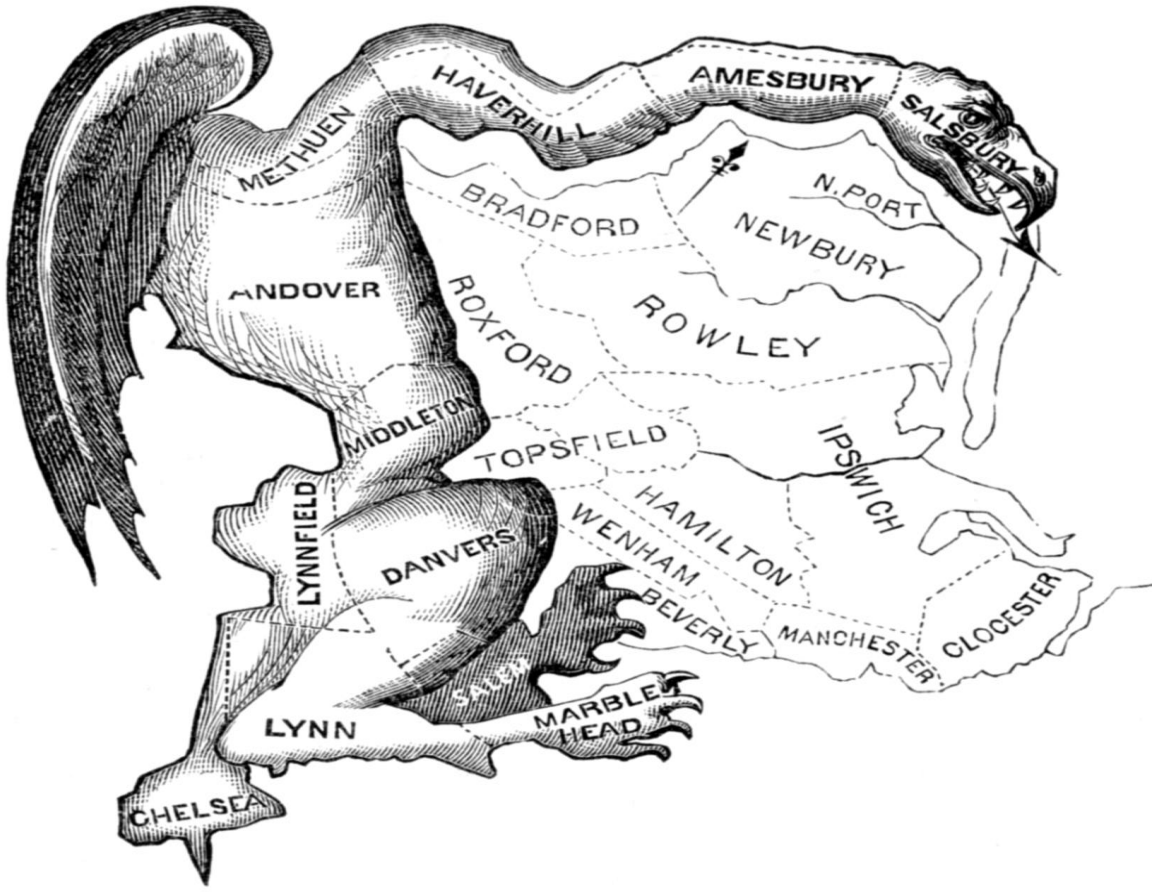

A BRIEFING PAPER
EXAMINING
NEW YORK STATE'S
REDISTRICTING

THE CASE FOR REDISTRICTING REFORM

ENDORSED BY:
CITIZENS UNION OF THE CITY OF NEW YORK
COMMON CAUSE/NY
LEAGUE OF WOMEN VOTERS/N.Y.S.
NEW YORK PUBLIC INTEREST RESEARCH GROUP
OCTOBER, 2010

Acknowledgements

Written by Blair Horner and Bill Mahoney of the N.Y. Public Interest Research Group. The authors thank Sally Robinson of the League of Women Voters/N.Y.S., Alex Camarda of Citizens Union of the City of New York, Susan Lerner of Common Cause/NY, and Russ Haven of NYPIRG for their invaluable assistance in the writing of this report.

You can download the report, by going to the following websites:

www.citizensunion.org
www.commoncause.org/newyork
www.lwvny.org
www.nypirg.org

The cover is a copy of a political cartoon that was printed in 1812. The cartoon illustrates the electoral districts drawn by the Massachusetts legislature to favor the incumbent Democratic-Republican party candidates of Governor Elbridge Gerry over the Federalists. The cartoon depicts the bizarre shape of a district in Essex County, Massachusetts as a dragon. The painter, Gilbert Stuart, likened it to a salamander, and the editor, Benjamin Russel, advised "Better say a Gerrymander." The name stuck. Source: Wikipedia.

NEW YORK STATE'S REDISTRICTING PROCESS: A CASE FOR REFORM

Executive Summary

Reformers have long argued that the method the state uses to draw legislative and congressional district boundary lines is undemocratic and in need of reform. These sentiments are echoed by the public, which overwhelmingly supports redistricting reform. This report examines the negative consequences that result from New York's redistricting practices and proposes reforms.

It is well known that an important factor in maintaining New York State's political culture is *Gerrymandering*,[1] the practice of allowing the majorities in both houses to draw the district lines every ten years. In effect, this practice allows legislators to choose their voters, rather than the voters choosing their legislators. Historically, governors, who must ultimately approve the legislation containing the proposed new district lines each decade, have done little to change to the *status quo*.

Politically motivated mapmakers exploit weaknesses in state law to further their efforts to "rig" district lines in favor of the majority parties in each house and the re-election prospects of incumbents. As lawmakers begin to consider how to reform the state's previous redistricting approach, it is important to examine the effects of the most highly partisan redistricting techniques, which taken together, reduce competition and ultimately, diminish government accountability.

