the statewide averages, and varied among classes of government. Once again, the increase in the number of occupied housing units from 2010 to 2020 was highest in cities, at 3.7 percent, but this class also saw a 2 percent increase in vacant units, so overall city vacancy rates stayed fairly constant. In contrast, towns had a slightly lower increase in occupied housing units and a corresponding decrease in vacancies, leading to a decline in town vacancy rates from 11.4 percent to 10.9 percent. Only village vacancy rates rose in aggregate, as the class saw a slight (1.4 percent) increase in occupied housing units at the same time as a large (5.8 percent) increase in the number of vacant units. (See Figure 8.)

Figure 7

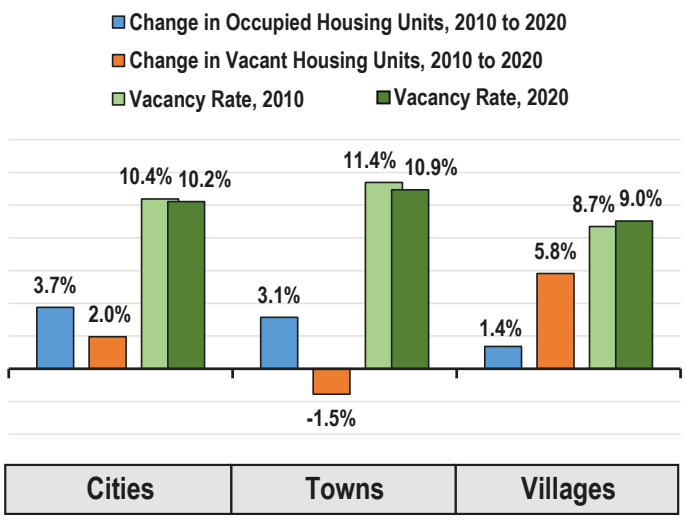
Total Housing Units by Class of Local Government

	Number of Units		Percentage Change	Share of Class That Grew, 2010 to 2020
	2010	2020		
Cities	1,013,898	1,050,010	3.6%	88.5%
Towns	3,719,192	3,816,082	2.6%	47.7%
Villages	779,716	793,150	1.7%	60.1%

Source: U.S. Census Bureau, with calculations by the OSC.
Notes: "Cities" does not include New York City.

Figure 8

Selected Housing Statistics by Class of Local Government



Source: U.S. Census Bureau, with calculations by the OSC.
Notes: "Cities" does not include New York City.

Municipal Impact

There are several things that local officials should be aware of when assessing the results of the 2020 census. Population growth or decline can affect a municipality's revenue sources and infrastructure needs. Demographic changes, such as the number of children or seniors, can affect the need for certain municipal services.

Challenges for local governments with population declines

- Since many counties distribute sales tax collections to municipalities within their borders based on decennial population, intra-county population shifts could affect sales tax revenues for these local governments.[6]
- Long-term population loss and increasing vacancy rates could lead to a reduction in the property tax base.
- Federal aid for certain programs is at least partially based on the latest decennial census. While most federal aid dollars are distributed to the State, some federal programs provide funding directly to local governments.[7]

Opportunities for local governments experiencing rapid population growth

- Population growth generally increases a local government's tax base and is often associated with economic growth. However, an especially rapid increase can bring its own challenges, including strains on existing municipal services (such as public safety, refuse collection and recreation) and infrastructure (such as public drinking water and sewer systems and local roads).

New needs for local governments due to changes in the residential age distribution

- A local government with an aging population may face increasing pressure to provide certain elder services such as in-home care, home-delivered meals, or emergency and nonemergency transportation, among other things.
- In addition, a municipality with a decreasing youth population may need to close or repurpose buildings to manage its existing resources efficiently.
- Conversely, a growth in the number of children may require a municipality to focus more on youth development programs or child and family services.

The population growth and reduced vacancy rates in the State's largest cities outside of New York City reported in the 2020 Census, for the first time in decades, are encouraging signs of these cities' ability to support existing infrastructure and services. Conversely, the continued population decline in many rural towns may make it harder for them to provide certain services. Whatever the trend in any given local government, however, it is vital that local officials are aware of these changes as they plan for the future. For an interactive way to view your local government's Census results, go to the Comptroller's online dashboard at wwe1.osc.state.ny.us/localgov/2020-census-interactive-dashboard.htm.
For information on local government multiyear financial planning, capital planning and other technical assistance, see our Local Government Publications page.[8]

Notes

[1] All population and housing data are taken from the U.S. Census Bureau, *Decennial Census of Population and Housing*, at **www.census.gov/programs-surveys/decennial-census.html**. The 2020 Census encountered unprecedented challenges as a result of the COVID-19 pandemic. However, the Census Bureau found that results of the 2020 Census were comparable to key population data benchmarks and aligned with expert research and corresponding findings over the past decade. For more information, see Roberto Ramirez et al., "2020 Census Results Released Today Are Generally in Line With Expectations," *U.S. Census Bureau*, August 12, 2021, at **www.census.gov/library/stories/2021/08/what-we-know-about-quality-of-2020-census-redistricting-data.html**.

[2] Villages are all located within towns and therefore town population includes village population. Counties are not discussed in this report because their populations are an aggregate of city and town populations. However, decennial census analysis for counties can be found by accessing the Comptroller's online dashboard, at **wwe1.osc.state.ny.us/localgov/2020-census-interactive-dashboard.htm**.

[3] Downstate regions outside of New York City include Long Island and the Mid-Hudson. Upstate regions include the Capital District, Central New York, the Finger Lakes, the Mohawk Valley, the North Country, the Southern Tier and Western New York.

[4] The race categories (e.g. White, Black, Asian, two or more races, and other race) do not include persons of Hispanic or Latino origin, which are shown as a single category inclusive of all races reporting that ethnicity.

[5] The U.S. Census Bureau defines a housing unit as vacant if no one is living in it at the time of the interview, unless its occupants are only temporarily absent. In addition, a vacant unit may be one which is entirely occupied by persons who have a usual residence elsewhere. For more information, see U.S. Census Bureau, *Definitions and Explanations*, p. 3, at **www.census.gov/housing/hvs/definitions.pdf**.

[6] For more information on county sales tax sharing with other local governments, see Office of the State Comptroller, *Understanding Local Government Sales Tax in New York State*, October 2020, at **www.osc.state.ny.us/files/local-government/publications/pdf/understanding-local-government-sales-tax-in-nys-2020-update.pdf**.

[7] U.S. Census Bureau, *Uses of Census Bureau Data in Federal Funds Distribution*, September 2017, at **www2.census.gov/programs-surveys/decennial/2020/program-management/working-papers/Uses-of-Census-Bureau-Data-in-Federal-Funds-Distribution.pdf**.

[8] Available at: **www.osc.state.ny.us/local-government/publications**.

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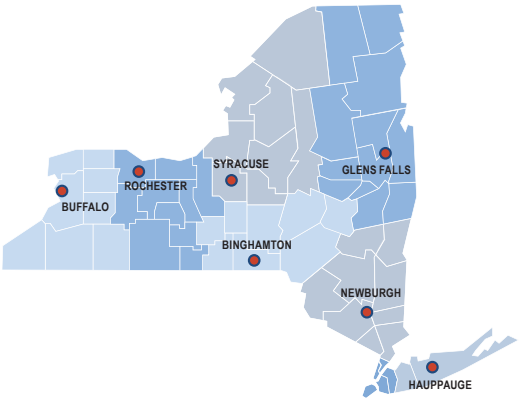

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Exhibit 12

POLITICO

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For the lack of 89 people, New York will lose 1 House seat

New York City, meanwhile, would fall from 11.4 to 11.1 seats. The number of districts north of New York City would fall from 11.7 to 11.1. | Spencer Platt/Getty Images

By **BILL MAHONEY**
04/26/2021 03:55 PM EDT
Updated: 04/26/2021 07:35 PM EDT

ALBANY — New York came 89 people short of maintaining its House delegation at 27 members, according to numbers released by the Census Bureau on Monday. Instead, it will lose one House seat at the start of 2023.

That's the best result for New York since Franklin Roosevelt was in the White House. The state peaked at 45 House seats in the 1930s and 1940s, but had lost at least two members in each of the subsequent decades as its population has grown at a slower rate than the rest of the country.

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New York's population grew by 4.2 percent in the most recent decade, which was close enough to break even. But in raw numbers, it fell just short.

The loss leaves New York with the smallest share of Congress that it has ever had. The state had the country's largest delegation from the 1810s until

California passed it after the 1970 Census. Texas surpassed the state in 2000, and in 2010, Florida and New York both wound up with 27 members. Florida will gain a seat, meaning New York will have the country's fourth-largest number of House members.

The loss of a seat led to immediate political recriminations. Republicans and business groups dusted off long-standing attacks against the state's business climate. And the left assailed Gov. Andrew Cuomo for not doing enough to help drive up the count.

"What's abundantly clear is that Gov. Cuomo bears substantial responsibility for New York losing a congressional seat," said Daniel Altschuler of progressive advocacy group Make the Road New York.

The state spent the run-up to the census missing countless deadlines for figuring out how to increase its response rate. One report that was legally required to be completed by Jan. 2019 wasn't finished until that October. At the start of March 2020, the state still hadn't started what Cuomo had promised would be a $70 million outreach effort.

"What we saw was a failure to allocate enough resources, delays in having any real plan, and whatever money was ultimately dispersed was done so extremely late, and I think by many peoples' accounts, too late to make an appreciable difference in increasing the count," Altschuler said.

Others also blamed Albany officials, but for different reasons.

"New York's tax burden continues to be the worst in the nation, and I have no doubt that's a contributing factor to our sluggish growth," said Justin Wilcox of Upstate United, the business group formerly known as Unshackle Upstate.

MainSizedFixed

What this means for the state's maps: Those big-picture figures are the only numbers available so far. The more detailed numbers that will be used to draw the new lines are due to be released in August and September.

But the estimates released by the Census Bureau in recent years suggest the biggest change could involve one upstate seat being broken up and absorbed into its neighbors.

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On Long Island, for example, there are currently 3.9 districts. That includes the entirety of the seats held by Reps. Lee Zeldin, Andrew Garbarino and Kathleen Rice, most of the seat held by Rep. Tom Suozzi, and a sliver of the seat held by Rep. Gregory Meeks. Zeldin and Garbarino are Republicans and the rest are Democrats.

If the estimates released by the Census Bureau in 2019 were correct, then the number of seats on Long Island would fall to 3.8. That's not a big enough shift to require a wholesale redesign — moving the portion of Meeks' district that's in Nassau County to Rice's district would come pretty close to doing the trick.

New York City, meanwhile, would fall from 11.4 to 11.1 seats. The number of districts north of New York City would fall from 11.7 to 11.1.

The simplest way to address these changes would involve shifting some of the seats near the Bronx-Westchester border a little bit farther north. The Southern Tier district held by outgoing Republican Rep. Tom Reed could be broken up and added to four or five nearby districts, and every other district could undergo relatively minor shifts.

What's next: The big question remains how much can Democrats control the process and gerrymander the lines to their own advantage.

There are certainly ways of creating maps that could benefit the party that controls both houses of the state Legislature. Republican Reps. Claudia Tenney and Elise Stefanik, for example, could be placed in the same district, one that would be made the only area seat that Republicans have a decent chance of winning. The Garbarino and Zeldin districts on Long Island, both of which have elected Republicans in the past four elections, could be blended to create a solid Republican seat and a solid Democratic one.

A constitutional amendment authored by Cuomo nearly a decade ago made such a scenario more difficult. When Republicans control the state Senate, they're able to approve lines with a simple majority of 32 of the chamber's 63 members. Democrats would have needed a supermajority of 42 members, and since such a threshold seemed unrealistic when the amendment was authored in 2012, the widespread assumption was that future lines would need to be balanced enough to have some support from both parties.

Senate Democrats, however, had two of their best election performances in history in 2018 and 2020, and now have 43 members.

But it's not yet guaranteed that this supermajority will stay intact until lines are voted on next winter. Sen. Luis Sepulveda (D-Bronx) is awaiting trial on domestic violence charges, while Sens. Brad Hoylman of Manhattan, Brian Benjamin of Manhattan and Kevin Parker of Brooklyn are all running for local

offices this year. And there's always a chance that a member or two could be unsatisfied with the changes made to their own districts and vote against the maps for reasons of self-preservation.

Democrats have been working on a contingency plan that could let them dominate the process even if they lose a couple of members. A new amendment that will be voted on as a referendum this November would let a Democratic-controlled Senate approve new lines with 38 votes.

There has yet to be any public polling or campaigning on the question. But given that most of this year's high-profile races will be for mayoral posts in Democratic strongholds like New York City, Buffalo and Albany, the odds of its passage are pretty decent even if Republicans succeed in characterizing it as a Democratic power-grab.

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Exhibit 13

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK
ALBANY DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. STATE OF NEW YORK and NEW YORK STATE BOARD OF ELECTIONS, Defendants.	)	Case No. 1:10-CV-1214 (GLS/RFT)

CONSENT DECREE

Plaintiff United States of America ("United States") initiated this action against the State of New York (the "State") and the New York State Board of Elections ("SBOE") to enforce the requirements of the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), 42 U.S.C. §§ 1973ff to 1973ff-7. The United States' complaint alleges a violation of UOCAVA arising from Defendants' failure to transmit absentee ballots to qualified absent uniformed services voters and overseas voters ("UOCAVA voters") in accordance with the terms of the comprehensive plan set forth in New York's approved application for a waiver from UOCAVA requirements. In particular, the United States' Complaint alleges that the Defendants failed to ensure that local election officials transmitted absentee ballots to UOCAVA voters by October 1, 2010. Accordingly, some UOCAVA voters in at least thirteen New York counties will not be provided the time specified under law to receive, mark, and submit their ballots in time to have those ballots counted in the November 2, 2010 Federal general election.

The United States and Defendants, through respective counsel, have conferred and agree that this action should be settled without the delay and expense of litigation. The parties share

the goal of providing UOCAVA voters with sufficient opportunity under Federal law to participate in the November 2, 2010 Federal general election. The parties have negotiated in good faith and hereby agree to the entry of this Consent Decree as an appropriate resolution of the UOCAVA claim alleged by the United States. Accordingly, the United States and Defendants stipulate and agree that:

1. This action is brought by the Attorney General on behalf of the United States pursuant to UOCAVA, as amended by the Military and Overseas Voter Empowerment Act, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-2335 (2009) ("MOVE Act"). UOCAVA provides that absent uniformed services voters and overseas voters shall be permitted "to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office." 42 U.S.C. § 1973ff-1.

2. This Court has jurisdiction pursuant to 42 U.S.C. § 1973ff-4 and 28 U.S.C. §§ 1345 and 2201.

3. The Attorney General is authorized to enforce the provisions of UOCAVA, 42 U.S.C. §1973ff-4, and has brought this enforcement action to ensure that New York's UOCAVA voters will have sufficient opportunity to receive absentee ballots they have requested and submit marked absentee ballots in time to be counted for the November 2, 2010 Federal general election.

4. Defendant State of New York is responsible for complying with UOCAVA, and ensuring that validly-requested absentee ballots are sent to UOCAVA voters in accordance with its terms. 42 U.S.C. § 1973ff-1.

5. Defendant SBOE has jurisdiction of, and is responsible for, the execution and enforcement of statutes governing elections and related procedures in New York State, and as

such is responsible for the administration of State law affecting voting, and for assuring that elections in the State are conducted in accordance with law. See N.Y. ELEC. LAW §§ 3-104(1), 3-100(1), 3-102(1-17). The principal office of the SBOE is in Albany, New York.

