

REDISTRICTING REFORM IN CALIFORNIA

BY ALAN HESLOP

This paper is designed to assist conferees in discussing redistricting reform and in developing a model constitutional amendment.

Intense partisan conflict over redistricting in the period 1980-1990 brought four reform initiatives to the ballot: summaries are available in Part I, below.¹ In the past few months, apparently stimulated by the success of the recall initiative, there has been a flurry of new redistricting reform proposals: two are selected for summary in Part II. In Part III, we reproduce the text of Arizona's Proposition 106 (which will be addressed by the Chairman of Arizona's Independent Redistricting Commission, who is one of our panelists). In Part IV, we conclude by outlining two sharply differing approaches to design of a model constitutional amendment, together with a proposal for the use of Units of Representation.

PART I: REDISTRICTING REFORM, 1980-90

A. PROPOSITION 14, 1982.

In 1981, in the wake of what Republicans were unanimous in denouncing as harsh partisan gerrymanders, the California Republican Party qualified and passed referenda striking down the redistricting plans. The California Supreme Court, however, ruled that legislative and congressional candidates must run in the districts created by those same plans, thus frustrating the goal of the referenda. This was the immediate origin of Proposition 14, developed by representatives of the Republican Party, the California Roundtable, Common Cause, and The Rose Institute. It provided for a commission composed of citizens and legislators.

PROPOSITION 14: REAPPORTIONMENT BY DISTRICTING COMMISSION OR SUPREME COURT: INITIATIVE CONSTITUTIONAL AMENDMENT

GENERAL: *Repealed Legislature's power to redistrict and established a Districting Commission.*

DATE EFFECTIVE: *Commission to be appointed December 1982; plans to be adopted by October 1, 1983.*

COMMISSION MEMBERSHIP AND APPOINTMENT: *At least 10 members: 4 selected by a panel of Justices from the courts of Appeal, 6 by the two major parties (3 each, of whom 2 could be legislators), and 1 by any other party with 10% of members of the Legislature.*

VOTING REQUIREMENTS: *Plans to be adopted by a 2/3rds vote of the Commission, including at least 3 votes from members appointed by the panel of Justices and at least one vote from each group of major party appointees.*

CRITERIA

- *Fair and effective representation; minority representation.*
- *Nesting of Board of Equalization, Senate and Assembly districts.*

- *Population variance of legislative districts up to 2%.*
- *No lapse of representation for a district because of district numbering.*
- *Subject to referendum.*
- *Compactness and contiguity.*
- *No common county boundary to be crossed more than once.*
- *Use of whole census tracts.*
- *Minimized division of cities, counties, and regions*

COMMISSION COMPENSATION AND COSTS: *Non-legislative members of the Commission to be paid the monthly salary of legislators.*

SCHEDULE: *Final plans in 1991 and thereafter to be adopted by October 1 of the year following the year of the decennial census or 180 days after receipt of census data, whichever is later.*

COMMISSION FAILURE: *State Supreme Court must redistrict*

The voters rejected Proposition 14 – Yes: 3,065,072 (45.5%); No: 3,672,301 (54.5%). The failure was explained at the time by its placement on the ballot between unpopular initiatives; poor funding; the relative lack of controversy (and, therefore, of public attention); and conservative voter opposition to new governmental machinery.

B. PROPOSITION 39, 1984

The failure of Proposition 14 inspired further reform efforts, the most significant of which was the so-called Sebastiani Plan that sought to place “good government” redistricting maps before the voters. The Supreme Court, however, ruled that the plan could not be placed on the ballot. In 1984, this led the Deukmejian administration to develop a new reform initiative, providing for a commission composed primarily of retired justices.