- **Finding #1**: Only 29 of 212 state legislative districts (14 percent) have been drawn within one percent of the "ideal size." The ideal size is the size of a district if each legislator represented the same amount of people as other legislators in their house. In a representative democracy, ensuring districts of similar size ensures fair representation.
- **Finding #2**: Only 25 of the 212 state legislative districts (12 percent) were drawn to have a similar number of major party enrollments. The enrollments in the rest favor one party or another by a wide margin. This small number drastically limits the number of "competitive" elections in New York. This lack of competition helps insulate lawmakers from the wishes of their constituents.

[1] The term "Gerrymandering" was coined to refer to the efforts of Massachusetts Governor Elbridge Gerry to redraw the legislative district lines to benefit his party. The public outcry over his self-serving district line drawing led to his defeat at the polls the following year in 1812. See www.mass.gov/?pageID=mg2terminal&L=7&L0=Home&L1=State+Government&L2=About+Massachusetts&L3=Interactive+State+House&L4=History+Resources&L5=Governors+of+Massachusetts&L6=Commonwealth+of+Massachusetts+(1780-1850)&sid=massgov2&b=terminalcontent&f=interactive_statehouse_govs_gerry&csid=massgov2.

- **Finding #3:** Mapmaking practices have allowed for the creation of district shapes that ignore the state's constitutional requirement that districts be "compact."
- **Finding #4:** Mapmaking practices have been used to remove significant electoral threats that challengers posed to incumbent legislators.
- **Finding #5:** During the period 1980 through 2008, nearly 3,000 state legislative general elections were held, yet in only a tiny fraction of those races (39) were challengers successful in knocking out incumbents. This staggeringly high re-election rate is a direct consequence of New York's system of legislative redistricting.
- **Finding #6:** As seen above, New York's redistricting practices make it incredibly difficult for challengers to succeed. As a result of mapmakers' efforts to limit electoral competition, incumbents win – and win big. From the general elections in 2002 through 2008, over 65 percent of Senate winners won by more than 2 to 1 or greater. Nearly 75 percent of Assembly winners won by that margin or greater. Roughly 5 percent of races were close.

Recommendation: An independent redistricting commission is needed to create fair legislative districts in New York State and to ensure that the state's districts adhere to the principle of "one person, one vote" and that the primary goal of mapmakers is to reflect the interests of the general public – not the political parties and legislative incumbents.

BACKGROUND:
REAPPORTIONMENT AND REDISTRICTING

The 2012 state legislative and congressional elections will be held with new district boundaries set during the 2011-2012 legislative session. Those new boundaries will be in place for the next decade. Thus, the decisions made by the new governor and the state legislators elected this November will play a critical role in the fairness and competitiveness of elections for years to come.

In order for the public to better understand the current process – and the flaws of that process – this report reviews the impact of the most recent redistricting process, that of 2001-2002, in dramatically curtailing the number of competitive elections in New York State. In addition, this report examines reforms that could reduce the influence of partisanship and incumbency-protection in redistricting.

Background

Every ten years since 1790, the United States has held a census to determine the nation's population and the population shifts among the states.[2] Reapportionment is the redistribution of congressional representatives among the states based on each decennial census, while redistricting is the redrawing of the states' congressional and legislative district maps to reflect population changes.

Each state has its own standards for creating congressional and legislative districts. In addition to equalizing the population of districts and complying with Federal requirements (such as the Voting Rights Act), criteria includes attempting to create compact, contiguous districts; trying to keep political units (like a county, for example) and communities within a single district. In addition, mapmakers must keep congressional districts' populations identical. Mapmakers have greater flexibility when it comes to state legislative districts; those districts' populations can range within +/- 5 percent of the "ideal" (or average) size.[3]

Partisan domination of state houses and improved technology to design districts that pack opponents into as few districts as possible have led to district boundaries that are skewed towards one party. The Supreme Court's ruling on the Pennsylvania redistricting process effectively cemented the right of elected officials to choose their constituents.[4]

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[2] The census is required by the United States Constitution: Article 1, Section 2: "The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct."

[3] For a fuller description of allowable population deviations in state legislative redistricting, see: http://www.senate.leg.state.mn.us/departments/scr/redist/red2000/ch2equal.htm#Legislative%20Plans.

[4] U.S. Supreme Court, Vieth et al. *V.* Jubelirer, President Of The Pennsylvania Senate, et al,

FINDING #1: NEW YORK'S SYSTEM OF REDISTRICTING UNDERMINES THE PRINCIPLE OF "ONE PERSON, ONE VOTE": ONLY 29 OF 212 DISTRICTS (14 PERCENT) WITHIN ONE PERCENT OF THE "IDEAL SIZE."

U.S. Supreme Court rulings have made it clear that legislative districts should be of comparable size. In one case, the Court ruled that "the achieving of fair and effective representation for all citizens is … the basic aim of legislative apportionment" and it was for that reason that the decision insisted on substantial equality of population among districts.[5] To avoid a presumption of Gerrymandering under U.S. Supreme Court decisions, mapmakers' goals are to keep Congressional districts as close as possible to "ideal size" (exactly the same population). They are allowed to have districts that are within a 10 percent range for legislative districts (5 percent either way of the mean).

While not illegal *per se* under U.S. Supreme Court *minimal standards*, New York draws legislative district lines that are dramatically different in size and push up against the maximum range allowed by the Court. Our analysis of district populations created in the 2002 redistricting process finds that State Assembly districts ranged in size from 121,111 people to 133,038 people, and State Senate districts ranged in size from 290,925 people to 320,851 people.[6] The chart below illustrates the number of State Assembly and Senate distracts that deviate from the ideal district size and by what percentages.