6. The local election officials throughout New York State are responsible for complying with all New York State laws, rules, and regulations relating to the administration of the election process for the county that they represent.

7. Pursuant to amendments made by the MOVE Act, UOCAVA requires states to transmit validly-requested ballots to UOCAVA voters not later than 45 days before an election for Federal office when the request is received at least 45 days before the election, unless a hardship exemption is obtained pursuant to Section 102(g) of UOCAVA. 42 U.S.C. § 1973ff-1(a)(8)(A). The 45th day before the November 2, 2010 Federal general election is September 18, 2010.

8. States can be exempted from the requirement to transmit ballots 45 days in advance of a Federal election if they apply for, and are granted, a hardship waiver from the Presidential designee for UOCAVA, the Secretary of Defense. 42 U.S.C. § 1973ff-1(g). A hardship waiver may be granted if (1) the state submits a comprehensive plan in its application for a hardship waiver that "provides absent uniformed services voters and overseas voters sufficient time to receive absentee ballots they have requested and submit marked absentee ballots to the appropriate State election official in time to have that ballot counted in the election for Federal office," and (2) if the state's primary election date, legal contests causing a delay in generating ballots, or provisions of the state's constitution, make complying with the requirement that ballots be transmitted 45 days in advance of a Federal election an undue hardship. 42 U.S.C. §1973ff-1(g)(2).

9. Where a hardship exemption is granted, UOCAVA requires that states transmit validly-requested ballots to UOCAVA voters in accordance with the provisions of the comprehensive plan upon which the hardship waiver is based. 42 U.S.C. §§ 102(a)(8)(A) & 102(g).

10. Pursuant to Section 102(g)(2)(B)(i) of UOCAVA, the State of New York applied for a hardship waiver on grounds that New York's September 14, 2010 primary election prohibited the State from complying with Section 102(a)(8)(A). 42 U.S.C. §§ 1973ff-1(a)(8)(A) & (g)(2)(B)(i). Specifically, New York asserted that local election officials could not transmit absentee ballots to UOCAVA voters by September 18, 2010, the 45th day before the November 2, 2010 Federal general election.

11. Pursuant to Section 102(g)(1)(D) of UOCAVA, the State's hardship application included a comprehensive plan that outlined the steps the State would take to ensure that UOCAVA voters had time to receive, mark, and submit their ballots in time to have the ballot counted. 42 U.S.C. § 1973ff-1(g)(1)(D). New York's comprehensive plan relied on two key provisions that together created a 45-day period for UOCAVA voters to receive, mark, and submit their ballots: (1) the transmission of absentee ballots to UOCAVA voters on October 1, 2010, 32 days before the November 2, 2010 Federal general election, and (2) the deadline of November 15, 2010, 13 days after the election, for receipt of ballots from UOCAVA voters postmarked by November 1, 2010.

12. On August 27, 2010, pursuant to its statutory authority, and based on the comprehensive plan set forth in New York's waiver application, the Department of Defense granted the State's request for a hardship exemption. In its determination letter, the Department of Defense noted the waiver was based "on an understanding that the State of New York will

transmit absentee ballots for the November 2, 2010 Federal general election to UOCAVA voters no later than October 1, 2010."

13. Despite the October 1, 2010 deadline outlined in the comprehensive plan set forth in New York's waiver application, local election officials in New York State nonetheless failed to transmit absentee ballots for the Federal general election to UOCAVA voters by that date in at least thirteen New York counties. Election officials in those counties exceeded the October 1, 2010 deadline for transmitting UOCAVA ballots by periods ranging from four days to nine days.

14. In Kings County, election officials completed transmitting absentee ballots to UOCAVA voters on or around October 10, 2010.

15. In New York and Queens Counties, election officials completed transmitting absentee ballots to UOCAVA voters on or around October 9, 2010.

16. In Bronx and Erie Counties, election officials completed transmitting absentee ballots to UOCAVA voters on or around October 8, 2010.

17. In Richmond County, election officials completed transmitting absentee ballots to UOCAVA voters on or around October 7, 2010.

18. In Niagara, Putnam, and Westchester Counties, election officials completed transmitting absentee ballots to UOCAVA voters on or around October 6, 2010.

19. In Onondaga County, election officials completed transmitting absentee ballots to UOCAVA voters on or around October 5, 2010.

20. Subsequent investigation by the parties has revealed that additional counties mailed their ballots after October 1, 2010, but no later than October 10, 2010, including Albany, Nassau, and Wayne Counties.

21. Local election officials in New York have received timely requests for absentee ballots for the November 2, 2010 Federal general election from voters who are entitled to vote by absentee ballot pursuant to the provisions of UOCAVA.

22. Defendants' failure to ensure that local election officials transmitted absentee ballots by October 1, 2010, as provided by the comprehensive plan in New York's waiver application, violates Section 102(a)(8)(A) of UOCAVA. 42 U.S.C. § 1973ff-1(a)(8)(A).

23. Under New York law, absentee ballots from UOCAVA voters must be postmarked, or show a dated endorsement of receipt by another agency of the United States government, or in the case of military voters, signed and dated by the military voter and one witness thereto, by November 1, 2010, the day before election day, and received within thirteen days after election day in order to be counted. N.Y. ELEC. LAW § 10-114; 11-212.

24. To avoid the burdens, delays, and uncertainties of litigation and to efficiently and expeditiously promote the parties' shared goal of providing UOCAVA voters with sufficient opportunity under Federal law to participate in the November 2, 2010 Federal general election, the parties agree that this Court should enter an order requiring that Defendants ensure that local election officials contact by electronic mail all UOCAVA voters for whom local election officials have electronic mail contact information to notify those voters that they may choose to receive their ballots for the November 2, 2010 Federal general election by telefacsimile, electronic mail, or in an electronic, downloadable Portable Document Format (.pdf) through the State's ballot delivery wizard, instead of by postal mail. If the local election officials lack electronic mail contact information for affected voters, but do have telefacsimile contact information for such voters, the Defendants shall ensure that local election officials provide the notification required by this paragraph by telefacsimile. Said electronic mail or telefacsimile communication with

these voters shall explain the terms of this agreement. Said communication shall also provide these voters with instructions on how to access electronically, download, and print their ballots through the State's online ballot delivery system if the voter so chooses. Said communication shall also advise all overseas uniformed services voters of the Department of Defense's program for collection and delivery of return ballots by expedited mail delivery service to local election officials.

25. To ensure that New York's UOCAVA voters will have sufficient opportunity under Federal law to receive absentee ballots they have requested and submit marked absentee ballots in time to be counted for the November 2, 2010 Federal general election, the parties agree that this Court should enter an order providing that ballots from all UOCAVA voters qualified to vote in the State that are executed and postmarked by November 1, 2010, and received by the close of business on November 24, 2010, will be accepted and tabulated in the final general election results.

26. The parties reserve the right to modify this agreement as necessary, and to seek additional supplemental relief, if information regarding additional UOCAVA violations is discovered.

WHEREFORE, the parties having freely given their consent, and the terms of the Decree being fair, reasonable, and consistent with the requirements of UOCAVA, it is hereby ORDERED, ADJUDGED, AND DECREED that:

(1) SBOE shall ensure that local election officials in New York State take such steps as are necessary to count as validly cast ballots in the November 2, 2010 Federal general election all those ballots, including Federal Write-in Absentee Ballots, cast by absent uniformed services voters and overseas voters qualified

to vote in the State pursuant to UOCAVA, provided such ballots are executed and postmarked or show a dated endorsement of receipt by another agency of the United States government (or in the case of military voters, are signed and dated by the military voter and one witness thereto) by November 1, 2010, received by November 24, 2010, and are otherwise valid. In the event that local election officials receive more than one ballot from a single qualified voter, the SBOE will ensure that local election officials resolve any conflicts according to existing procedures under State law.

(2) SBOE shall ensure that local election officials contact by electronic mail all UOCAVA voters for whom local election officials have electronic mail contact information to notify those voters that they may choose to receive their ballots for the November 2, 2010 Federal general election by telefacsimile, electronic mail, or in an electronic, downloadable Portable Document Format (.pdf) through the State's ballot delivery wizard, instead of by postal mail. If the local election officials lack electronic mail contact information for affected voters, but do have telefacsimile contact information for such voters, the SBOE shall ensure that the local election officials shall provide the notification required by this paragraph by telefacsimile. Said electronic mail or telefacsimile communication with these voters shall explain the terms of this agreement. Said communication shall also provide these voters with instructions on how to access electronically, download, and print their ballots through the State's online ballot delivery system if the voter so chooses. Said communication shall also advise all uniformed services voters located overseas of the Department of Defense's program for collection and delivery of return ballots by expedited mail delivery

service to local election officials. Said communications shall be made no later than two business days after entry of this Consent Decree.

(3) Upon entry of this Consent Decree, SBOE shall notify the Director of the Federal Voting Assistance Program of the United States Department of Defense ("FVAP") and request assistance in notifying military and other eligible voters of the relief afforded in this order, and coordinate with FVAP as necessary to facilitate such notice.

(4) Upon the entry of this Consent Decree, SBOE shall take the following steps to endeavor to give affected voters notice of the contents of this order: (a) issue a press statement for immediate release, posted immediately on the State's election information website, and distributed as broadly and immediately as practicable to national and local wire services, to radio and television broadcast stations and to daily newspapers of general circulation in the State, including the New York City metropolitan area. The release shall also be distributed to the Federal Voting Assistance Program; the New York Times (http://www.nytimes.com); International Herald Tribune (http://www.iht.com); USA Today International (http://www.usatoday.com); Military Times Media Group (cvinch@militarytimes.com); Overseas Vote Foundation (http://www.overseasvotefoundation.org/intro/); Stars and Stripes (www.estripes.com), and other appropriate news media in the State of New York. The news release shall, at a minimum: (a) summarize this order, including an explanation that the deadline for receipt of the ballot has been extended to November 24, 2010; (b) identify the contests for Federal office

that will be on the ballot on November 2, 2010; (c) notify UOCAVA voters that they may choose to receive their ballots for the November 2, 2010 Federal general election by telefacsimile, electronic mail, or in an electronic, downloadable Portable Document Format (.pdf) through the State's ballot delivery wizard, instead of by postal mail; and (d) provide appropriate contact information at the SBOE for assistance. SBOE shall also prepare and distribute written public service announcements describing this order for broadcast on radio and television networks, including but not limited to the media described above.

(5) SBOE shall provide written certification to counsel of record for the United States that all absentee ballots validly requested by UOCAVA voters by October 1, 2010 have been transmitted; such certification shall be provided no later than three business days after the entry of this order. This certification for each county will include: (a) the number of UOCAVA absentee ballot requests received prior to September 18, 2010, between September 19, 2010 and October 1, 2010, and between October 1, 2010 and the date each county completed transmitting those ballots; (b) the number of UOCAVA absentee ballot requests, by the requested method of transmittal, for all UOCAVA absentee ballot requests received prior to the date each county completed transmitting those ballots; and (c) by date, the number of UOCAVA ballots transmitted and the method of transmittal thereof where the ballot was requested prior to the date each county completed transmitting those ballots.

(6) SBOE shall file a report with counsel of record for the United States no later than December 17, 2010, concerning the number of UOCAVA absentee ballots, by county, received and counted for the November 2, 2010 general Federal election. The report will set forth the following information, by county, categorized by absent uniformed services voters with APO/FPO addresses or non- US street addresses; uniformed services voters at a street address within the US; and overseas civilian voters:

a. The number of absentee ballots from UOCAVA voters received by local election officials before the close of business on November 15, 2010, and counted;

b. The number of absentee ballots from UOCAVA voters received and counted after the close of business on November 15, 2010, but prior to the close of business on November 24, 2010;

c. The number of absentee ballots from UOCAVA voters received later than the close of business on November 24, 2010; and

d. The number of absentee ballots from UOCAVA voters that were not counted in the general election for Federal office, for reasons other than late receipt, and the reasons such ballots were not counted.

(7) The parties acknowledge that, in the absence of a waiver from the Department of Defense, changes in state law, the state election schedule, and/or election

procedures are necessary to prevent future violations of UOCAVA. The Defendants are committed to exploring the need for future relief, including possible changes of law or administrative regulation to assure that UOCAVA voters shall have a fair and reasonable opportunity to participate in future Federal elections, and to address potential UOCAVA violations arising from the State's Federal election schedule or election practices. The parties agree to confer on the progress of these efforts, and Defendants shall provide a status report to the United States Department of Justice by April 1, 2011.

The Court shall retain jurisdiction over this action to enter such further relief as may be necessary for the effectuation of the terms of this Consent Decree and to ensure compliance with Section 102(a)(8)(A) of UOCAVA through December 31, 2012.

The undersigned agree to entry of this Consent Decree on October 19, 2010:

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SO ORDERED this 19 day of October, 2010.

Gary L. Sharpe
United States District Judge
Gary L. Sharpe

Exhibit 14

NYS Board of Elections United States Senator Election Returns June 26, 2012

County	Wendy Long	Bob Turner	George Maragos
	REPUBLICAN		
Albany	867	750	121
Allegany	432	330	82
Broome	1,665	1,173	301
Cattaraugus	614	256	104
Cayuga	620	165	39
Chautauqua	1,004	374	100
Chemung	775	342	99
Chenango	794	481	167
Clinton	588	285	156
Columbia	600	241	53
Cortland	670	175	58
Delaware	562	277	97
Dutchess	1,827	1,076	230
Erie	7,675	3,628	1,140
Essex	633	204	64
Franklin	255	151	31
Fulton	695	397	123
Genesee	1,044	488	138
Greene	342	180	33
Hamilton	228	88	29
Herkimer	969	491	148
Jefferson	1,207	611	163
Lewis	296	191	40
Livingston	1,091	423	81
Madison	859	280	66
Monroe	4,730	1,925	545
Montgomery	438	140	46
Nassau	3,828	6,022	7,928
Niagara	2,134	883	315
Oneida	2,930	1,528	338
Onondaga	3,197	641	195
Ontario	1,068	359	75
Orange	1,445	1,034	216

County	Wendy Long	Bob Turner	George Maragos
	REPUBLICAN		
Orleans	690	245	117
Oswego	1,080	322	115
Otsego	561	340	78
Putnam	642	340	86
Rensselaer	791	494	110
Rockland	1,064	1,442	268
Saratoga	2,086	1,050	286
Schenectady	720	385	96
Schoharie	175	142	41
Schuyler	198	99	22
Seneca	352	75	25
St. Lawrence	980	448	129
Steuben	1,138	406	106
Suffolk	5,990	4,707	2,803
Sullivan	240	201	55
Tioga	712	255	49
Tompkins	449	180	90
Ulster	732	503	123
Warren	867	430	161
Washington	632	367	129
Wayne	815	172	40
Westchester	2,426	3,601	918
Wyoming	879	290	86
Yates	399	83	21
Total Outside NYC	**70,700**	**42,166**	**19,275**
Bronx	446	450	147
Kings	907	4,496	318
New York	1,291	1,446	352
Queens	1,328	4,513	646
Richmond	1,252	1,125	264
Total NYC	**5,224**	**12,030**	**1,727**
Statewide Total	**75,924**	**54,196**	**21,002**

NYS Board of Elections Representative in Congress
Election Returns June 26, 2012

1st Congressional District

County	Randy Alschuler	George G. Demos
	REP	REP
Nassau	7,394	1,166
RECAP	**7,394**	**1,166**

4th Congressional District

County	Frank J. Scaturro	Francis X. Becker, Jr.
	REP	REP
Nassau	5,175	6,357
RECAP	**5,175**	**6,357**

County	Francis X. Becker, Jr.	OTB (Frank Scaturro)
	CON	CON
Nassau	194	253
RECAP	**194**	**253**