PROPOSITION 39. REAPPORTIONMENT. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

GENERAL: *Repealed Legislature’s power to redistrict and established districting by Commission.*

DATE EFFECTIVE: *Commission to be appointed by December, 1984; plans to be adopted by July 1985.*

COMMISSION MEMBERSHIP AND APPORTIONMENT: *10 members, of whom 8 are to be voting members to be selected by lot from 2 lists of retired state appellate court (or if necessary, lower court) judges: 4 judges appointed by governors of one major party, 4 judges appointed by governors of the other major party. The Governor is to appoint one non-voting member and a statewide official (or Chairman) of the other major party is to appoint a second non-voting member. (If a third party receives at least 20% of the statewide vote, it also appoints a non-voting member).*

VOTING REQUIREMENTS: *Plans to be adopted by a majority of the 8 voting members.*

CRITERIA:

- *Fair and effective representation: minority representation.*
- *Promote competition for elective office.*
- *Nesting of Board of Equalization, Senate and Assembly districts.*

- *Federal population standards.*
- *Consecutive numbering, north to south, of districts.*
- *Compactness and contiguity.*
- *No crossing county boundaries more than once.*
- *Use of whole census units.*

COMMISSION COMPENSATION AND COSTS: *Requires the legislature to appropriate up to half the cost of the 1980 redistricting (adjusted for inflation).*

SCHEDULE: *Final plans in 1991 and, thereafter to be adopted by October 1 of the year following the year of the decennial census or 180 days after receipt of census data, whichever is later.*

SUBJECT TO REFERENDUM: *Yes (requiring adoption of new plan in 120 days).*

COMMISSION FAILURE: *Chairman of the Commission reconstitutes it according to specified procedure until a plan is adopted.*

SUPREME COURT REVIEW: *Exclusive state court jurisdiction vested in Supreme Court.*

The voters rejected Proposition 39—Yes: 3,995,762 (44.8%); No: 4,919,860 (55.2%). The failure was explained at the time by: the Deukmejian’s administration’s need to work with the Legislature; the lack of campaign funds; the inadequacy of the campaign supporting the initiative; and the skillful Democratic campaign against it.

C. PROPOSITION 118

Republicans were frustrated by continued Democratic domination of the Legislature and fearful that 1991 would see a repetition of the harsh partisan gerrymander of 1981. To both Republicans and other reformers, several high-profile scandals suggested that redistricting abuse was part of a more general ethical failure of the professional legislature. Proposition 118, therefore, provided for legislatively conducted redistricting, but was tightly constrained by very detailed criteria, subject to automatic referenda, and incorporated in a general scheme of ethical reforms.

PROPOSITION 118. LEGISLATURE. REAPPORTIONMENT. ETHICS.

GENERAL: *Established a Joint Legislative Ethics Committee to monitor and report on the redistricting process and required that the Legislature adopt plans by a 2/3rds vote in each chamber.*

VOTING REQUIREMENTS: *The Legislature must adopt plans by 2/3rds votes of each house. Bills must be submitted to the Joint Legislative Ethics Committee 10 days prior to passage.*

SUBJECT TO REFERENDUM: *The Secretary of State shall “automatically submit” redistricting statutes for a vote in the next scheduled statewide election.*

CRITERIA:

- *Fair and Effective representation consistent with federal standards.*
- *Nesting of Senate and Assembly districts.*
- *Population variance of legislative districts up to 1%.*
- *Prohibition of districts crossing county boundaries of listed counties; and a requirement that only one district of a type may cross the common boundary between two counties. No county may*

contain subdivisions of more than 2 districts and no district of a type shall “contain subdivisions of more than 2 counties.”

- *Compactness and contiguity defined: “populous adjacent territory shall not be by-passed to reach distant populous areas” and districts shall “contain no less than 60% of the population contained in that polygon, bounded only by straight lines, with the shortest possible perimeter drawn around that district.” And “the average of all these percentages for all districts of a type shall not be less than 75%.”*
- *Districts shall “minimize the division of cities;” no “city smaller than the size of a district shall contain subdivisions of more than two districts;” and “no district may contain subdivisions of more than two cities.”*
- *Districts shall “minimize the division of census tracts:” “no district of a type may contain subdivisions of more than 4 census tracts except to conform to city or county lines.”*
- *Districts shall “not be drawn for the purpose of favoring any political party” or “favoring any incumbent.”*
- *The Legislature shall make access to computer systems and data available to all its members and commercially available to the public.*

SCHEDULE: *Plans must be adopted by the Legislature prior to July 15 of the year after the year in which the census is taken.*

COSTS: *The Legislatures may not spend more than half the amount spent to redistrict in 1980 (adjusted by CPI).*

COURT REVIEW: *In the event of violation of criteria, a court may authorize deviations, while retaining the remainder of the plan. In the event of failure to comply with requirements, or in the event of rejection by the voters, “any voter may commence a legal proceeding to establish districts that are in compliance.”*

D. Proposition 119

By contrast, the authors of Proposition 119 wanted to create a bipartisan commission of citizens nominated by non-profit, non-partisan organizations and selected by a panel of retired judges.