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

Http://Www.Law.Cornell.Edu/Supct/Html/02-1580.ZS.Html.

[5] *Reynolds v. Sims*, 377 U.S. 533 (1964) (applying "one person, one vote" standard to state legislative districts.

[6] Information from New York State Empire Development Corporation, New York State Data Center, see: www.empire.state.ny.us/nysdc/download_intro.asp.

FINDING #2: NEW YORK'S SYSTEM OF REDISTRICTING MINIMIZES ELECTORAL COMPETITION:
ONLY 25 OF THE 212 LEGISLATIVE DISTRICTS (12 PERCENT) HAVE CLOSE ENROLLMENTS.

Not only do districts range significantly in population size, few legislative districts are drawn to allow a similar number of enrollments between the major parties. Our review found that only 25 of the state's 212 legislative districts had close enrollments.

This section of the report uses the 2004 state legislative election as a case study to examine the impact of the state's flawed redistricting process.

The New York State Senate, 2004

Of the 62 State Senate districts, 27 were drawn to cram in as many registered Democrats as possible into districts with a Democratic enrollment advantage of 40,000 or more; 15 granted an enrollment edge of between 20,000 and 40,000 (10 with Republican advantages). Each Senate district has roughly 300,000 constituents. In the absence of some major countervailing factor, it would be extraordinarily difficult for minority party candidates to seriously challenge an incumbent in these districts.

Only 13 Senate districts were "competitive districts," meaning that the enrollment differences between the major parties was 13,000 or fewer (10 had Republican advantages, and 9 were won by Republicans). In the 3 "marginal" Senate districts in which there were Democratic enrollment advantages, Republicans won every race. The Republican victories in the competitive and marginal districts were due to a countervailing factor, the overwhelming campaign finance advantages enjoyed by majority Senate Republicans. (*In 2004 Senate Republicans raised more than three times the amount of campaign money as their Democratic counterparts.*[7])

[7] See: Horner B., et al, *Blow Out Elections: A Look at the 2004 Legislative Elections*, March 2005, NYPIRG.

Differences in Major Party Enrollments, 2004 – Senate Districts[8]

Differences in major party enrollment – '04	Number of Republican districts		Number of Democratic districts	
		Won by Democrats in 2004		Won by Republicans in 2004
0 to 13,000	10	1	3	3
13,000 to 20,000	7	0	0	0
20,000 to 40,000	10	0	5	4
Over 40,000	0	0	27	2
Total	**27**	**1**	**35**	**9**

The New York State Assembly, 2004

Of the 150 State Assembly districts, each with roughly 125,000 constituents, 72 granted an enrollment edge of 20,000 or more—of which 68 were Democratic-advantage districts; 38 granted an enrollment edge of between 10,000 and 20,000, of which 26 were Republican-advantage districts. Only 12 were "competitive districts," meaning those with enrollment differences of 5,000 or fewer (6 were Republican-advantage districts).

Differences in Major Party Enrollments – Assembly Districts[9]

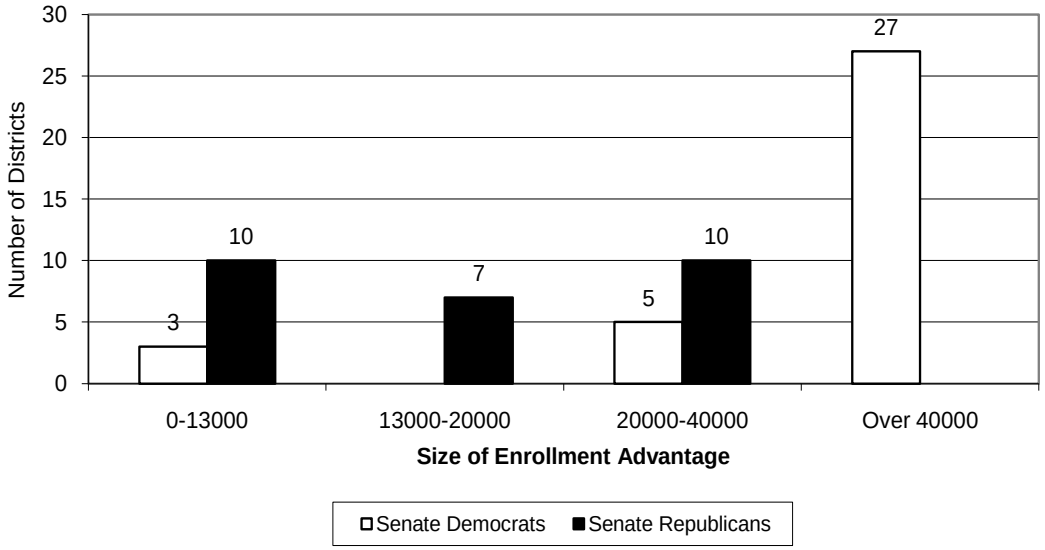
Differences in major party enrollment – '04	Number of Republican districts		Number of Democratic districts	
		Won by Democrats		Won by Republicans
0 to 5,000	6	1	6	1
5,000 to 10,000	13	2	15	2
10,000 to 20,000	26	4	12	1
20,000 to 30,000	4	0	24	0
30,000 to 40,000	0	0	13	0
Over 40,000	0	0	31	0
Total	**49**	**7**	**101**	**3**

In the Senate, Republicans – who controlled re-districting in that house – "packed" as many Democrats in as few districts as possible. Republicans then drew as many districts as possible with Republican majorities. However, even after efforts to rig the system, shifting state demographics only allowed for Republican majorities in 27 districts, and it was the campaign finance advantages that allowed the Republican majority to far outspend the Democrats in 2004 and maintain its electoral dominance.