5th Congressional District

County	Joseph R. Marthone	Mike Scala	Gregory W. Meeks	Allan W. Jennings, Jr.
	DEM	DEM	DEM	DEM
Part of Nassau	192	153	519	169
Part of Queens	1,135	1,541	9,401	1,803
Total	**1,327**	**1,694**	**9,920**	**1,972**
RECAP	**1,327**	**1,694**	**9,920**	**1,972**

6th Congressional District

County	Rory I. Lancman	Robert Mittman	Grace Meng	Elizabeth S. Crowley
	DEM	DEM	DEM	DEM
Queens	7,089	1,462	14,825	4,606
RECAP	**7,089**	**1,462**	**14,825**	**4,606**

7th Congressional District

County	Daniel J. O'Connor	George Martinez	Nydia M. Velazquez	Erik Martin Dilan
	DEM	DEM	DEM	DEM
Part of New York	574	149	3,146	255
Part of Kings	618	540	13,157	9,867
Part of Queens	159	56	905	286
Total	**1,351**	**745**	**17,208**	**10,408**
RECAP	**1,351**	**745**	**17,208**	**10,408**

8th Congressional District

County	Hakeem S. Jeffries	Charles Barron
	DEM	DEM
Part of Kings	27,504	11,035
Part of Queens	767	95
Total	**28,271**	**11130**
RECAP	**28,271**	**11130**

9th Congressional District

County	Yvette D. Clarke	Sylvia G. Kinard
	DEM	DEM
Queens	15,069	1,993
RECAP	**15,069**	**1,993**

13th Congressional District

County	Joyce S. Johnson	Craig Schley	Charles B. Rangel	Clyde Edward Williams, Jr.	Adriano Espaillat
	DEM	DEM	DEM	DEM	DEM
Part of New York	849	532	16,889	3,961	15,570
Part of Bronx	169	66	2,298	305	2,531
Total	1,018	598	19,187	4,266	18,101
RECAP	1,018	598	19,187	4,266	18,101

16th Congressional District

County	Eliot L. Engel	Aniello A.M. Grimaldi
	DEM	DEM
Part of Bronx	5,585	1,192
Part of Westchester	7,271	672
Total	12,856	1,864
RECAP	12,856	1,864

17th Congressional District

County	Jim Russell	Joe Carvin
	REP	REP
Rockland	887	1,881
Part of Westchester	1,420	2,344
Total	2,307	4,225
RECAP	2,307	4,225

18th Congressional District

County	Sean Patrick Maloney	Duane Jackson	Richard H. Becker	Matthew C. Alexander	Thomas Wilson
	DEM	DEM	DEM	DEM	DEM
Orange	3,641	304	2,466	155	255
Putnam	1,231	43	559	158	16
Part of Dutchess	1,635	399	929	1,332	74
Part of Westchester	986	34	1,082	212	11
Total	7,493	780	5,036	1,857	356
RECAP	7,493	780	5,036	1,857	356

19th Congressional District

County	Julian Schreibman	Joel Tyner
	DEM	DEM
Columbia	960	417
Delaware	334	183
Greene	293	156
Otsego	379	636
Schoharie	150	93
Sullivan	830	247
Ulster	2,494	1,622
Part of Broome	8	3
Part of Dutchess	753	1,136
Part of Montgomery	84	31
Part of Rensselaer	368	133
Total	6,653	4,657
RECAP	6,653	4,657

21st Congressional District

County	Kellie A. Greene	Matthew A. Doheny
	REP	REP
Clinton	234	860
Essex	278	693
Franklin	134	337
Fulton	293	915
Hamilton	69	288
Jefferson	753	1,456
Lewis	218	386
St. Lawrence	504	1,177
Warren	467	1,113
Washington	372	771
Part of Herkimer	67	225
Part of Saratoga	458	1,110
Total	3,847	9,331
RECAP	3,847	9,331

22nd Congressional District

County	Michael J. Kicinski, Sr.	Richard L. Hanna
	REP	REP
Chenango	703	892
Cortland	252	677
Madison	493	704
Oneida	1,220	4,271
Part of Broome	1,063	2,177
Part of Herkimer	224	1,285
Part of Oswego	268	467
Part of Tioga	91	154
Total	4,314	10,627
RECAP	4,314	10,627

23rd Congressional District

County	Nate Shinagawa	Melissa K. Dobson	Leslie Danks Burke
	DEM	DEM	DEM
Allegany	122	52	209
Cattaraugus	439	112	255
Chautauqua	1,096	181	513
Chemung	692	149	255
Schuyler	139	40	264
Seneca	114	38	201
Steuben	539	185	377
Tompkins	2,599	107	1,613
Yates	128	27	214
Part of Ontario	111	54	183
Part of Tioga	183	88	162
Total	6,162	1,033	4,246
RECAP	6,162	1,033	4,246

27th Congressional District

County	Chris Collins	David G. Bellavia
	REP	REP
Genesee	742	1,147
Livingston	760	873
Orleans	432	776
Wyoming	670	762
Part of Erie	6,328	2,218
Part of Monroe	234	422
Part of Niagara	2,086	942
Part of Ontario	425	690
Total	11,677	7,830
RECAP	11,677	7,830

NYS Board of Elections
Representative in Congress
Election Returns June 24, 2014

1st Congressional District

County	George Demos	Lee M. Zeldin
	REP	REP
Part of Suffolk	6,482	10,283
RECAP	**6,482**	**10,283**

3rd Congressional District

County	Grant M. Lally	Stephen A. Labate
	REP	REP
Part of Nassau	1,778	1,981
Part of Queens	367	381
Part of Suffolk	1,294	1,066
Total	3,439	3,428
RECAP	**3,439**	**3,428**

4th Congressional District

County	Kevan M. Abrahams	Kathleen M. Rice
	DEM	DEM
Part of Nassau	5,791	7,770
RECAP	**5,791**	**7,770**

4th Congressional District

County	Bruce A. Blakeman	Frank J. Scaturro	
	REP	REP	
Part of Nassau	9,083	4,687	
RECAP	**9,083**	**4,687**	

4th Congressional District

County	Opportunity To Ballot	Bruce A. Blakeman
	CON	CON
Part of Nassau	333	664
RECAP	**333**	**664**

5th Congressional District

County	Joseph R. Marthone	Gregory W. Meeks
	DEM	DEM
Part of Nassau	131	400
Part of Queens	1,892	7,719
Total	2,023	8,119
RECAP	2,023	8,119

7th Congressional District

County	Nydia M. Valezquez	Jeffrey M. Kurzon
	DEM	DEM
Part of Kings	5,497	1,245
Part of New York	1,645	381
Part of Queens	485	170
Total	7,627	1,796
RECAP	7,627	1,796

13th Congressional District

County	Michael A. Walrond, Jr.	Charles B. Rangel	Yolanda Garcia	Adriano Espaillat
	DEM	DEM	DEM	DEM
Part of Bronx	248	2,952	176	3,557
Part of New York	3,723	20,913	423	18,050
Total	3,971	23,865	599	21,607
RECAP	3,971	23,865	599	21,607

15th Congressional District

County	Jose E. Serrano	Sam Sloan
	DEM	DEM
Part of Bronx	10,346	1,004
RECAP	10,346	1,004

18th Congressional District

County	Nan Hayworth	Sean Patrick Maloney
	IND	IND
Orange	367	396
Putnam	123	98
Part of Dutchess	215	138
Part of Westchester	75	50
Total	780	682
RECAP	780	682

21st Congressional District

County	Matthew A. Doheny	Elise M. Stefanik
	REP	REP
Clinton	742	1,520
Essex	567	1,240
Franklin	345	846
Fulton	627	1,460
Hamilton	258	324
Jefferson	2,655	2,724
Lewis	570	870
St. Lawrence	1,712	2,082
Warren	1,041	2,032
Washington	728	1,330
Part of Herkimer	239	241
Part of Saratoga	1,136	1,820
Total	10,620	16,489
RECAP	10,620	16,489

22nd Congressional District

County	Claudia Tenney	Richard L. Hanna
	REP	REP
Chenango	1,230	1,440
Cortland	644	969
Madison	1,270	1,159
Oneida	4,598	5,975
Part of Broome	3,972	3,511
Part of Herkimer	1,180	2,052
Part of Oswego	717	774
Part of Tioga	389	239
Total	14,000	16,119
RECAP	14,000	16,119

NYS Board of Elections
Primary for Representative in Congress
Election Returns June 28, 2016

1st Congressional District

County	David L. Calone DEM	Anna E. Throne-Holst DEM
Part of Suffolk	6,162	6,479

1st Congressional District

County	Anna E. Throne-Holst WEP	Opportunity To Ballot WEP
Part of Suffolk	2	0

3rd Congressional District

County	Jon Kaiman DEM	Steve Stern DEM	Jonathan C. Clarke DEM	Thomas R. Suozzi DEM	Anna Kaplan DEM
Part of Nassau	3,187	1,353	534	4,366	1,884
Part of Queens	854	372	184	1,618	850
Part of Suffolk	353	2,750	303	1,158	577
Total	**4,394**	**4,475**	**1,021**	**7,142**	**3,311**

5th Congressional District

County	Gregory W. Meeks DEM	Ali A. Mirza DEM
Part of Nassau	380	231
Part of Queens	6,676	1,348
Total	**7,056**	**1,579**

6th Congressional District

County	Danniel Maio	Juong Won Joung
	OPP. TO BALLOT	OPP. TO BALLOT
	REF	REF
Part of Queens	1	1

7th Congressional District

County	Nydia M. Valezquez	Yungman F. Lee	Jeffrey M. Kurzon
	DEM	DEM	DEM
Part of Kings	7,793	2,225	1,278
Part of New York	1,754	2,059	325
Part of Queens	615	195	133
Total	**10,162**	**4,479**	**1,736**

8th Congressional District

County	Pamela Green Perkins	Tony Danza
	OPP. TO BALLOT	OPP. TO BALLOT
	REF	REF
Part of Kings	1	1
Part of Queens	0	0
Total	**1**	**1**

9th Congressional District

County	Maria R. Guastella
	OPP. TO BALLOT
	REF
Part of Kings	1

10th Congressional District

County	Jerrold L. Nadler	Mikhail Oliver Rosenberg
	DEM	DEM
Part of Kings	1,636	1,504
Part of New York	25,634	1,702
Total	**27,270**	**3,206**

12th Congressional District

County	Carolyn B. Maloney	Peter Lindner
	DEM	DEM
Part of Kings	722	167
Part of New York	12,832	1,325
Part of Queens	1,547	162
Total	**15,101**	**1,654**

12th Congressional District

County	Donald M. Sachs	Ivanka Trump	Robert Ardini	Ronald Pichler
	OPP. TO BALLOT	OPP. TO BALLOT	OPP. TO BALLOT	OPP. TO BALLOT
	REF	REF	REF	REF
Part of Kings	0	0	0	0
Part of New York	1	2	1	1
Part of Queens	0	0	0	0
Total	**1**	**2**	**1**	**1**

13th Congressional District

County	Clyde E. Williams	Suzan D. Johnson-Cook	Adriano Espaillat	Keith L. T. Wright	Guillermo Linares	Sam Sloan	Michael Gallagher	Yohanny M. Caceres	Adam Clayton Powell
	DEM	DEM	DEM	DEM	DEM	DEM	DEM	DEM	DEM
Part of Bronx	289	319	2,484	1,476	379	71	95	25	507
Part of New York	4,714	2,022	13,893	14,052	2,125	156	340	91	2,479
Total	**5,003**	**2,341**	**16,377**	**15,528**	**2,504**	**227**	**435**	**116**	**2,986**

13th Congressional District

County	Adriano Espallat	Clyde Williams
	OPP. TO BALLOT	OPP. TO BALLOT
	REF	REF
Part of Bronx	0	0
Part of New York	1	1
Total	1	1

15th Congressional District

County	Jose E. Serrano	Leonel Baez
	DEM	DEM
Part of Bronx	9,334	1,127

16th Congressional District

County	Opportunity To Ballot
	REF
Part of Bronx	0
Part of Westchester	0
Total	0

18th Congressional District

County	Phil Oliva	Kenneth Del Vecchio
	REP	REP
Orange	1,511	1,382
Putnam	675	510
Part of Dutchess	851	527
Part of Westchester	537	277
Total	3,574	2,696

19th Congressional District

County	Will Yandik DEM	Zephyr Teachout DEM
Columbia	1,903	1,387
Delaware	303	622
Greene	383	419
Otsego	515	1,149
Schoharie	124	421
Sullivan	263	1,119
Ulster	1,259	5,558
Part of Broome	6	18
Part of Dutchess	533	2,304
Part of Montgomery	47	74
Part of Rensselaer	225	730
Total	**5,561**	**13,801**

19th Congressional District

County	Andrew Heaney REP	John J. Faso REP
Columbia	353	1,712
Delaware	452	1,098
Greene	230	1,367
Otsego	486	1,157
Schoharie	138	708
Sullivan	299	788
Ulster	1,363	1,597
Part of Broome	17	74
Part of Dutchess	1,565	1,118
Part of Montgomery	74	223
Part of Rensselaer	276	1,080
Total	**5,253**	**10,922**

22nd Congressional District

County	George K. Phillips	Claudia Tenney	Steven M. Wells
	REP	REP	REP
Chenango	282	694	886
Cortland	431	305	501
Madison	213	927	938
Oneida	649	4,435	2,764
Part of Broome	3,571	1,434	1,621
Part of Herkimer	194	1,096	759
Part of Oswego	156	535	365
Part of Tioga	220	123	151
Total	**5,716**	**9,549**	**7,985**

22nd Congressional District

County	Claudia Tenney	Martin Babinec	George K. Phillips
		OPP. TO BALLOT	OPP. TO BALLOT
	REF	REF	REF
Chenango	0	0	0
Cortland	0	0	0
Madison	0	0	0
Oneida	1	1	0
Part of Broome	4	0	1
Part of Herkimer	1	20	0
Part of Oswego	0	0	0
Part of Tioga	0	0	0
Total	**6**	**21**	**1**

24th Congressional District

County	Colleen Deacon	Eric Kingson	Steve Williams
	DEM	DEM	DEM
Cayuga	615	361	148
Onondaga	5,283	3,197	2,037
Wayne	188	197	201
Part of Oswego	431	239	171
Total	**6,517**	**3,994**	**2,557**

Certified Results for the June 26, 2018 Federal Primary Election

1st Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Part of Suffolk County Vote Results	Total Votes by Candidate
David Pechefsky (DEM)	2,565	**2,565**
Kate M. Browning (DEM)	6,813	**6,813**
Elaine Di Masi (DEM)	1,344	**1,344**
Perry Gershon (DEM)	7,902	**7,902**
Vivian M. Viloria-Fisher (DEM)	3,616	**3,616**
Total Votes by County	**22,240**	**22,240**

2nd Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Part of Nassau County Vote Results	Part of Suffolk County Vote Results	Total Votes by Candidate
Du Wayne Gregory (DEM)	525	4,931	**5,456**
Liuba Grechen Shirley (DEM)	2,262	5,053	**7,315**
Total Votes by County	**2,787**	**9,984**	**12,771**

5th Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Part of Nassau County Vote Results	Part of Queens County Vote Results	Total Votes by Candidate
Gregory W. Meeks (DEM)	581	10,479	**11,060**
Mizan Chaudhury (DEM)	91	1,109	**1,200**
Carl H. Achille (DEM)	468	820	**1,288**
Total Votes by County	**1,140**	**12,408**	**13,548**