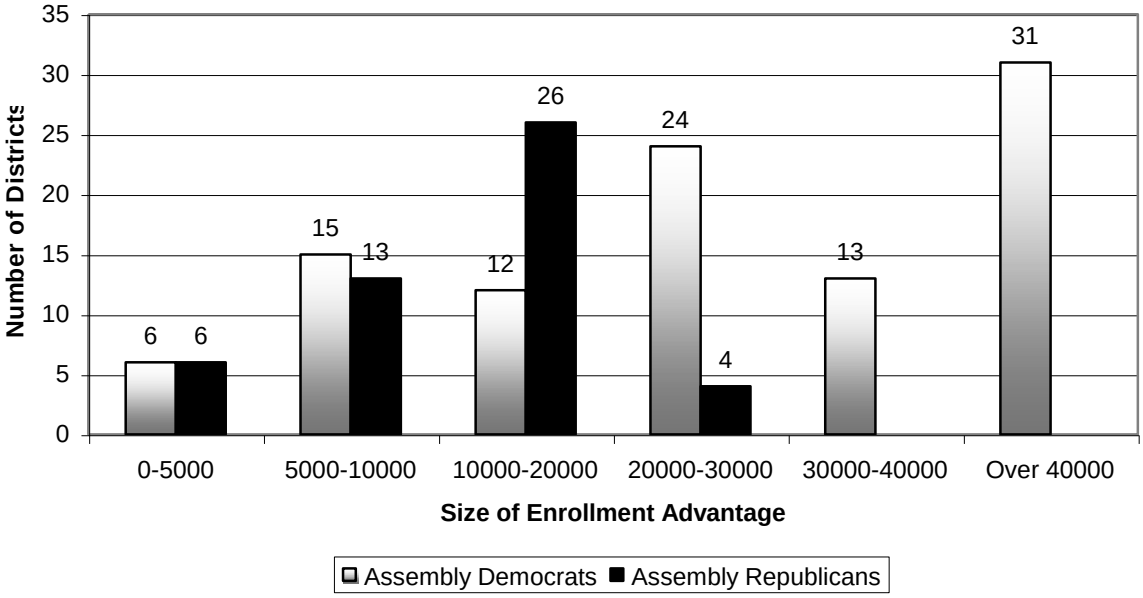
[8] New York State Board of Elections, "Enrollments," www.elections.state.ny.us.
[9] Ibid.

In the Assembly, Democrats – who drew districts in that house – limited the size of majorities in "Republican" districts. Thus, Democrats were able to use their sizable campaign finance edge to keep the pressure on the Republican minority, making it difficult for them to mount serious challenges to Democratic "marginals."

Senate Enrollment Advantages, 2004



Assembly Enrollment Advantages



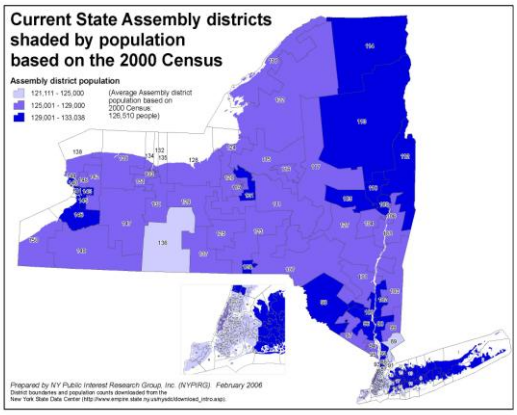
THE IMPACT OF THE LARGE VARIATIONS IN DISTRICT POPULATION COMBINED WITH ONE-PARTY DOMINATION:

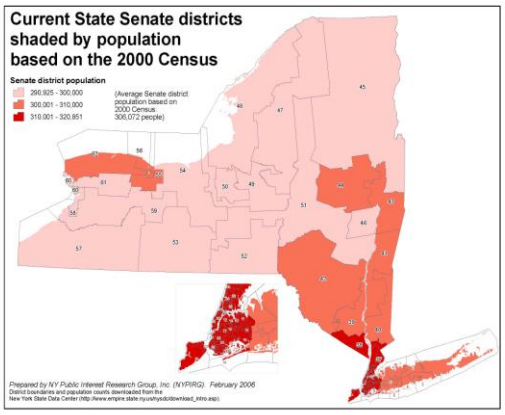
MAPS SHOW REGIONAL STRATEGIES BY THE MAJORITY PARTIES TO MAINTAIN CONTROL, "PACKING AND CRACKING."

The clearest way to view the impact of the mapmakers' intent is when the enrollment advantages described above are illustrated (see below).

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

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





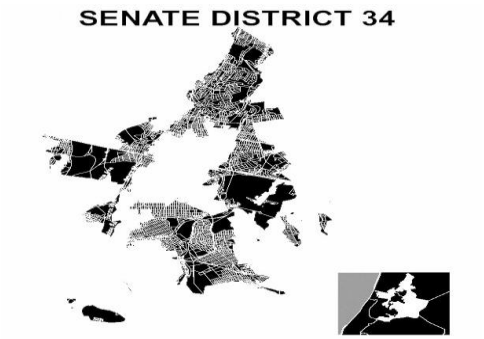
In the Democratically-controlled Assembly, mapmakers employed the opposite strategy. In the map above left, the "*lighter*" the district, the fewer the number of people.[10]

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

[10] Maps' source: New York Public Interest Research Group

FINDING #3: NEW YORK STATE'S REDISTRICTING SYSTEM IGNORES CONSTITUTIONAL REQUIREMENTS OF "COMPACTNESS."

Variations in population size are not the only aspect of New York's districts that undermine voter choice and competitive elections. In addition to "packing' voters into super-sized districts in an effort to allow the majority parties in each of the houses to maintain their advantage, legislators also create uncompetitive districts by creatively skewing boundary lines to group like-minded voters together.



Currently, New York State's Constitution requires that all districts "...be of convenient and contiguous territory in as compact form as practicable..."[11].