7th Congressional District - Reform - Federal Primary June 26, 2018

Candidate Name (Party)	Part of Kings County Vote Results	Part of New York County Vote Results	Part of Queens County Vote Results	Total Votes by Candidate
Adam Wronecki (REF)	0	0	3	**3**
Alexandria Ocasio-Cortez (REF)	3	0	3	**6**
Carl Achille (REF)	0	0	1	**1**
John Flateau (REF)	1	0	1	**2**
Kirsten Gillibrand (REF)	4	0	1	**5**
Luke Schantz (REF)	0	0	1	**1**
Maria R. Guastella (REF)	1	1	1	**3**
Maritza Davila (REF)	0	0	1	**1**
Michael Grimm (REF)	0	0	2	**2**
Mizan Chowdury (REF)	0	0	1	**1**
Mizanur Raman (REF)	0	0	1	**1**
Nydia M. Velazquez (REF)	14	1	2	**17***
Robert Siano (REF)	0	0	1	**1**
Suraj Patel (REF)	12	4	1	**17***
Zephyr Teachout (REF)	0	0	1	**1**
Aiden Grunow (REF)	1	0	0	**1**
Aidia Velasquez (REF)	1	0	0	**1**
Brian Flynn (REF)	1	0	0	**1**
Carolyn Maloney (REF)	1	2	0	**3**
Cyntha Nixon (REF)	1	0	0	**1**
Dan Donovan (REF)	2	1	0	**3**
Dana Balter (REF)	1	0	0	**1**
Dane Benko (REF)	1	0	0	**1**
David Pechefsky (REF)	1	0	0	**1**
Helen Ulane (REF)	1	0	0	**1**
Hillary Clinton (REF)	1	0	0	**1**
Kate Browning (REF)	1	1	0	**2**
Kate Davis (REF)	1	0	0	**1**
Lauren Colchamiro (REF)	1	0	0	**1**
Lawerance Lessig (REF)	1	0	0	**1**
Lucille Torres (REF)	1	0	0	**1**
Mac Mahoney (REF)	1	0	0	**1**
Maribel De La Cruz (REF)	1	0	0	**1**

7th Congressional District - Reform - Federal Primary June 26, 2018 *(continued)*

Candidate Name (Party)	Part of Kings County Vote Results	Part of New York County Vote Results	Part of Queens County Vote Results	Total Votes by Candidate
Max Rose (REF)	1	0	0	**1**
Meilyn Soto (REF)	1	0	0	**1**
Melendez Freier (REF)	1	0	0	**1**
Michael Devito (REF)	1	0	0	**1**
Michael Devito, Jr. (REF)	1	0	0	**1**
Michelle Obama (REF)	1	0	0	**1**
Perry Gorshon (REF)	1	0	0	**1**
Stephanie Miner (REF)	1	0	0	**1**
Stephen Colbert (REF)	1	0	0	**1**
Teddy Roosevelt (REF)	1	0	0	**1**
Yvette D. Clarke (REF)	6	0	0	**6**
Bill De Blasio (REF)	0	1	0	**1**
Curtis Sliva (REF)	0	1	0	**1**
Evan Winston (REF)	0	1	0	**1**
James Comey (REF)	0	1	0	**1**
James Dillion (REF)	0	1	0	**1**
Keith Kenaga (REF)	0	1	0	**1**
Omar Vald (REF)	0	1	0	**1**
Ron Kim (REF)	0	1	0	**1**
William Rockwell (REF)	0	1	0	**1**
Yuh-Line Niou (REF)	0	1	0	**1**
Zola Fazzolave (REF)	0	1	0	**1**
Total Votes by County	**70**	**21**	**21**	**78**

**The Primary resulted in a tie. Pursuant to NY Election Law Section 6-148(1) Jeffrey M. Kurzon was substituted for the nomination.*

9th Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Part of Kings County Vote Results	Total Votes by Candidate
Adem Bunkeddeko (DEM)	14,350	**14,350**
Yvette D. Clarke (DEM)	16,202	**16,202**
Total Votes by County	**30,552**	**30,552**

11th Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Richmond County Vote Results	Part of Kings County Vote Results	Total Votes by Candidate
Omar Vaid (DEM)	933	656	**1,589**
Michael DeVito, Jr. (DEM)	2,674	968	**3,642**
Zach Emig (DEM)	143	106	**249**
Paul Sperling (DEM)	354	132	**486**
Radhakrishna Mohan (DEM)	633	86	**719**
Max N. Rose (DEM)	7,924	3,615	**11,539**
Total Votes by County	**12,661**	**5,563**	**18,224**

11th Congressional District - Republican - Federal Primary June 26, 2018

Candidate Name (Party)	Richmond County Vote Results	Part of Kings County Vote Results	Total Votes by Candidate
Michael G. Grimm (REP)	6,943	1,014	**7,957**
Dan Donovan (REP)	10,933	2,582	**13,515**
Total Votes by County	**17,876**	**3,596**	**21,472**

11th Congressional District - Conservative - Federal Primary June 26, 2018

Candidate Name (Party)	Richmond County Vote Results	Part of Kings County Vote Results	Total Votes by Candidate
Dan Donovan (CON)	495	115	**610**
Max N. Rose (CON)	2	1	**3**
Michael G. Grimm (CON)	460	37	**497**
Total Votes by County	**957**	**153**	**1,110**

12th Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Part of Kings County Vote Results	Part of New York County Vote Results	Part of Queens County Vote Results	Total Votes by Candidate
Carolyn B. Maloney (DEM)	1,588	21,762	3,392	**26,742**
Suraj Patel (DEM)	3,054	11,937	3,107	**18,098**
Total Votes by County	**4,642**	**33,699**	**6,499**	**44,840**

14th Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Part of Bronx County Vote Results	Part of Queens County Vote Results	Total Votes by Candidate
Alexandria Ocasio-Cortez (DEM)	4,503	12,395	**16,898**
Joseph Crowley (DEM)	4,072	8,808	**12,880**
Total Votes by County	**8,575**	**21,203**	**29,778**

15th Congressional District - Reform - Federal Primary June 26, 2018

Candidate Name (Party)	Part of Bronx County Vote Results	Total Votes by Candidate
Alexandria Ocasio-Cortez (REF)	9	9*
Alexandria Ortiz-Cortez (REF)	1	1
Anthony Reynoso (REF)	1	1
Casey Casio (REF)	1	1
Curtis Silwa (REF)	1	1
Darry Moody (REF)	1	1
Frank Moreno (REF)	1	1
Ilka Rios (REF)	1	1
Jason Gonzalez (REF)	1	1
Joe Crowley (REF)	2	2
John WM Zaconne (REF)	1	1
Jonathan Lewis (REF)	1	1
Jose E Serrano (REF)	1	1
Jose E. Serrano (REF)	2	2
Jose M Serrano (REF)	1	1
Jose Serrano (REF)	4	4
Kirsten Gilibrand (REF)	1	1
Kristen Gillebrand (REF)	1	1
Kristen Gillibrand (REF)	1	1
Leonel Baez (REF)	1	1
Maurice Johnson (REF)	1	1
Michael Farley (REF)	1	1
Peter King (REF)	1	1
Robert Kennedy Jr. (REF)	1	1
Robinson Alston (REF)	1	1
Rosanna Vargas (REF)	4	4
Suraj Patel (REF)	1	1
Yvette D Clarke (REF)	1	1
Total Votes by County	44	35

**The winner neither accepted nor declined the nomination. As a result, pursuant to NY Election Law Section 6-146(4), the nomination is null and void and the line is empty for the General Election.*

16th Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Part of Bronx County Vote Results	Part of Westchester County Vote Results	Total Votes by Candidate
Jonathan Lewis (DEM)	1,560	3,306	**4,866**
Derickson K. Lawrence (DEM)	443	837	**1,280**
Joyce N. Briscoe (DEM)	936	836	**1,772**
Eliot L. Engel (DEM)	9,324	12,836	**22,160**
Total Votes by County	**12,263**	**17,815**	**30,078**

19th Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Columbia County Vote Results	Delaware County Vote Results	Greene County Vote Results	Otsego County Vote Results	Schoharie County Vote Results	Sullivan County Vote Results	Ulster County Vote Results	Part of Broome County Vote Results	Part of Dutchess County Vote Results	Part of Montgomery County Vote Results	Part of Rensselaer County Vote Results	Total Votes by Candidate
Brian Flynn (DEM)	746	327	504	1,078	162	350	1,092	3	760	52	171	**5,245**
Erin Collier (DEM)	212	115	67	323	112	114	459	7	296	33	170	**1,908**
Gareth Rhodes (DEM)	1,504	340	261	229	123	707	2,063	8	1,261	34	360	**6,890**
Pat Ryan (DEM)	905	192	296	342	159	281	2,654	12	1,449	47	604	**6,941**
Antonio Delgado (DEM)	1,137	292	447	455	306	471	3,000	10	1,850	77	531	**8,576**
Jeff Beals (DEM)	643	265	291	310	88	196	2,303	5	701	19	170	**4,991**
Dave Clegg (DEM)	252	94	89	131	53	443	2,818	4	281	6	86	**4,257**
Total Votes by County	**5,399**	**1,625**	**1,955**	**2,868**	**1,003**	**2,562**	**14,389**	**49**	**6,598**	**268**	**2,092**	**38,808**

19th Congressional District - Women's Equality - Federal Primary June 26, 2018

Candidate Name (Party)	Columbia County Vote Results	Delaware County Vote Results	Greene County Vote Results	Otsego County Vote Results	Schoharie County Vote Results	Sullivan County Vote Results	Ulster County Vote Results	Part of Broome County Vote Results	Part of Dutchess County Vote Results	Part of Montgomery County Vote Results	Part of Rensselaer County Vote Results	Total Votes by Candidate
Jeff Beals (WEP)	0	0	0	0	0	0	0	0	0	0	1	**1**
Erin Collier (WEP)	1	0	0	0	0	0	0	0	0	0	0	**1**
Gareth Rhodes (WEP)	1	0	0	0	0	0	0	0	0	0	0	**1**
Pat Ryan (WEP)	1	0	0	0	0	0	0	0	0	0	0	**1**
Chad J. McEvoy (WEP)	0	0	1	0	0	0	1	0	0	0	0	**2***
Antonio Delgado (WEP)	1	0	0	0	0	0	0	0	0	0	0	**1**
Brian Flynn (WEP)	0	0	0	0	0	0	0	0	1	0	0	**1**
Total Votes by County	**4**	**0**	**1**	**0**	**0**	**0**	**1**	**0**	**1**	**0**	**1**	**6**

**The winner declined the nomination and Mr. Delgado's name was substituted.*

21st Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Clinton County Vote Results	Essex County Vote Results	Franklin County Vote Results	Fulton County Vote Results	Hamilton County Vote Results	Jefferson County Vote Results	Lewis County Vote Results	St. Lawrence County Vote Results	Warren County Vote Results	Washington County Vote Results	Part of Herkiner County Vote Results	Part of Saratoga County Vote Results	Total Votes by Candidate
Tedra L. Cobb (DEM)	1,092	766	870	190	117	1,137	209	3,136	1,139	938	33	1,226	**10,853**
Patrick F. Nelson (DEM)	316	116	103	42	20	133	40	213	240	167	24	388	**1,802**
Dylan Ratigan (DEM)	411	233	215	63	15	238	36	331	193	334	45	199	**2,313**
Katie Wilson (DEM)	504	379	130	62	55	194	58	249	266	185	22	252	**2,356**
Emily Martz (DEM)	328	296	296	43	39	172	70	134	414	124	28	221	**2,165**
Don Boyajian (DEM)	10	7	8	4	1	11	1	11	27	14	2	33	**129**
Total Votes by County	**2,661**	**1,797**	**1,622**	**404**	**247**	**1,885**	**414**	**4,074**	**2,279**	**1,762**	**154**	**2,319**	**19,618**

21st Congressional District - Women's Equality - Federal Primary June 26, 2018

Candidate Name (Party)	Clinton County Vote Results	Essex County Vote Results	Franklin County Vote Results	Fulton County Vote Results	Hamilton County Vote Results	Jefferson County Vote Results	Lewis County Vote Results	St. Lawrence County Vote Results	Warren County Vote Results	Washington County Vote Results	Part of Herkiner County Vote Results	Part of Saratoga County Vote Results	Total Votes by Candidate
Tedra Cobb (WEP)	0	0	0	0	0	0	0	1	0	0	0	0	**1**
Dylan Ratigan (WEP)	1	0	0	0	0	0	0	0	0	1	0	0	**2***
Patrick Nelson (WEP)	0	0	0	0	0	1	0	0	0	0	0	0	**1**
Total Votes by County	**1**	**0**	**0**	**0**	**0**	**1**	**0**	**1**	**0**	**1**	**0**	**0**	**2**

**The winner declined the nomination and Ms. Cobb's name was substituted.*

23rd Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Allegany County Vote Results	Cattaraugus County Vote Results	Chautauqua County Vote Results	Chemung County Vote Results	Schuyler County Vote Results	Seneca County Vote Results	Steuben County Vote Results	Tompkins County Vote Results	Yates County Vote Results	Part of Ontario County Vote Results	Part of Tioga County Vote Results	Total Votes by Candidate
Tracy Mitrano (DEM)	301	263	1,064	573	335	374	639	3,162	402	440	171	**7,724**
Ian Golden (DEM)	158	150	280	452	78	76	335	1,270	58	190	95	**3,142**
Max Della Pia (DEM)	143	268	731	459	204	341	662	3,660	80	299	647	**7,494**
Edward A. Sundquist (DEM)	49	274	803	68	13	29	76	178	15	22	11	**1,538**
Linda Andrei (DEM)	129	355	709	510	103	177	402	827	75	186	130	**3,603**
Total Votes by County	**780**	**1,310**	**3,587**	**2,062**	**733**	**997**	**2,114**	**9,097**	**630**	**1,137**	**1,054**	**23,501**

23rd Congressional District - Women's Equality - Federal Primary June 26, 2018

Candidate Name (Party)	Allegany County Vote Results	Cattaraugus County Vote Results	Chautauqua County Vote Results	Chemung County Vote Results	Schuyler County Vote Results	Seneca County Vote Results	Steuben County Vote Results	Tompkins County Vote Results	Yates County Vote Results	Part of Ontario County Vote Results	Part of Tioga County Vote Results	Total Votes by Candidate
Tracy Mitrano (WEP)	0	0	2	0	0	0	1	0	1	0	0	**4**
Opportunity to Ballot (WEP)	0	0	0	0	0	0	0	0	0	0	0	**0**
Total Votes by County	**0**	**0**	**2**	**0**	**0**	**0**	**1**	**0**	**1**	**0**	**0**	**4**

24th Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Cayuga County Vote Results	Onondaga County Vote Results	Wayne County Vote Results	Part of Oswego County Vote Results	Total Votes by Candidate
Dana Balter (DEM)	1,368	11,710	829	990	**14,897**
Juanita Perez Williams (DEM)	727	7,305	402	524	**8,958**
Total Votes by County	**2,095**	**19,015**	**1,231**	**1,514**	**23,855**

25th Congressional District - Democratic - Federal Primary June 26, 2018

Candidate Name (Party)	Part of Monroe County Vote Results	Total Votes by Candidate
Joseph D. Morelle (DEM)	16,245	**16,245**
Adam C. McFadden (DEM)	6,103	**6,103**
Robin R. Wilt (DEM)	6,158	**6,158**
Rachel A. Barnhart (DEM)	7,003	**7,003**
Total Votes by County	**35,509**	**35,509**

STATE OF NEW YORK)
STATE BOARD OF ELECTIONS) ss:

It Is Hereby Certified, That the preceding copy of the official vote results for the June 23, 2020 Primary Election, is a true and exact copy of the original document on file in this office.