However, voting boundaries frequently resemble abstract shapes instead of concentrated areas of land, as illustrated by the example on the *left*.

These disparities of shape of state legislative districts are often the result of efforts to protect political power, i.e. "Gerrymandering", not of efforts to keep communities intact. In both houses, the majority party rigs district lines in an effort to maximize incumbency re-election rates and ensure majority dominance.

Compliance with the Voting Rights Act

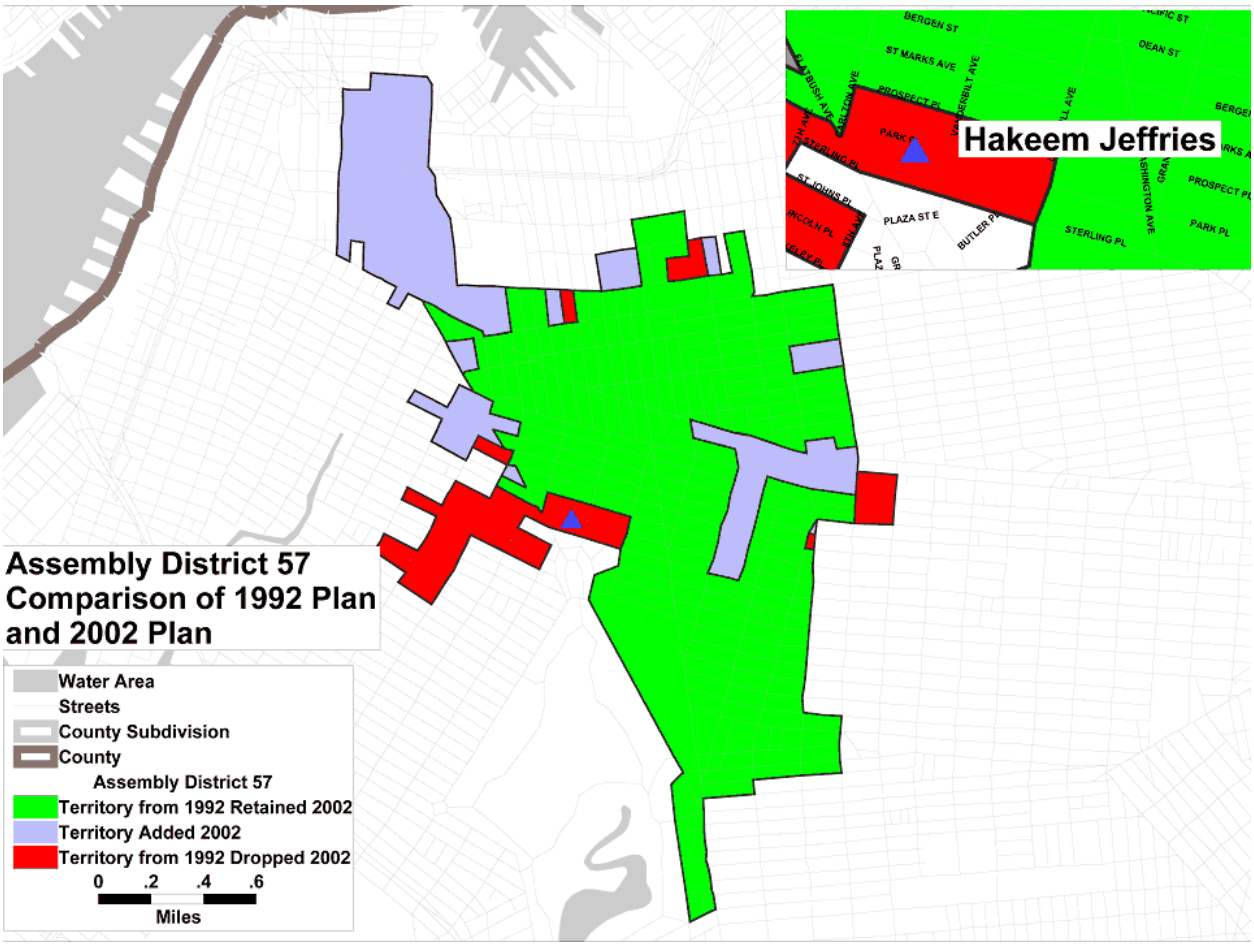
Sometimes these bizarre shapes are not the result of partisan Gerrymandering, but the outcome of compliance with federal requirements. The federal Voting Rights Act[12] – and US Supreme Court decisions that stem from its provisions -- prohibits voting discrimination and requires that electoral processes (including redistricting) are equally accessible to minority voters. In addition, in some New York State counties – Brooklyn, Bronx, Manhattan – the new maps cannot leave minority voters less well-represented than current lines. Lastly, the Voting Rights Act mandates that the US Justice Department approve newly-drawn district lines to ensure that the lines do not have the effect of discrimination based on race. As a result, district lines can sometimes be drawn in odd shapes in order to comply with these requirements.

[11] New York State Constitution, Article 3, Section 5.
[12] For more information on the Voting Rights Act, see: http://www.justice.gov/crt/voting/misc/faq.php.

FINDING #4: NEW YORK STATE'S REDISTRICTING SYSTEM TARGETS POTENTIAL CHALLENGERS TO INCUMBENTS

Beyond the "macro" issue of mapmakers' intent to enhance party control over each house of the Legislature, district lines have been used to benefit *individual* incumbents. Citizens Union of the City of New York has analyzed two races to illustrate how mapmakers drew lines to eliminate potential challenges to sitting incumbents.