WITNESS my hand and the official seal of the State Board of Elections at the City of Albany, this 6th day of August, Two thousand twenty.

/s/ Robert A. Brehm
Co-Executive Director

/s/ Todd D. Valentine
Co-Executive Director

NEW YORK STATE | Board of Elections

Certified Results from the June 23, 2020 Primary Election

Version History

July 27, 2020 – Original Version

July 30, 2020 – Added results from Montgomery and Westchester counties

August 5, 2020 – Added results from NYC

August 6, 2020

- *Corrected transposition of results in SD 27*
- *Added Mary Jobaida in listing of candidates for AD 37*
- *Corrected vote total for candidate Weitzberg in Dem Delegate contest in the 11th JD, 28th AD*

Representative in Congress District 1 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Suffolk County Vote Results	Total Votes by Candidate
Gregory-John Fischer (DEM)	17,296	**17,296**
Bridget M. Fleming (DEM)	775	**775**
Perry Gershon (DEM)	17,957	**17,957**
Nancy S. Goroff (DEM)	13,714	**13,714**
Blank	784	**784**
Void	230	**230**
Scattering	110	**110**
Total Votes by County	**50,866**	**50,866**

Representative in Congress District 2 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Nassau County Vote Results	Part of Suffolk County Vote Results	Total Votes by Candidate
Jackie Gordon (DEM)	5,075	20,236	**25,311**
Patricia Maher (DEM)	2,466	7,008	**9,474**
Blank	347	1,868	**2,215**
Void	235	218	**453**
Scattering	61	172	**233**
Total Votes by County	**8,184**	**29,502**	**37,686**

Representative in Congress District 2 - Republican - Primary June 23, 2020

Candidate Name (Party)	Part of Nassau County Vote Results	Part of Suffolk County Vote Results	Total Votes by Candidate
Mike LiPetri (REP)	4,456	5,410	**9,866**
Andrew R. Garbarino (REP)	6,124	11,335	**17,459**
Blank	28	122	**150**
Void	133	155	**288**
Scattering	68	185	**253**
Total Votes by County	**10,809**	**17,207**	**28,016**

Representative in Congress District 3 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Nassau County Vote Results	Part of Queens County Vote Results	Part of Suffolk Vote Results	Total Votes by Candidate
Michael Weinstock (DEM)	1,961	1,065	1,257	**4,283**
Melanie D'Arrigo (DEM)	6,663	2,770	4,836	**14,269**
Thomas R. Suozzi (DEM)	18,418	5,416	12,977	**36,811**
Blank	647	638	505	**1,790**
Void	371	0	65	**436**
Scattering	33	29	33	**95**
Total Votes by County	**28,093**	**9,918**	**19,673**	**57,684**

Representative in Congress District 4 - Republican - Primary June 23, 2020

Candidate Name (Party)	Part of Nassau County Vote Results	Total Votes by Candidate
Cindy B. Grosz (REP)	4,292	**4,292**
Douglas L. Tuman (REP)	10,898	**10,898**
Blank	153	**153**
Void	359	**359**
Scattering	236	**236**
Total Votes by County	**15,938**	**15,938**

Representative in Congress District 5 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Nassau County Vote Results	Part of Queens County Vote Results	Total Votes by Candidate
Shaniyat Chowdhury (DEM)	2,441	13,510	**15,951**
Gregory W. Meeks (DEM)	4,858	45,186	**50,044**
Blank	208	4,030	**4,238**
Void	132	0	**132**
Scattering	18	158	**176**
Total Votes by County	**7,657**	**62,884**	**70,541**

Representative in Congress District 6 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Queens County Vote Results	Total Votes by Candidate
Sandra Choi (DEM)	6,756	**6,756**
Grace Meng (DEM)	30,757	**30,757**
Melquiades R. Gagarin (DEM)	9,444	**9,444**
Blank	3,063	**3,063**
Void	0	**0**
Scattering	170	**170**
Total Votes by County	**50,190**	**50,190**

Representative in Congress District 7 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Kings County Vote Results	Part of New York County Vote Results	Part of Queens County Vote Results	Total Votes by Candidate
Nydia M. Velazquez (DEM)	43,631	7,006	5,502	**56,139**
Paperboy Love Prince (DEM)	10,719	1,492	1,735	**13,946**
Blank	0	936	411	**1,347**
Void	3,843	0	0	**3,843**
Scattering	215	53	28	**296**
Total Votes by County	**58,408**	**9,487**	**7,676**	**75,571**

Representative in Congress District 9 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Kings County Vote Results	Total Votes by Candidate
Chaim M. Deutsch (DEM)	9,342	**9,342**
Yvette D. Clarke (DEM)	52,114	**52,114**
Isiah James (DEM)	9,910	**9,910**
Adem Bunkeddeko (DEM)	23,564	**23,564**
Lutchi Gayot (DEM)	839	**839**
Blank	2,816	**2,816**
Void	0	**0**
Scattering	142	**142**
Total Votes by County	**98,727**	**98,727**

Representative in Congress District 10 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Kings County Vote Results	Part of New York County Vote Results	Total Votes by Candidate
Jerrold L. Nadler (DEM)	4,286	46,751	**51,037**
Lindsey Boylan (DEM)	3,793	12,702	**16,495**
Jonathan Herzog (DEM)	2,379	5,439	**7,818**
Blank	643	2,987	**3,630**
Void	0	0	**0**
Scattering	272	173	**445**
Total Votes by County	**11,373**	**68,052**	**79,425**

Representative in Congress District 11 - Republican - Primary June 23, 2020

Candidate Name (Party)	Part of Richmond County Vote Results	Part of Kings County Vote Results	Total Votes by Candidate
Nicole Malliotakis (REP)	12,901	2,787	**15,688**
Joseph M. Caldarera (REP)	6,176	864	**7,040**
Blank	177	33	**210**
Void	0	0	**0**
Scattering	84	27	**111**
Total Votes by County	**19,338**	**3,711**	**23,049**

Representative in Congress District 12 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Kings County Vote Results	Part of New York County Vote Results	Part of Queens County Vote Results	Total Votes by Candidate
Carolyn B. Maloney (DEM)	2,502	32,380	5,294	**40,176**
Peter Harrison (DEM)	806	2,276	856	**3,938**
Lauren Ashcraft (DEM)	3,146	6,395	2,989	**12,530**
Suraj Patel (DEM)	5,562	23,981	7,137	**36,680**
Blank	518	3,128	742	**4,388**
Void	0	0	0	**0**
Scattering	25	125	46	**196**
Total Votes by County	**12,559**	**68,285**	**17,064**	**97,908**

Representative in Congress District 14 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Bronx County Vote Results	Part of Queens County Vote Results	Total Votes by Candidate
Michelle Caruso-Cabrera (DEM)	4,305	7,032	**11,337**
Badrun N. Khan (DEM)	863	2,256	**3,119**
Alexandria Ocasio-Cortez (DEM)	15,392	31,185	**46,577**
Samuel H. Sloan (DEM)	482	924	**1,406**
Blank	697	1,951	**2,648**
Void	0	0	**0**
Scattering	71	72	**143**
Total Votes by County	**21,810**	**43,420**	**62,439**

Representative in Congress District 13 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Bronx County Vote Results	Part of New York County Vote Results	Total Votes by Candidate
Adriano Espaillat (DEM)	8,079	37,985	**46,064**
James Felton Keith, II (DEM)	2,682	17,116	**19,798**
Ramon Rodriguez (DEM)	2,649	9,209	**11,858**
Blank	847	0	**847**
Void	0	5,105	**5,105**
Scattering	116	318	**434**
Total Votes by County	**14,373**	**69,733**	**84,106**

Representative in Congress District 15 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Bronx County Vote Results	Total Votes by Candidate
Ruben Diaz (DEM)	8,559	**8,559**
Chivona R. Newsome (DEM)	1,366	**1,366**
Ydanis Rodriguez (DEM)	6,291	**6,291**
Tomas Ramos (DEM)	1,442	**1,442**
Frangell Basora (DEM)	189	**189**
Michael A. Blake (DEM)	10,725	**10,725**
Melissa Mark-Viverito (DEM)	2,561	**2,561**
Ritchie Torres (DEM)	19,090	**19,090**
Julio Pabon (DEM)	244	**244**
Mark Escoffery-Bey (DEM)	153	**153**
Marlene J. Tapper (DEM)	392	**392**
Samelys Lopez (DEM)	8,272	**8,272**
Blank	3,829	**3,829**
Void	0	**0**
Scattering	189	**189**
Total Votes by County	**63,302**	**63,302**

Representative in Congress District 16 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Bronx County Vote Results	Part of Westchester County Vote Results	Total Votes by Candidate
Chris Fink (DEM)	331	1,294	**1,625**
Andom Ghebreghiorgis (DEM)	249	512	**761**
Jamaal Bowman (DEM)	22,021	27,346	**49,367**
Eliot L. Engel (DEM)	13,258	22,891	**36,149**
Sammy Ravelo (DEM)	396	743	**1,139**
Blank	1,086	3,908	**4,994**
Void	0	0	**0**
Scattering	64	33	**97**
Total Votes by County	**37,405**	**56,727**	**94,132**

Representative in Congress District 17 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Rockland County Vote Results	Part of Westchester County Vote Results	Total Votes by Candidate
Catherine F. Parker (DEM)	371	1,168	**1,539**
Mondaire Jones (DEM)	13,447	19,347	**32,794**
Adam P. Schleifer (DEM)	6,161	6,571	**12,732**
Allison H. Fine (DEM)	225	1,363	**1,588**
Asha Castleberry (DEM)	229	1,833	**2,062**
David Buchwald (DEM)	804	5,869	**6,673**
Evelyn Farkas (DEM)	2,763	9,447	**12,210**
David Carlucci (DEM)	7,336	1,312	**8,648**
Blank	821	4,772	**5,593**
Void	601	0	**601**
Scattering	507	25	**532**
Total Votes by County	**33,265**	**51,707**	**84,972**

Representative in Congress District 17 - Republican - Primary June 23, 2020

Candidate Name (Party)	Part of Rockland County Vote Results	Part of Westchester County Vote Results	Total Votes by Candidate
Maureen McArdle Schulman (REP)	4,563	3,929	**8,492**
Yehudis Gottesfeld (REP)	1,289	1,048	**2,337**
Blank	943	253	**1,196**
Void	119	0	**119**
Scattering	167	143	**310**
Total Votes by County	**7,081**	**5,373**	**12,454**

Representative in Congress District 19 - Republican - Primary June 23, 2020

Candidate Name (Party)	Columbia County Vote Results	Delaware County Vote Results	Greene County Vote Results	Otsego County Vote Results	Schoharie County Vote Results	Sullivan County Vote Results	Ulster County Vote Results	Part of Broome County Vote Results	Part of Dutchess County Vote Results	Part of Montgomery County Vote Results	Part of Rensselaer County Vote Results	Total Votes by Candidate
Ola Hawatmeh (REP)	709	1,302	713	1,283	303	1,263	1,409	85	1,232	182	507	**8,988**
Kyle Van De Water (REP)	1,498	1,055	1,120	1,149	686	1,708	1,863	127	2,019	330	583	**12,138**
Blank	15	287	5	97	26	554	10	35	16	136	17	**1,198**
Void	9	0	2	20	11	54	46	1	34	2	13	**192**
Scattering	12	10	7	14	9	12	40	0	24	2	0	**130**
Total Votes by County	**2,243**	**2,654**	**1,847**	**2,563**	**1,035**	**3,591**	**3,368**	**248**	**3,325**	**652**	**1,120**	**22,646**

Representative in Congress District 22 - Republican - Primary June 23, 2020

Candidate Name (Party)	Chenango County Vote Results	Cortland County Vote Results	Madison County Vote Results	Oneida County Vote Results	Part of Broome County Vote Results	Part of Herkimer County Vote Results	Part of Oswego County Vote Results	Part of Tioga County Vote Results	Total Votes by Candidate
Claudia Tenney (REP)	2,128	1,047	2,158	8,054	5,308	2,703	2,008	366	**23,772**
George K. Phillips (REP)	1,483	941	805	2,753	7,816	1,173	757	418	**16,146**
Blank	0	54	21	52	230	107	26	23	**513**
Void	0	0	6	2	48	14	4	1	**75**
Scattering	20	7	17	27	33	2	6	2	**114**
Total Votes by County	**3,631**	**2,049**	**3,007**	**10,888**	**13,435**	**3,999**	**2,801**	**810**	**40,620**

Representative in Congress District 24 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Cayuga County Vote Results	Onondaga County Vote Results	Wayne County Vote Results	Part of Oswego County Vote Results	Total Votes by Candidate
Francis Conole (DEM)	1,593	13,730	927	990	**17,240**
Dana Balter (DEM)	2,813	22,412	2,078	2,193	**29,496**
Blank	21	938	16	15	**990**
Void	4	0	8	7	**19**
Scattering	4	54	13	4	**75**
Total Votes by County	**4,435**	**37,134**	**3,042**	**3,209**	**47,820**

Representative in Congress District 25 - Democratic - Primary June 23, 2020

Candidate Name (Party)	Part of Monroe County Vote Results	Total Votes by Candidate
Joseph D. Morelle (DEM)	42,951	**42,951**
Robin Wilt (DEM)	20,058	**20,058**
Blank	1,196	**1,196**
Void	314	**314**
Scattering	18	**18**
Total Votes by County	**64,537**	**64,537**

Representative in Congress District 27 - Republican - Primary June 23, 2020

Candidate Name (Party)	Genesee County Vote Results	Livingston County Vote Results	Orleans County Vote Results	Wyoming County Vote Results	Part of Erie County Vote Results	Part of Monroe County Vote Results	Part of Niagara County Vote Results	Part of Ontario County Vote Results	Total Votes by Candidate
Stefan I. Mychajliw, Jr. (REP)	573	383	426	665	7,615	120	2,297	563	**12,642**
Beth Parlato (REP)	1,506	1,355	791	1,024	5,595	549	2,462	1,515	**14,797**
Chris Jacobs (REP)	3,473	3,593	2,577	2,879	16,151	1,446	6,965	3,357	**40,441**
Blank	75	84	228	24	226	59	463	394	**1,553**
Void	6	11	16	1	146	22		7	**209**
Scattering	30	32	8	18	411	7	48	19	**573**
Total Votes by County	**5,663**	**5,458**	**4,046**	**4,611**	**30,144**	**2,203**	**12,235**	**5,855**	**70,215**

Representative in Congress District 27 - Libertarian - Primary June 23, 2020

Candidate Name (Party)	Genesee County Vote Results	Livingston County Vote Results	Orleans County Vote Results	Wyoming County Vote Results	Part of Erie County Vote Results	Part of Monroe County Vote Results	Part of Niagara County Vote Results	Part of Ontario County Vote Results	Total Votes by Candidate
Nicholas P. Phelps (LIB)	10	2	0	3	19	2	24	2	**62**
Duane J. Whitmer (LIB)	24	22	15	17	66	12	20	12	**188**
Blank	3	1	0	4	6	1	0	0	**15**
Void	1	1	0	0	0	0	0	0	**2**
Scattering	0	0	0	0	2	0	0	0	**2**
Total Votes by County	**38**	**26**	**15**	**24**	**93**	**15**	**44**	**14**	**269**

Exhibit 15

AFFIDAVIT OF SUSAN J. SCHOENFELD IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER

I, Susan J. Schoenfeld, being duly sworn, state as follows:

1. I am over the age of 18, have personal knowledge of the facts stated in this affidavit, and can competently testify to their truth.

2. I am a plaintiff in this action.

3. I am a citizen of the United States and am registered to vote in the State of New York.

4. Under New York's 2012 congressional map, my last legal residence in the United States is located in congressional district 10.

5. I intend to vote for congressional candidates in the upcoming 2022 primary and general elections.

6. While my last legal residence in the United States was at 320 W 76th St, Apt. 11A, New York, NY 10023, at this time I currently reside at #10 St. Johns Wood Road, London, NW8 8RE England, U.K., meaning that I will be an overseas absentee voter for the 2022 elections.

7. If a congressional plan is not adopted before May 20, it will not be possible for the State of New York to abide by federal law and send me a timely primary ballot for the federally mandated June 28 primary election.

8. Similarly, given New York's prior practices, I fear that if the primary election is moved to a later date, I will not receive my general election ballot in a timely manner.

9. In fact, in recent years, it has been necessary for me to vote by federal write-in absentee ballot ("FWAB"), as my regular ballot did not arrive in time for me to vote. In recent years, I have also assisted other overseas New York voters in understanding how to obtain an FWAB when their regular ballots similarly did not arrive on time.

FURTHER THE AFFIANT SAYETH NOT.

I swear that the above information is true and correct to the best of my knowledge and belief, this 05/01/2022 day of May, 2022.

Susan J. Schoenfeld

STATE OF Virginia

COUNTY OF Loudoun

On this 1st day of May, 2022, Susan J. Schoenfeld personally appeared before me and swore that the foregoing statements are true to the best of their knowledge and belief.

COMMONWEALTH OF VIRGINIA · ELECTRONIC NOTARY PUBLIC · N

Kaheem A Smith

REGISTRATION NUMBER
7788254
COMMISSION EXPIRES
January 31, 2026

Kaheem A Smith

Justice of Peace/Notary Public

My commission expires: 01/31/2026

Notarized online using audio-video communication

Exhibit 16

AFFIDAVIT OF ANTHONY S. HOFFMANN IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER

I, Anthony S. Hoffmann, being duly sworn, state as follows:

1. I am over the age of 18, have personal knowledge of the facts stated in this affidavit, and can competently testify to their truth.

2. I am a plaintiff in this action.

3. I am a citizen of the United States and am registered to vote in the State of New York.

4. Under New York's 2012 congressional map, I reside in congressional district 10.

5. I intend vote for congressional candidates in the upcoming 2022 primary and general elections.

FURTHER THE AFFIANT SAYETH NOT.

I swear that the above information is true and correct to the best of my knowledge and belief, this 1st day of May, 2022.

Anthony Serafin Hoffmann

Anthony S. Hoffmann

STATE OF Texas

COUNTY OF Harris

On this 1st day of May, 2022, Anthony S. Hoffmann personally appeared before me and swore that the foregoing statements are true to the best of their knowledge and belief.

NOTARY PUBLIC STATE OF TEXAS

Monique R Major
Notary Public, State of Texas
ID NUMBER
13302885-5
COMMISSION EXPIRES
April 12, 2025

Monique R. Major

Justice of Peace/Notary Public

My commission expires: 04/12/2025

Notarized online using audio-video communication

Exhibit 17

AFFIDAVIT OF NANCY F. PASCAL IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER

I, Nancy F. Pascal, being duly sworn, state as follows:

1. I am over the age of 18, have personal knowledge of the facts stated in this affidavit, and can competently testify to their truth.

2. I am a plaintiff in this action.

3. I am a citizen of the United States and am registered to vote in the State of New York.

4. Under New York's 2012 congressional map, I reside in congressional district 8.

5. I intend vote for congressional candidates in the upcoming 2022 primary and general elections.

6. I consider myself an engaged voter, and I believe that it is important to cast an informed ballot, learn about my candidates, and participate actively in elections. If New York does not conduct its primary on June 28th under the Legislature's plan, I fear the resulting chaos and confusion will make it difficult for me to engage with the candidates and issues, and to meaningfully participate in the election.

FURTHER THE AFFIANT SAYETH NOT.

I swear that the above information is true and correct to the best of my knowledge and belief, this 01 day of May, 2022.

Nancy F Pascal

Nancy F. Pascal

STATE OF _____

COUNTY OF _____

On this 01 day of May, 2022, Nancy F. Pascal personally appeared before me and swore that the foregoing statements are true to the best of their knowledge and belief.

SEE ATTACHMENT
Justice of Peace/Notary Public

My commission expires:

JURAT

State/Commonwealthof FLORIDA)
☐City ☑County of Palm Beach)

On 05/01/2022, before me, Cheryl E Hawthorne,
Date *Notary Name*

the foregoing instrument was subscribed and sworn (or affirmed) before me by:

Nancy F Pascal.
Name of Affiant(s)

☐ Personally known to me **-- OR --**

☐ Proved to me on the basis of the oath of _____ **-- OR --**
Name of Credible Witness

☑ Proved to me on the basis of satisfactory evidence: passport
Type of ID Presented

CHERYL E HAWTHORNE
Notary Public - State of Florida
Commission # HH 150870
Expires on July 8, 2025

Notarized online using audio-video communication

Online Notary

WITNESS my hand and official seal.

Notary Public Signature: Cheryl E Hawthorne

Notary Name: Cheryl E Hawthorne

Notary Commission Number: HH 150870

Notary Commission Expires: 07/08/2025

Notarized online using audio-video communication

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document: AFFIDAVIT OF NANCY F. PASCAL IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER

Document Date: 05/01/2022

Number of Pages (including notarial certificate): 3

Exhibit 18

AFFIDAVIT OF MICHAEL D. CORBETT IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER

I, Michael D. Corbett, being duly sworn, state as follows:

1. I am over the age of 18, have personal knowledge of the facts stated in this affidavit, and can competently testify to their truth.

2. I am a plaintiff in this action.

3. I am a citizen of the United States and am registered to vote in the State of New York.

4. Under New York's 2012 congressional map, I reside in congressional district 12.

5. I intend vote for congressional candidates in the upcoming 2022 primary and general elections.

6. I consider myself an engaged voter, and I believe that it is important to cast an informed ballot, learn about my candidates, and participate actively in elections. If New York does not conduct its primary on June 28th under the Legislature's plan, I fear the resulting chaos and confusion will make it difficult for me to engage with the candidates and issues, and to meaningfully participate in the election.

FURTHER THE AFFIANT SAYETH NOT.

I swear that the above information is true and correct to the best of my knowledge and belief, this 1st day of May, 2022.

Michael D Corbett

Michael D. Corbett

STATE OF Texas

COUNTY OF Travis

On this 1st day of May, 2022, Michael D. Corbett personally appeared before me and swore that the foregoing statements are true to the best of their knowledge and belief.

NOTARY PUBLIC STATE OF TEXAS

Jennifer Jo Thomas

ID NUMBER
133341819
COMMISSION EXPIRES
September 20, 2025

Jennifer Jo Thomas

Notary Public, State of Texas

Notarized online using audio-video communication

see 1st page

Justice of Peace/Notary Public

My commission expires:

Exhibit 19

New York State Board of Elections

Notice to Voters and Designating Petition Filers For Congress, Senate and Assembly

The Supreme Court has ordered Congressional and State Senate elections to be held Tuesday, August 23rd, 2022. The Court is working to develop a new Political Calendar to reflect this primary date. At this time, we do not foresee the June 28th primary changing for our statewide offices, the State Assembly, Judicial Delegates and Alternates and any local offices that are scheduled to be on the primary ballot. We will continue to keep voters informed as additional information becomes available.

Election Night Results

For information on Novel Coronavirus, please visit: https://health.ny.gov/diseases/communicable/coronavirus/.

NYSBOE Guidance on COVID-19.

- General Guidance for County Boards Regarding COVID-19 (pdf 278KB)
- COVID-19 Update for Election Officials — Questions and Answers (pdf 245KB)

Voter Information

Need a Voter Registration Form?	Want to find out if you are registered and where you	Need to change your name and/or address?	Would you like to be a Poll Worker?
Need an Absentee Ballot?	Are you in the Armed Forces or live overseas?	Want to learn about Voting Machines?	Need to look up your Elected Official or District Map?
2022 Redistricting Maps			

Proposed Regulation For Comment:

Proposed Amendment to Regulation 6217.6(c) — Voter Identification Verification (pdf 75.6KB)

Proposed Amendment to 6211.6 — Voter History and Prevention of Double Voting (pdf 106KB)

Part 6221.39-6221.45 — NYS Public Campaign Finance Board Draft Enforcement Regulations for Public Comment (pdf 225KB)

Part 6221.38 NYS PCFB — Draft Debate Regulations for Public Comment (pdf 110KB)

Part 6221 — NEW YORK STATE PUBLIC CAMPAIGN FINANCE PROGRAM - DRAFT REGULATIONS FOR PUBLIC COMMENT (pdf 248KB)
The NYS Public Campaign Finance program, effective November 9, 2022, will commence with the 2024 Primary Elections for State Legislative Office. As part of the process for promulgating regulations for the program for public matching funds, we have posted a draft of regulations for public comment. Regulations concerning enforcement and the payment process of funds to campaigns are being developed and will be posted for public comment in the future.
Part 6217.3 — Review of County Voter Registration Systems Draft Regulation for Public Comment (pdf 140KB)

Comments can be sent to comments@elections.ny.gov

Calendar of Events

May 2022

This table contains the calendar of events for the New York State Board of Elections for March 2022.

Date	Event	Additional Information
Monday 5/2 12:00 P.M.	Public Campaign Finance Board Meeting followed by SBOE Commissioners Meeting	State Board Offices* 40 North Pearl Street 5th Floor Albany NY 12207 Minutes and Archived Webcasts

* All meetings are webcast live. The NYSBOE provides closed captioning for all meetings open to the public. If you need an additional accommodation, please contact INFO@elections.ny.gov, at least 7 business days before the scheduled board meeting date.

NYS Board of Elections Use of Force Policy

Board of Elections Use of Force Policy (pdf 156KB)

Public Campaign Finance Board Meeting followed by Commissioners Meeting

Monday, May 2, 2022
12:00 P.M.
State Board Offices

The public can view the live webcast at the link below.

Webcast:

Live Webcast Windows Media

Public Campaign Finance Documents:

Agenda for the NYS Public Campaign Finance Board Meeting (pdf 71.3KB)

PCFB Debate Regulations 6221.8 (pdf 98.9KB)

PCFB Enforcement Regulations 42522 (pdf 200KB)

PCFB Program Regulations 6221.1 (pdf 254KB)

Proposed Minutes from March 4, 2022 (pdf 146KB)

PCFB Report on Amended Proposed Regulations and Public Comments (pdf 883KB)

PCFB Resolution 22-01 Proposing Revised Rule Making (pdf 235KB)

State Board of Elections Documents:

Board of Commissioners Meeting Agenda (pdf 107KB)

Proposed 22-08 ePoll Book Resolution (pdf 214KB)

Proposed Minutes of March 4 2022 Board Meeting with Approved Reso 22-03 22 (pdf 292KB)

Proposed Resolution 22-06 Regulation 6211.1 with Amended Sect 6211.1 (pdf 268KB)

Proposed Resolution 22-07 Appointment of Special Investigators (pdf 164KB)

Proposed Resolution 22-09 Regulation 6215 with Regulation 6215.2 (pdf 157KB)

Additional Resources:

Minutes and Archived Webcasts

2022 Elections

New!
2022 Who Filed for Primary Election

New!

2022 Special Election Calendar AD-58 for May 24, 2022 (pdf 118KB)

2022 Enrollments

2022 Special Election Calendar AD-20 for April 7, 2022 (pdf 143KB)

Party Vote For Governor in 2018 for 2022 Assembly Districts by County (xlsx 29.6KB)

Party Vote For Governor in 2018 for 2022 Assembly Districts (xlsx 21.9KB)

2022 Official Political Calendar (pdf 330KB)

Time Off To Vote (pdf 126KB)

Time Off To Vote FAQs (pdf 132KB)

Notice of Felon Registration Rights (pdf 134KB)

Notice on Felon Registration (pdf 87.8KB)

Recent Publications

2019 Annual Report (pdf 4.5MB)

Legislative Agendas

2022 Proposed Legislative Packet (pdf 189KB)

Campaign Finance News

2022 Contribution Limits (pdf 174KB)

Register here for a 2022 Campaign Finance Update Webinar

LLC/PLLC Statements of Identity Received for 2022 (pdf 85.3KB)

LLC/PLLC Statements of Identity Received for 2021 (pdf 225KB)

LLC/PLLC Statements of Identity Received for 2020 (pdf 156KB)

LLC/PLLC Statements of Identity Received for 2019 (pdf 191KB)

2022 Campaign Finance Filing Calendar - Draft (pdf 216KB)

Register here for an EFS Web Application Training Webinar

Public Reporting System

Notice Regarding Certain NYC Filers (pdf 133KB)

Notice to Filers Regarding Political Advertisements (pdf 156KB)

Campaign Finance Handbook (pdf 2.79MB)

Exhibit 20

AUG. 25, 2021, AT 6:00 AM

Where America Lost And Gained Population Could Help Democrats In Redistricting

By Nathaniel Rakich

Graphics by Ryan Best

Filed under Redistricting

The relatively fast-paced growth in major urban centers, like Houston, could advantage Democrats in the redistricting process. BRANDON BELL / GETTY IMAGES

With the release of block-level data from the 2020 census, we now have a much clearer picture of how and where the U.S. population has grown — and shrunk — over the past 10 years. And while Republicans are largely setting the terms of the redistricting process that will ensue from this announcement, the data throws a much-needed lifeline to Democrats.

It's not because of the country's increasing racial diversity, though. Sure, under current electoral coalitions (where white voters are more likely to vote Republican and voters of color are more likely to vote Democratic), it's arguably better for Democrats if

the nonwhite population grows. But even in a country where only 58 percent of residents are non-Hispanic white, the 2020 presidential election was still very competitive. And electoral coalitions can change — for instance, Republicans may continue to gain ground among nonwhite voters in future elections.

Instead, the good news for Democrats came in which parts of the country gained and lost population since the 2010 census. Despite the country's overall population increasing by 7.4 percent, rural areas — the reddest parts of the country — have steadily *lost* residents over the past 10 years. The average county with a FiveThirtyEight urbanization index below 8[1] lost 3.1 percent of its population between 2010 and 2020. This encompasses the 1,430 most rural counties in America — 1,302 of which voted for former President Donald Trump in 2020, and only 127 of which voted for President Biden.

By contrast, the fastest-growing parts of the country are the suburbs. The average county with an urbanization index between 11 and 13 (spanning from sparse suburban areas like Roanoke County, Virginia, to dense suburban areas like Union County, New Jersey) grew by 9.6 percent between 2010 and 2020. Most of these counties (194 out of 264) voted for Biden, and if the trends of the 2018 and 2020 elections continue, they will only get bluer.