In 2002, Assembly Mapmakers designed a district to boost the re-election bid of then-Assemblyman Roger Green (AD 57, Brooklyn). In 2000, challenger Jeffries won 41% of the Primary Election vote. In 2002, mapmakers "moved" Jeffries's home into another district. This move was designed to block Jeffries's run in 2002. It succeeded (although Jeffries ultimately moved into the district and was elected). See below[13]:



[13] Map source: Citizens Union of the City of New York

FINDING #5: FEW INCUMBENTS LOSE IN GENERAL ELECTIONS

One of the remarkable political trends in New York State has been the difficulty political challengers have had in taking on state legislative incumbents. During the past twenty years, few incumbents have been beaten in the state legislature's general elections.

Even though in some cases there were no incumbents on the ballot, and in some cases challengers were able to unseat incumbents in party primaries, very few incumbents were beat in general elections, those open to all New Yorkers (some incumbents did lose their seats due to scandals, no fault of the mapmakers though). During the period below, nearly 3,000 state legislative general elections were held, yet in only a tiny fraction of those races were challengers successful in knocking out incumbents.

Number of incumbents who lost re-election in the general election 1982-2008[14]

Years	Number of incumbents who lost in the general election
1982	3
1984	6
1986	1
1988	3
1990	3
1992	2
1994	4
1996	2
1998	0
2000	1
2002	5
2004	4
2006	1
2008	4
Total	**39**

It is clear that the mapmakers – combined with the impact of a disgraceful system of campaign financing – have done their jobs well.

[14] Red Book, published by New York State Legislature, and New York State Board of Elections information, 1980 through 2008.

FINDING #6: INCUMBENTS ARE NOT ONLY DIFFICULT TO BEAT, BUT THEY WIN WITH OVERWHELMING MARGINS[15]

Coupled with huge campaign finance advantages, redistricting not only has helped protect incumbents, but made it extraordinarily difficult for challengers to mount serious campaigns. As seen below, from the general elections in 2002 through 2008, over 65 percent of Senate winners won by more than 2 to 1 or greater. Nearly 75 percent of Assembly winners won by that margin or greater. Roughly 5 percent of races were close.

Senate

Margin	2002	2004	2006	2008	% of all races
Close--margin of victory less than 10 percentage points	1	2	3	7	5.24%
Victor beat nearest opponent by at least 10 points	12	18	24	18	29.03%
Victor received twice the percent of votes of their nearest opponent	17	8	5	10	16.13%
Victor received four times the percent of votes of their nearest opponent	10	9	10	11	16.13%
Unopposed	22	25	20	16	33.47%

Assembly

Margin	2002	2004	2006	2008	% of all races
Close--margin of victory less than 10 percentage points	9	10	10	4	5.50%
Victor beat nearest opponent by at least 10 points	27	32	34	34	21.17%
Victor received twice the percentage of votes of their nearest opponent	43	27	28	31	21.50%
Victor received four times the percentage of votes of their nearest opponent	26	29	31	30	19.33%
Unopposed	45	52	47	51	32.50%

[15] Source of data, New York State Board of Elections. Analysis by New York Public Interest Research Group, August 2010.

RECOMMENDATION:
NEW YORK STATE SHOULD CREATE AN INDEPENDENT REDISTRICTING COMMISSION TO ESTABLISH LEGISLATIVE BOUNDARIES.

New Yorkers want a change in who draws district lines. In a recent poll, by a 3 to 1 margin, likely voters stated that they wanted an independent redistricting commission to make these decisions.[16] Moreover, there is growing political support as well. The leading gubernatorial candidates for the major parties have called for the establishment of an independent redistricting commission.[17]

It's time for real changes in the way district lines are drawn in New York. New York lawmakers should create an independent, nonpartisan redistricting commission to draft the state legislative and congressional political boundaries for the 2012 elections and beyond. Some states, such as Iowa and Arizona, have independent and non-partisan redistricting systems that help encourage more representation and responsiveness in state government. They should serve as models.

While there are many lessons to be learned from these experiments, one thing is clear: New York should adopt a system where independent commissioners are appointed from a pool of diverse and qualified candidates. Commissioners should not be allowed to draw district lines that either favor or oppose any political party or incumbent legislator. Minority voting rights should be given the full protection of the U.S. Constitution and the Voting Rights Act.

New York State's constitution makes it clear that redistricting is to be determined by the Legislature.[18] Therefore, a constitutional amendment could clearly remove control of this process from the legislature and grant it to an independent commission.

However, it is virtually impossible that such an amendment could be enacted in time to impact the 2012 elections – the first election to be conducted under new lines. Thus, a statutory approach is the most likely and practical alternative.

New York State currently convenes a Commission to draft district lines for the Legislature to vote upon. The New York State Task Force on Demographic Research

[16] Quinnipiac Polling Institute, "New York Government is Broken, Voters Say 4-1, Quinnipiac University Poll Finds; 3-1 Disapproval is Worst Ever for State Legislature," June 22, 2009. The poll found that by a 66 to 22 margin, New Yorkers supported that district lines be drawn by a *"commission with no connection to the State Legislature, rather than by the State Legislature, as in the current practice."*

[17] Roberts, S. "Albany Candidates Backs Nonpartisan Redistricting," *The New York Times,* April 19, 2010, see: http://www.nytimes.com/2010/04/20/nyregion/20koch.html.

[18] New York State Constitution, Article 3, Section 5.

and Reapportionment (LATFOR) is the entity tasked with drafting new lines once the latest census is made available.[19]

The Task Force consists of six members, including four legislators and two non-legislators. The Temporary President of the Senate appoints one legislator and one non-legislator. The Speaker of the Assembly also appoints one legislator and one non-legislator. Both non-legislators are employees of the Legislature. The Minority Leaders of the Assembly and the Senate each appoint one legislator.

Reformers have focused on making LATFOR an independent commission – meaning that its membership is as nonpartisan as possible -- that operates under the existing state constitutional requirements. Other states rely on at least nominally independent commissions. Our review of those other states leads us to conclude that the state of Iowa's offers the most reasonable model to follow.