I don't buy that the 2020 census is good news for Democrats: Nate Silver

America's cities grew at a healthy rate too, which was something of a surprise compared with pre-census estimates. The 18 most urban counties or county equivalents in the country — those with a FiveThirtyEight urbanization index above 13 (including San Francisco, Philadelphia, four around Washington, D.C., and eight around New York City) — grew by an average of 8.4 percent — and all but one of them voted for Biden in 2020.[2]

Recent Stories from FiveThirtyEight

Top Articles
by FiveThirtyEight

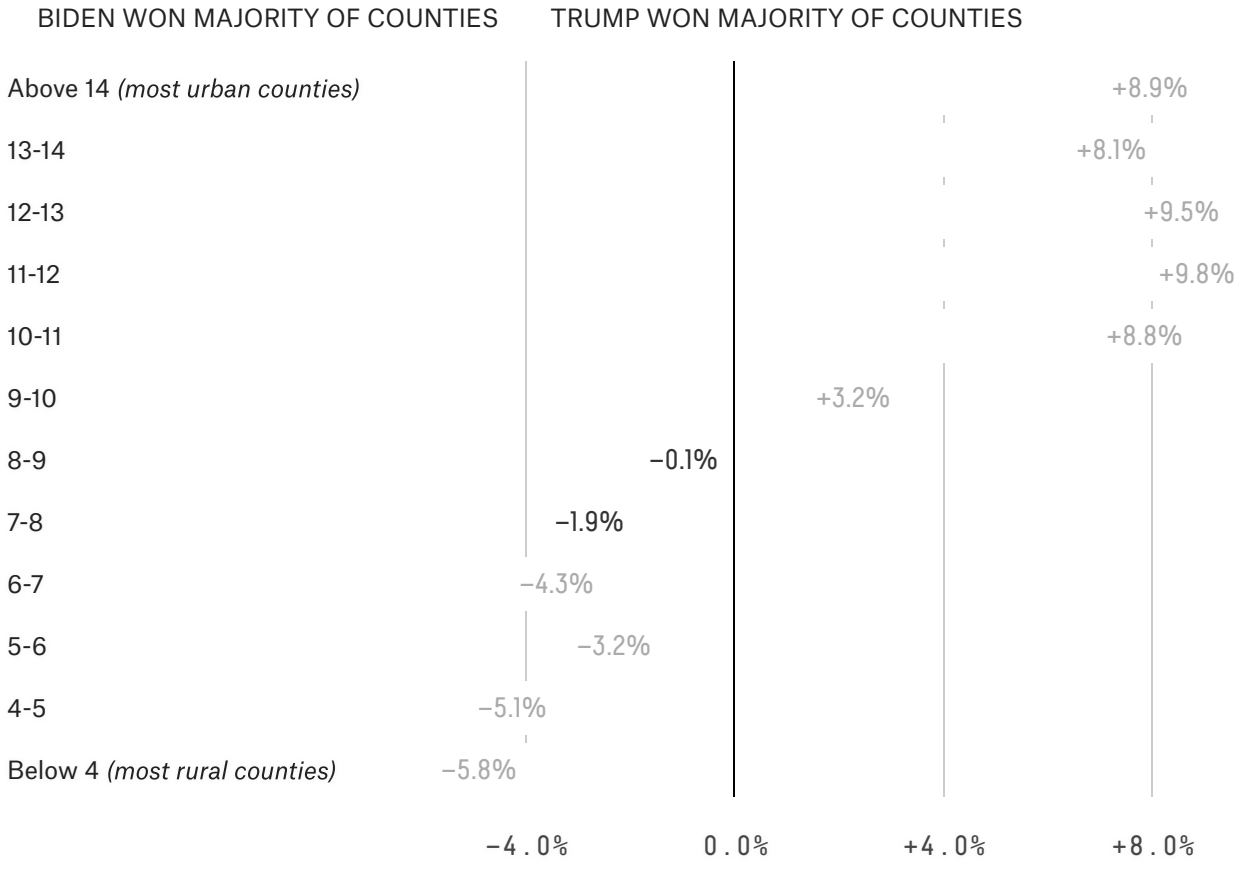
READ MORE

The Future Finally Seems Brighter For The Baltimore Orioles

Overall, the average county that voted for Biden boosted its population by 3.4 percent between 2010 and 2020, while the average Trump county grew by just 0.2 percent. Strikingly, 370 out of the 538 Biden counties (69 percent) gained population, while 1,468 out of the 2,574 Trump counties (57 percent) lost residents.

The most rural (and reddest) counties are shrinking

Average county's population change from 2010 to 2020 census by FiveThirtyEight's urbanization index and which candidate won more counties in the 2020 presidential election



FiveThirtyEight's urbanization index, a calculation of how urban or rural a county is, is the natural logarithm of the average number of people living within a five-mile radius of every census tract in that county.

Analysis includes Washington, D.C., but excludes Alaska, which does not have county-equivalent-level election results available.

FiveThirtyEight SOURCES: US CENSUS BUREAU, DAILY KOS ELECTIONS, DAVE LEIP'S ATLAS OF U.S. PRESIDENTIAL ELECTIONS

These population shifts are important because they will shape the nation's political geography for the next 10 years, as congressional district lines will be drawn based on this data. As such, it will now be that much harder to draw congressional maps that favor Republicans: If a heavily Democratic metropolitan area is overflowing with people, map-drawers need to put them *somewhere* — which may necessitate creating an extra (blue) district for that city, or at least including more blue precincts in a neighboring Republican district than the GOP would like.

At the other end of the spectrum, because congressional districts must have roughly equal populations, many depopulated rural congressional districts will need to expand

— either cannibalizing a neighboring rural district (which could reduce the number of safely red seats) or encroaching on the outer suburbs. Because America's exurbs are still fairly red (three-quarters of counties with a FiveThirtyEight urbanization index between 10 and 11 voted for Trump in 2020) this could reduce the number of Republicans living in a current swing district — a sort of redistricting domino effect.

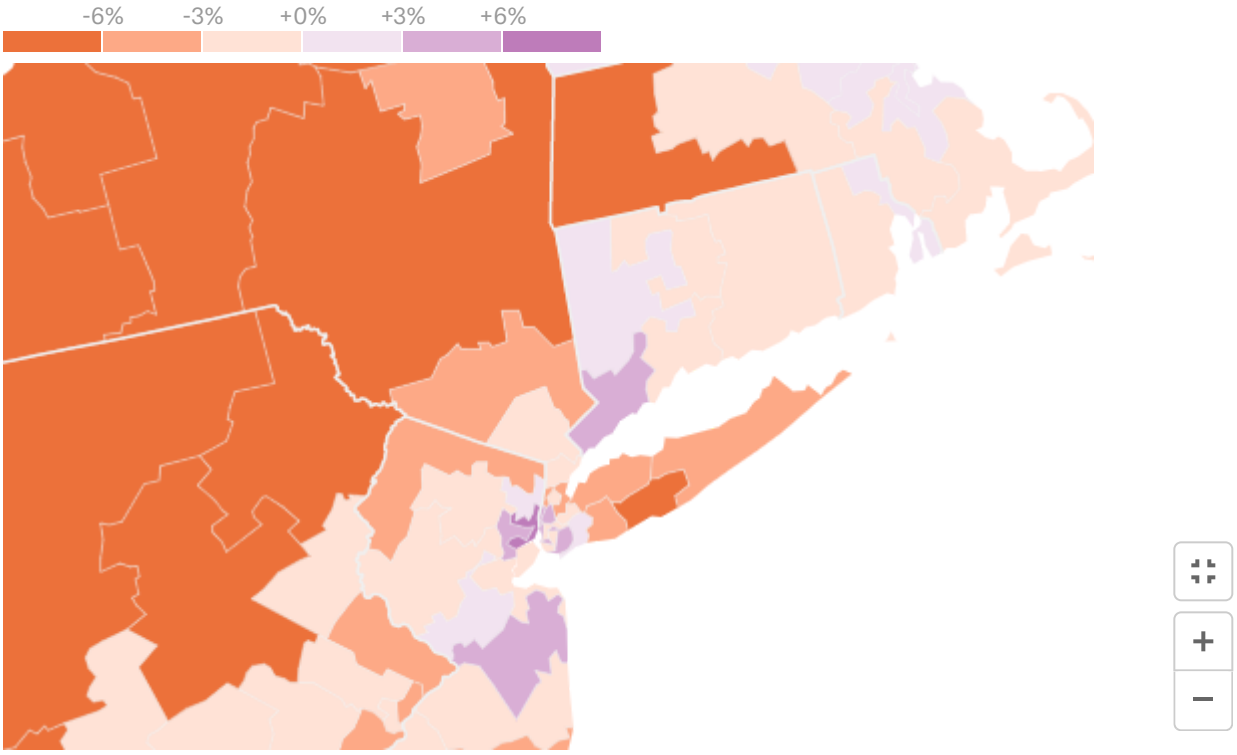
RELATED: What All Those House Retirements Mean For Democrats So Far Read more. »

We can see how this domino effect might unfold by looking at which congressional districts, rather than counties, are over- and underpopulated. To see this, we can compare the 2020 population of each current district to what its population should look like after the reapportionment process. (Remember, because each state's districts must have the same population, the target population of a state's districts is the state's 2020 population divided by the number of congressional districts it received in reapportionment.)

In the map below, orange districts will need to add population (i.e., they will need to expand), while purple ones will need to lose population (i.e., they will need to get smaller).

Where congressional districts could shrink or grow

Current congressional districts by the percent difference between their 2020 population and their target population post-redistricting



A district's target post-redistricting population is the total population of its state divided by the number of congressional districts that state was assigned based on 2020 census data.

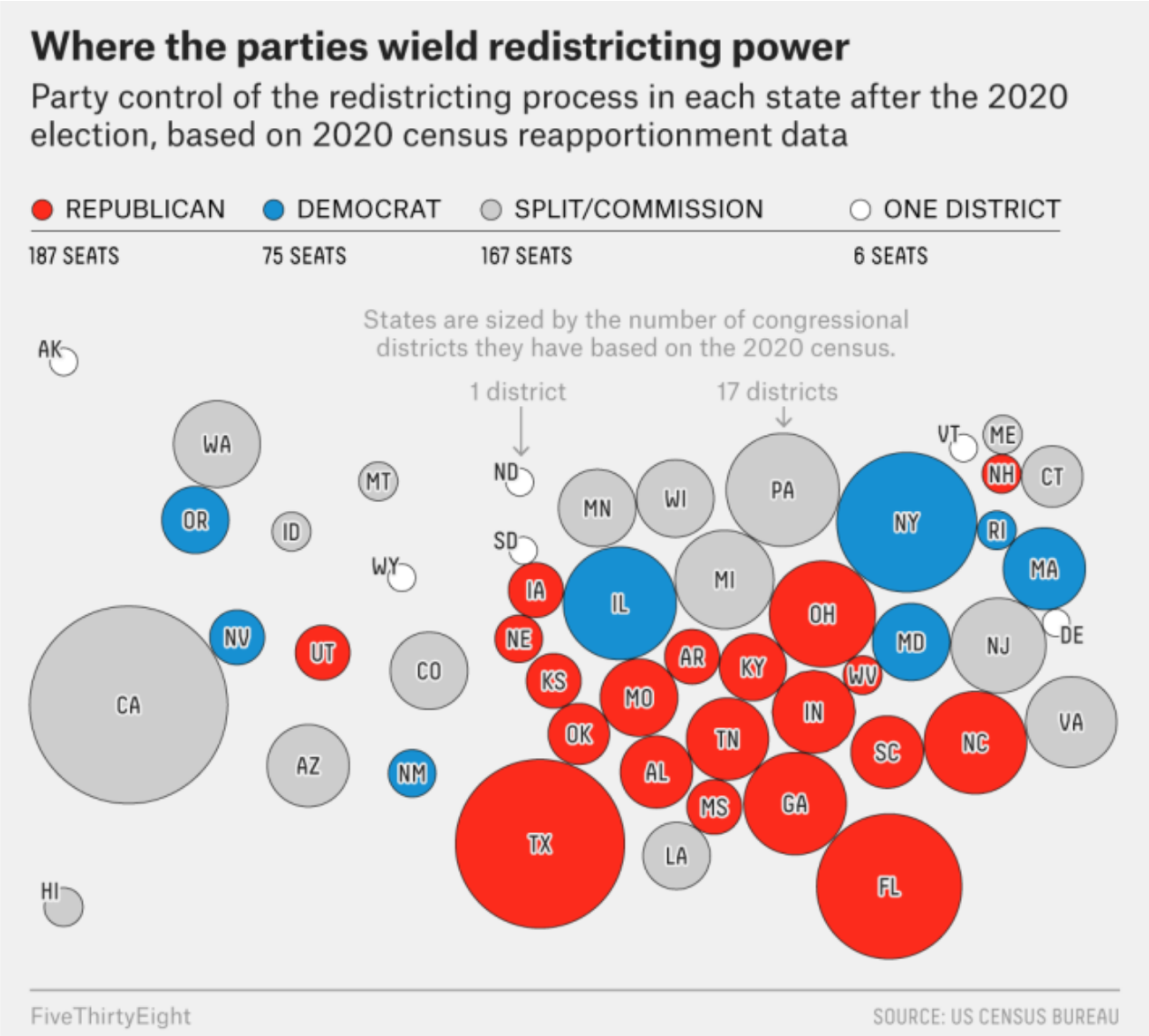
FiveThirtyEight SOURCES: U.S. CENSUS BUREAU, DAILY KOS ELECTIONS

The most obvious examples of districts that will need to expand are those in states that lost a seat in reapportionment, like West Virginia. But take a look at New York, which also lost a seat. The districts that will need to expand the most are all in upstate New York, while four New York City-based districts — the 5th, 8th, 10th and 12th — will actually need to *shed* residents. Since those districts are all extremely blue, that will provide mapmakers with an opportunity to add Democratic votes to nearby districts that might not be as safe, such as the 11th.

Similarly, in Illinois, the districts around Chicago are those that are already closest to their target post-redistricting population, whereas the downstate 12th and 17th will need to add the most people. And because Illinois also lost a seat in reapportionment, it's most likely that downstate will lose representation. Since five of Illinois's six current downstate representatives are Republicans (and Democrats control the map-drawing process in Illinois), that makes it a safe bet that Republicans will draw the short straw.

At the same time, patterns in population growth could blunt Republican gains as well. For example, the two most overpopulated current districts in North Carolina — which is gaining a seat — are the deep-blue 2nd (which covers Raleigh) and 12th (which covers Charlotte). Republicans are in charge of redistricting in North Carolina, but they would have to engage in some complicated gerrymandering gymnastics if they want to blunt the political power of these metro areas. Similarly, the Cook Political Report's Dave Wasserman has estimated that explosive population growth in urban areas like Austin could limit Texas Republicans to a map where Republicans have the advantage in only 25 of the state's now-38 districts, whereas previously they might have been able to draw 27 Republican-leaning seats.

However, as Wasserman's estimate makes clear, the population trends from the 2020 census are not enough to cancel out any gerrymandering efforts. Rather, the census numbers are merely a silver lining for Democrats. They still remain at a serious disadvantage in the 2021 redistricting cycle simply because Republicans will control the redrawing of more congressional districts. Republicans will have full control over the redrawing of 43 percent of congressional districts, and Democrats will have full control over the redrawing of just 17 percent. (Neither party enjoys full control of redistricting for 38 percent of districts, while the remaining 1 percent are at-large districts and won't be redrawn at all.)



So Democrats got some good news with the specific census data released earlier this month, but they are still in an unenviable position. As long as redistricting remains such a subjective process, who draws the maps will remain more important than the underlying data.

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Exhibit 21

The New York Times | https://www.nytimes.com/2020/08/04/nyregion/maloney-torres-ny-congressional-races.html

After 6 Weeks, Victors Are Declared in 2 N.Y. Congressional Primaries

Representative Carolyn Maloney and Councilman Ritchie Torres won in New York City after a Democratic primary that raised concerns about mail-in voting.

By Jesse McKinley, Shane Goldmacher and Matt Stevens

Published Aug. 4, 2020 Updated Nov. 4, 2020

After six weeks of delays, the New York City Board of Elections confirmed results in a pair of congressional races on Tuesday evening, delivering victories to a longtime Democratic incumbent and a young city lawmaker who could be a trailblazer for gay and African-American rights.

In the South Bronx, Ritchie Torres, a 32-year-old New York City councilman, won a 12-way Democratic primary for a soon-to-be-open House seat, continuing a dramatic remaking of the New York congressional delegation.

Just to the south, Representative Carolyn B. Maloney, 74, narrowly brushed back a primary challenge from Suraj Patel, 36. The longtime incumbent just managed to sidestep a wave of youthful progressivism that has tilted New York's congressional delegation to the left.

The extensive delays in declaring winners had stirred significant concerns about the problems facing officials trying to conduct elections during the coronavirus outbreak. New York City's handling of the primary has been used as fodder by President Trump to raise questions about whether the nation is ready for the general election in November.

The primary was held on June 23, though the outbreak had caused a huge expansion in the use of vote-by-mail, which led to a torrent of absentee ballots sent to the Board of Elections in New York City.

The outbreak has prompted states across the nation to consider expanding mail-in voting for the general election in November, as public health officials worry that convening at polling locations may spread the disease. In New York City, officials were left counting more than 400,000 absentee ballots, more than 10 times the usual number in a primary.

Councilman Ritchie Torres. Gabriela Bhaskar for The New York Times

The resulting backlog drew the derision of President Trump, who used the long delays as a reason to cast aspersions on voting-by-mail systems nationwide. It also led to bickering between Gov. Andrew M. Cuomo and other officials.

Although city elections officials certified the results, they did not release updated vote totals; The Associated Press, which typically declares election results, reported the results on Wednesday.

Mr. Torres, who identifies as Afro-Latino, would most likely be one of the first two openly gay Black or Latino members of Congress; the other is Mondaire Jones, a 33-year old lawyer who defeated another crowded field seeking to fill the seat in the Hudson Valley being vacated by Nita Lowey, the first woman to chair the House Appropriations Committee.

Sign up for the New York Today Newsletter Each morning, get the latest on New York businesses, arts, sports, dining, style and more. Get it sent to your inbox.

Both Ms. Maloney's seat in the 12th Congressional District, which includes parts of Manhattan, Queens and Brooklyn, and the 15th Congressional District in the Bronx, where Mr. Torres won his primary, are solidly Democratic, making both candidates overwhelming favorites to win in November.

The incumbent in the 15th, Representative José E. Serrano, has served in Congress for three decades, and some Democrats were already threatening to run against him in the primary before he announced his retirement ahead of 2020, citing the effects of Parkinson's disease.

Among the candidates Mr. Torres finished ahead of were Michael Blake, a state assemblyman and vice chair of the Democratic National Committee; Samelys López, a community organizer who had the backing of some key progressives, including Representative Alexandria Ocasio-Cortez; Ydanis Rodriguez, a city councilman; and Melissa Mark-Viverito, a former City Council speaker.

But it was the chance to topple the Rev. Rubén Díaz Sr., Mr. Torres had said in an interview before the election, that would be especially sweet, representing "poetic justice that is long overdue."

Looking back to his first City Council race seven years ago, he said, "I ran in a state of fear because of the homophobic political culture that Rubén Díaz Sr. has spent his life cultivating in the Bronx."

Mr. Díaz, a 77-year-old Pentecostal minister who has served for two decades in the State Senate and the City Council, was under pressure last year from Council colleagues demanding that he resign for saying that legislative body was "controlled by the homosexual community."

Ms. Maloney's race against Mr. Patel was also marred by a dispute that wound up in federal court, where a judge in Manhattan ruled late Monday that elections officials must count at least 1,000 disputed mail-in ballots in their race, even though they did not have accurate or extant postmarks.

Even if Mr. Patel were to capture all those votes, it would not be enough for him to overtake Ms. Maloney. Nonetheless, Mr. Patel, a lawyer and business teacher who had framed the Democratic primary as a "change election" and himself as a change agent, has not conceded.

"The Board of Elections has preliminarily certified our race without a final vote tally," he said on Wednesday. "The Democratic process does not end when it becomes politically inconvenient."

Ms. Maloney has served in Congress since 1993 and became the first woman ever to lead the powerful Oversight and Reform Committee in November when she was elected to succeed Representative Elijah E. Cummings of Maryland, who had died a month earlier.

In a statement released on Tuesday night, Ms. Maloney framed the primary as a "historic election, with historic turnout and participation, and a historic wait time for results."

Exhibit 22

DECLARATION OF BELINDA DE GAUDEMAR IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER

Pursuant to 28 U.S.C.§ 1746, 1 hereby declare as follows:

1. I am over the age of 18, have personal knowledge of the facts stated in this declaration, and can competently testify to their truth.

2. I am a plaintiff in this action.

3. I am a citizen of the United States and am registered to vote in the State of New York.

4. Under New York's 2012 congressional map, my last legal residence in the United States is located in congressional district 12.

5. I intend vote for congressional candidates in the upcoming 2022 primary and general elections.

6. While my last legal residence in the United States was at 1743 1st Ave., Apt. 10B, New York, NY 10128, at this time I currently reside at 8 Rue Montalivet, 75008, Paris, France, meaning that I will be an overseas absentee voter for the 2022 elections.

7. Given New York's prior practices, I am concerned that if the primary election is moved to August, I will not receive my general election ballot in time to vote my ballot, mail it back to the appropriate election authority, and have it counted in the 2022 congressional general election.

8. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on this 2nd day of May, 2022.

Belinda de Gaudemar

Belinda de Gaudemar

Exhibit 23

Thank you for printing our content at www.fvap.gov. Please check back to find out the latest information regarding absentee voting.

FVAP.GOV FEDERAL VOTING ASSISTANCE PROGRAM (/)

Voting assistance for Service members, their families and overseas citizens in

New York

Use this site to vote absentee if you are

- a U.S. citizen.
- at least 18 years old.
- absent from your voting residence.

The absentee voting process applies to you if you are

- an active duty member of the Uniformed Services or Merchant Marine absent from your voting residence.
- an eligible spouse or family member of an active duty member of the Uniformed Services or Merchant Marine.
- a U.S. citizen residing outside the country.

STEP 1

Register and request your absentee ballot with the Federal Post Card Application (FPCA).

Start the FPCA (/r3/fpca/state?state=NY)

STEP 2

Fill out and send in your ballot when it arrives.

Didn't receive your ballot?

Start your backup ballot (/r3/fwab/state?state=NY)

Federal Election Deadlines

	Registration	Ballot Request	Ballot Return
Federal and State Primary June 28, 2022	**Received by*** June 8, 2022	**Received by** June 21, 2022	**Postmarked by**** June 27, 2022
General Election November 8, 2022	**Received by*** October 19, 2022	**Received by** November 1, 2022	**Postmarked by**** November 7, 2022

***Federal and State Primary election registration requests must be postmarked by June 3, 2022.**
General election registration requests must be postmarked by October14, 2022.

****Ballot Return: Primary election ballots must still be received by the 7th day after the election.**
Ballot Return: General election ballots must still be received by the 13th day after the election.

Please mail your voting materials early enough to account for mail delivery times. Check the recommended mailing dates section in Chapter 1 (/guide/chapter1) for details.

Downloadable PDF (/eo/overview/materials/forms)

State Voting Guidelines (/guide/chapter2/new-york)

Check the status of your voted ballot (https://nysballot.elections.ny.gov)

State Election Website (http://www.elections.ny.gov)

Find your Local Election Officials (/search-offices?state=32)

Exhibit 24

An official website of the United States government
Here's how you know

June 2022

Subscribe

Download

Viewing filtered events for: Clear all filters

All elections

This Month

June 7, 2022

June 7, 2022

Tuesday

MT Primary Election

Primary election held in Montana

Location: Montana

Election Dates

June 7, 2022

Tuesday

MS Primary Election

Primary election held in Mississippi

Location: Mississippi

Election Dates

June 7, 2022

Tuesday

IA Primary Election

Primary election held in Iowa

Location: Iowa

Election Dates

June 7, 2022

Tuesday

CA Primary Election

Primary election held in California

Location: California

Election Dates

June 7, 2022

Tuesday

CA Senate Special Primary Election

Special primary election for California Senate

Location: California

Election Dates

June 7, 2022

Tuesday

SD Primary Election

Primary election held in South Dakota

Location: South Dakota

Election Dates

June 7, 2022

Tuesday

NJ Primary Election

Primary election held in New Jersey

Location: New Jersey

Election Dates

June 7, 2022

Tuesday

NM Primary Election

Primary election held in New Mexico

Location: New Mexico

Election Dates

June 7, 2022

Tuesday

CA 22 Special Runoff Election

Special runoff election (if necessary) for California's 22nd Congressional District

Location: California

Election Dates

June 11, 2022

June 11, 2022

Saturday

AK 00 Special Primary Election

Special primary election for Alaska's At-Large Congressional District

Location: Alaska

Election Dates

June 14, 2022

June 14, 2022

Tuesday

ND Primary Election

Primary election held in ND

Location: North Dakota

Election Dates

June 14, 2022

Tuesday

ME Primary Election

Primary election held in ME

Location: Maine

Election Dates

June 14, 2022

Tuesday

NV Primary Election

Primary election held in NV

Location: Nevada

Election Dates

June 14, 2022

Tuesday

SC Primary Election

Primary election held in SC

Location: South Carolina

Election Dates

June 14, 2022

Tuesday

TX/34 Special General Election

Special general election for TX/34

Location: Texas

Election Dates

June 18, 2022

June 18, 2022

Saturday

SC Convention - Libertarian

Libertarian Party convention held in South Carolina

Location: South Carolina

Election Dates

June 21, 2022

June 21, 2022

Tuesday

AR Primary Runoff Election

Primary runoff election held in Arkansas (if needed)

Location: Arkansas

Election Dates

June 21, 2022

Tuesday

VA Primary Election

Primary election held in Virginia

Location: Virginia

Election Dates

June 21, 2022

Tuesday

GA Primary Runoff Election

Primary runoff election held in Georgia (if needed)

Location: Georgia

Election Dates

June 21, 2022

Tuesday

AL Primary Runoff Election

Primary runoff election held in Alabama (if needed)

Location: Alabama

Election Dates

June 21, 2022

Tuesday

DC Primary Election

Primary election held in the District of Columbia

Location: District of Columbia

Election Dates

June 28, 2022

June 28, 2022

Tuesday

NY Primary Election

Primary election held in New York

Location: New York

Election Dates

June 28, 2022

Tuesday

NE/01 Special General Election

Special general election for NE/01

Location: Nebraska

Election Dates

June 28, 2022

Tuesday

SC Primary Runoff Election

Primary runoff election held in South Carolina (if needed)

Location: South Carolina

Election Dates

June 28, 2022

Tuesday

CO Primary Election

Primary election held in Colorado

Location: Colorado

Election Dates

June 28, 2022

Tuesday

IL Primary Election

Primary election held in Illinois

Location: Illinois

Election Dates

June 28, 2022

Tuesday

OK Senate Special Primary Election

Special primary election for OK/Sen

Location: Oklahoma

Election Dates

June 28, 2022

Tuesday

MS Primary Runoff Election

Primary runoff election held in Mississippi (if needed)

Location: Mississippi

Election Dates

June 28, 2022

Tuesday

OK Primary Election

Primary election held in Oklahoma

Location: Oklahoma

Election Dates

June 28, 2022

Tuesday

UT Primary Election

Primary election held in Utah

Location: Utah

Election Dates

Exhibit 25

DECLARATION OF JACKIE GORDON IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER

Pursuant to 28 U.S.C.§ 1746, I hereby declare as follows:

1. I am over the age of 18, have personal knowledge of the facts stated in this declaration, and can competently testify to their truth.

2. I am a resident of Long Island, and I am registered to vote in the State of New York.

3. I am also currently a candidate for New York's First Congressional District in the United States Congress.

4. In early February, soon after the New York Legislature and Governor finalized a new congressional plan for the state (the "2022 Congressional Plan"), I began campaigning in earnest to seek the Democratic nomination for New York's First Congressional District. I have spent the past several months introducing myself to voters in the First Congressional District and learning about the issues that are important to them.

5. Over the past few months, I have also followed the case challenging New York's congressional districts. At the beginning of March, the Steuben County Supreme Court assured voters and candidates that it would not be possible to implement a different congressional plan for the 2022 elections. I relied on that assertion, and continued to collect signatures to qualify for the ballot. I turned in my petitions by the April 7 deadline.

6. Like all the other congressional candidates in New York, I have already invested significant resources into campaigning and qualifying for the ballot in my district in the 2022 Congressional Plan.

7. Should the congressional plan change at this late date, I, along with my fellow congressional candidates, would need to expend additional resources to start the ballot qualification and campaigning process over again, but on an extremely compressed timeline in

front of a new audience of voters. As a non-incumbent candidate, this will cause a resource crunch for my campaign.

8. In the days since the Court of Appeals issued its opinion on New York's congressional plan, I have heard from voters who are confused about what this means for New York's elections this year. Voters are unsure as to when the primary election will be and they are unsure whether they will be able to vote for me to be their representative.

9. It has also been difficult for me to continue campaigning, as I cannot even tell voters who I contact whether I plan to represent them.

10. I believe it is in the public interest for New York to hold its 2022 elections under the plan that voters and candidates have relied upon for the past three months and not change course at this late date.

11. If the election is held later in the year under a different plan, I am concerned that turnout will be depressed, particularly among minority and historically disenfranchised communities.

12. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 2nd day of May, 2022.

Jacqueline A Gordon

Jackie Gordon

Exhibit 26

DECLARATION OF SEAN PATRICK MALONEY IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER

Pursuant to 28 U.S.C.§ 1746, 1 hereby declare as follows:

1. I am over the age of 18, have personal knowledge of the facts stated in this declaration, and can competently testify to their truth.

2. I currently represent New York's 18th Congressional District in the United States Congress. I am running for re-election in 2022.

3. I am also Chairman of DCCC d/b/a the Democratic Congressional Campaign Committee. In that role, I often speak with other congressional candidates about their campaign plans.

4. In early February, soon after the New York Legislature and Governor finalized a new congressional plan for the state (the "2022 Congressional Plan"), I began campaigning in earnest to seek the Democratic nomination for New York's 18th Congressional District.

5. My colleagues from New York seeking re-election, as well as other candidates from around the state, began campaigning in their respective districts around the same time or shortly thereafter.

6. Under the 2022 Congressional Plan, my district gained new communities, including in the eastern and northern portions of Dutchess County and the western portions of Westchester County along the Hudson River, such as Peekskill, Crugers, and Montrose. I have spent the past few months campaigning in these areas and meeting with voters who live there.

7. Over the past few months, I have also closely followed the case challenging New York's congressional districts. At the beginning of March, the Steuben County Supreme Court assured voters and candidates that it would not be possible to implement a different congressional plan for the 2022 elections. I relied on that assertion, as did my fellow congressional candidates in

the state.

8. The first day for gathering designating petitions from voters was March 1. Beginning on that date and over the next several weeks, I gathered signatures from voters who resided in my district under the 2022 Congressional Plan, as I was required to do under New York law. I turned in those designating petitions by April 7, the deadline to do so.

9. Like all the other congressional candidates in New York, I have already invested significant resources into campaigning and qualifying for the ballot in my district in the 2022 Congressional Plan.

10. Should the congressional plan change at this late date, I, along with my fellow congressional candidates, would need to expend additional resources to start the ballot qualification and campaigning process over again, but on an extremely compressed timeline in front of a new audience of voters.

11. In the days since the Court of Appeals issued its opinion on New York's congressional plan, I have heard from voters and candidates alike who are confused at what this means for New York's elections this year. Candidates do not know whether to campaign, and voters no longer know who their candidates are.

12. I believe it is in the public interest for New York to hold its 2022 elections under the plan that voters and candidates have relied upon for the past three months and not change course at this late date.

13. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 2nd day of May, 2022.

Sean Patrick Maloney