Recommendation

During the next legislative session, the new governor and members of the state Legislature have an important decision to make. The old way of drawing district lines is unfair and undemocratic. A new law should be enacted that achieves at least the following goals:

- Creating a new, independent citizens redistricting commission that is fairly chosen to draw congressional and legislative district lines. These lines must not favor any incumbent or political party and must employ even-handed and sensible redistricting guidelines that provide for fair and effective representation of racial and language minority groups.
- Ensuring adequate disclosure and opportunities for public input of redistricting proceedings and data.
- Preserving and creating an effective mechanism for legislative approval of the independent redistricting commission's plan.

[19] For more information on the New York State Task Force on Demographic Research and Reapportionment, go to: http://www.latfor.state.ny.us/.

APPENDIX

MODEL OUTLINE FOR A INDEPENDENT REDISTRICTING COMMISSION

This model creates an independent redistricting commission and sets standards for the drawing of new district lines. Below is a section-by-section summary of the model's provisions. The first three sections deal with technical changes to existing law. The fourth section of the bill creates a new Article 6-A to the legislative law. Below is a summary of a model Article's provisions.

Step 1 – A "nominating committee" is established.
The Apportionment Nominations Committee will be **made up of eight members**, with one appointee from each of the following: The presiding Judge of the Court of Appeals, the Attorney General, the State Comptroller, the Governor, the Senate Majority Leader, the Speaker of the Assembly, the Senate Minority Leader, and the Assembly Minority Leader.

Its members cannot be politically affiliated.
No member shall:

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

The committee then chooses member of a "nominations pool" and its membership must be diverse. From this "pool" the members of the Commission will be appointed. The Committee will establish, based on majority vote, a list of forty eligible persons for the "Nominations Pool."

The Nominations Pool shall represent the diversity of the state with regard to race, ethnicity, and gender; will include persons from each NY region (Long Island, New York City, Hudson Valley, Northern, Central, Southern Tier, and Western); and w*ill include fifteen enrolled Democrats, fifteen enrolled Republicans, and ten persons not enrolled in either party.*

Nominees shall not fall under any of the above listed categories of political affiliation.

Step 2 – A redistricting commission is established (called the "Apportionment Commission").
The Apportionment Commission shall assist the legislature in the reapportionment of Congressional, Senate, and Assembly districts based on the ensuing Federal Census.

The Commission will be **made up of eleven members**, chosen from the "nominations pool" with two appointees from each of the following: The Senate Majority Leader, the Speaker of the Assembly, the Senate and Assembly Minority Leaders; and *the three remaining Commission members will be appointed by the eight initially appointed members.* No more than four members shall be enrolled in the same political party.

Step 3 – The Commission begins its work.
The Apportionment Commission shall:

- Have all the powers of a legislative committee (hire and fire staff; hold public hearings; etc.);
- Meet within or outside New York State;
- Prepare necessary descriptions of geographic units of New York State and prepare maps of cities, towns, and counties for describing Congressional, Senate, and Assembly districts; and
- Make all information on the members of the Apportionment Commission and all rules and regulations used to determine the competitiveness of proposed districts available to the public in print form and electronically, on the internet.

Step 4 – The Commission then drafts maps for legislative review.
The Commission shall prepare apportionment plans in a manner that:

- Ensures fair and effective representation of racial and language minority groups;
- Are of substantial equality of population with other Congressional, Senate, and Assembly districts *(No deviation [for Senate and Assembly districts] shall exceed one percent of the average population of all Senate and Assembly districts)*;
- To the extent practicable, keep communities together and respect municipal boundaries;
- Keep districts compact and contiguous;
- Minimize the number of Assembly districts contained in a Senate district (a maximum of 3);
- Maximize the number of "competitive" districts; and
- **Are drawn without the intent to favor or oppose any political party or any incumbent federal or state legislator.**

During the preparation of its plan, the Apportionment Commission shall have at least **eleven public hearings** throughout the state.

COMPARISIONS BETWEEN NEW YORK STATE AND IOWA

Of course, no two states are alike and New York State and Iowa are very different. Yet given the constraints on reform – namely that only a statutory change can be implemented in time for the 2012 elections – Iowa offers important lessons for redistricting changes in New York.

Unlike New York State's practice, in the state of Iowa, <u>every</u> district is within one percent of the "ideal size."

When drafting new district lines, policymakers do not have to create districts with such large differences in population. For example, the state of Iowa requires that legislative districts contain populations that are nearly exactly the same. Iowa's legislative districts have a population range of only one person from largest to smallest district.[20] While there are constitutional and voting rights differences in drawing legislative districts between New York and Iowa, it is clear from Iowa's experience that it is technically possible to have districts of nearly the same size.

Unlike New York State's practice, in the state of Iowa, districts tend to have more recognizable shapes.

Obviously Iowa is a starkly different state than New York. It is smaller and more rural. It has a more homogenous population. Nevertheless, the district lines clearly form more recognizable shapes. New York should learn from Iowa's experience and apply the lessons to its own more complicated redistricting system.

The state of Iowa's legislative districts are far more likely to have close enrollments than New York's.

Iowa is a small, somewhat rural state with a population that is overwhelmingly white. In addition, enrollment between the two major political parties is roughly equivalent – with Democrats having a slight edge. *Thus, comparisons with New York State are limited in their usefulness.*

However, a comparison does offer some insights for policymakers. The following charts examine major party enrollments in legislative districts. Both charts show that there are stark differences.

[20] According to the Iowa redistricting commission, the population range in State Senate districts is +/- .7%. In Iowa's House of Representatives, the range is +/- .9%. *Source*: The state of Iowa, "Second Redistricting Plan," June 18, 2001.

Enrollment range between the major political parties	New York State Assembly[21]	Iowa House of Representatives
Roughly even	6%	17%
Ratio between 1 to 1 and 2:1	41%	60%
Between 2:1 to 3:1 ratio	14%	18%
Between 3:1 to 4:1 ratio	7%	3%
Ratio of 4:1 or more	32%	2%

Enrollment range between the major political parties	New York State Senate[22]	Iowa State Senate
Roughly even	5%	22%
Ratio between 1 to 1 and 2:1	47%	56%
Between 2:1 to 3:1 ratio	13%	18%
Between 3:1 to 4:1 ratio	2%	2%
Ratio of 4:1 or more	34%	2%

The above charts show that over three quarters of Iowa's districts have "close" enrollments, meaning a ratio that is not 2 to 1 or greater. In New York, about half of the districts are in the same category. Iowa also has a far higher percentage of districts with roughly the same number of Democrats and Republicans (roughly 20% to 6% in New York).

Interestingly, Iowa has a much lower percentage of "supermajority" districts than New York. While it's hard to know exactly why that is the case, it is likely that the decisions of the independent commission in Iowa are part of the reason.

[21] Exceeds 100% due to rounding.
[22] Exceeds 100% due to rounding.

THE USE OF REDISTRICTING COMMISSIONS IN OTHER STATES

According to National Conference of State Legislatures, twenty-one states have a redistricting commission that draws up the plan, advises the legislature on drawing up the plan or acts as a backup if the legislature fails to draw up the plan for legislative districts. What follows is a summary of the key components of those commissions as reported by the NCSL.[23]

Thirteen states have commissions that are charged with conducting redistricting.

Alaska. The Alaska redistricting commission is appointed as follows: The governor of Alaska appoints two members; then president of the Senate appoints one; then speaker of the House appoints one; then chief justice of the Supreme Court appoints one. At least one member must be a resident of each judicial district. No member may be a public employee or official.

Arizona. The state's commission on appellate court appointees creates a pool of 25 nominees, ten from each of the two largest parties and five not from either of the two largest parties. The highest ranking officer of the house appoints one from the pool, then the minority leader of the house appoints one, then the highest ranking officer of the senate appoints one, then the minority leader of the senate appoints one. These four appoint a fifth from the pool, not a member of any party already represented on the commission, as chair. If the four deadlock on that appointment, the commission on appellate court appointments chooses the chair.

Arkansas. Its commission consists of the governor, secretary of state, and the attorney general.

California. With the passage of Proposition 11 in 2008, the process of redrawing California's state legislative districts was removed from state legislative authority and given to a newly established 14 member commission. The commission must include 5 Democrats, 5 Republicans, and 4 members from neither party. Government auditors are to select 60 registered voters from an applicant pool. Legislative leaders can reduce the pool; the auditors then are to pick eight commission members by lottery, and those commissioners pick six additional members for 14 total. For approval district boundaries need votes from three Democratic commissioners, three Republican commissioners, and three commissioners from neither party.

Colorado. Its Legislature selects four members: (speaker of the House; House minority leader; Senate majority and minority leaders; or their delegates). The governor selects three. Judiciary selects four. There is a maximum of four appointees from the

[23] National Conference of State Legislatures, "Redistricting Commissions: Legislative Plans," see: http://www.ncsl.org/?tabid=16617.

legislature. Each congressional district must be represented by at least one person, but no more than four people from the district may participate on the commission. At least one member must live west of the Continental Divide.

Hawaii. Its President of the Senate selects two members. The Speaker of the House selects two. Minority senate party selects two. The minority party of the House picks two. These eight select the ninth member, who is the chair. No commission member may run for the legislature in the two elections following redistricting.

Idaho. The leaders of two largest political parties in each house of the legislature each designate one member; chairs of the two parties whose candidates for governor received the most votes in the last election each designate one member. No member may be an elected or appointed official in the state at the time of designation.

Missouri. There are two separate redistricting committees. The governor picks one person from each list of two submitted by the two main political parties in each congressional district to form the house committee. The governor picks five people from two lists of 10 submitted by the two major political parties in the state to form the senate committee. No commission member may hold office in the legislature for four years after redistricting.

Montana. The majority and minority leaders of both houses of the Legislature each select one member. Those four select a fifth, who is the chair. Members cannot be public officials. Members cannot run for public office in the two years after the completion of redistricting.

New Jersey. The chairs of the two major parties each select five members. If these 10 members cannot develop a plan in the allotted time, the chief justice of the state Supreme Court will appoint an 11th member.

Ohio. The board consists of the governor, auditor, secretary of state, and two people selected by the legislative leaders of each major political party.

Pennsylvania. The majority and minority leaders of the legislative houses each select one member. These four select a fifth to chair. If they fail to do so within 45 days, a majority of the state Supreme Court will select the fifth member. The chair cannot be a public official.

Washington. The majority and minority leaders of the House and Senate each select one. These four select a non-voting fifth to chair the commission. If they fail to do so by January 1, of the odd-numbered year after the census, the state Supreme Court will select the fifth by February 5, of that year. No commission member may be a public official.

Additionally, two states have advisory commissions (Maine and Vermont) and four states have “backup” commissions (Connecticut, Illinois, Mississippi, Oklahoma, Texas).

According to the NCSL, Iowa conducts redistricting unlike any other state. Its redistricting commission does not approve the lines. Instead, the state's nonpartisan legislative staff develops maps for the Iowa House and Senate as well as U.S. House districts without any political or election data including the addresses of incumbents. The legislature cannot amend the plans, but can only approve or reject the plan. After rejection of a second plan, the legislature is allowed to make changes prior to third passage.

Reformers have agreed that this model meets the New York State constitutional requirement that the legislature approve the lines, but replaces the current politically-motivated redistricting commission with an independent one.