PROPOSITION 119. REAPPORTIONMENT BY COMMISSION. INITIATIVE. CONSTITUTIONAL AMENDMENT AND STATUTE.

GENERAL: *Repealed legislative power to redistrict and established an Independent Citizens Redistricting Commission.*

DATE EFFECTIVE: *Commission to be appointed May 1991.*

COMMISSION MEMBERSHIP AND APPOINTMENT: *12 members (and alternates) appointed by a panel of 3 retired appellate court justices from a list of registered voters nominated by nonprofit, nonpartisan organizations; 5 members to come from each of the major parties; 2 must not be members of those parties. Each major party may disqualify 2 members, who are to be replaced by alternates chosen by the judicial panel.*

VOTING REQUIREMENTS: *A majority vote of at least 7 commissioners, with at least 2 votes coming from members of each of the two major parties, is required to adopt a plan.*

REFERENDUM: *Yes (requiring appointment of a new commission.)*

CRITERIA: *The Commission must pick the citizen plan(s) that best meet the following:*

- *Fair and effective representation; minority representation.*
- *Nesting of Board of Equalization, Senate and Assembly districts.*
- *Equality of Population within 1%.*
- *Compactness and contiguity.*
- *Respect for county boundaries and minimized division of cities.*
- *To “the extent practicable and consistent with the achievement of the other standards,” the proportion of registered voters of each major political party in a district must be within 2% of the statewide population of that party’s voters.*
- *All senate seats are subject to election in the first election following the redistricting, after which even-numbered seats have one 2-year term, followed by two 4-year terms, a sequence that is reversed at the next reapportionment*

COMMISSION COMPENSATION AND COSTS: *Legislature must transfer \$3.5 million to the Independent Citizens Redistricting Fund every decade. Commissioners receive \$100 per diem plus expenses.*

SCHEDULE: *After receipt of census data a manual is published for citizen use and a 60-day period for submission of citizen plans begins, followed by a 45-day inspection period at the close of which the Commission has 30 days to adopt plans.*

COMMISSION FAILURE: *In the case of failure a new commission is appointed and if it also fails the Supreme Court adopts a plan.*

SUPREME COURT REVIEW: *Exclusive jurisdiction is vested in the Supreme Court.*

Proposition 118 failed – Yes: 1,615,163, (32.99%), No: 3,281,177 (67.0%) – as did Proposition 119 – Yes: 1,761,510 (36.19%), No: 3,105,501 (63.81%). Their poor showing was explained by a lack of funding, the complexity of their provisions, and the competition between them (and the resulting voter confusion).

PART II: CONTEMPORARY REFORM PROPOSALS

Thrown into the courts by Governor Pete Wilson and, thereby, into the hands of a court master, the redistricting of 1992 produced a significant number of competitive districts, thus depriving the reform movement of much of its purpose and energy. In 2001, however, districts were drawn to the advantage of nearly all incumbents, producing more non-competitive districts than at any time in California’s modern history. Congressman Bill Thomas was one of the few incumbents to criticize the plans, which he charged would condemn Republicans to permanent minority status.

In the wake of the recall, a number of reform proposals have surfaced. Nancy Jewell Cross has been cleared to gather signatures for a measure that would provide for nested “state districts” equal in number to the number of California’s congressional districts. Another wide-ranging initiative, led by Casey Peters, would require proportionate political representation of voters in single or multi-member districts. Assembly Republican leader, Kevin McCarthy, is preparing a proposal to put redistricting in the hands of a panel of retired judges appointed by the Supreme Court. Two other current reform proposals may be selected for attention here.

THE COSTA PROPOSAL

Ted Costa, the head of People's Advocate and the principal author of the recall initiative, drafted a reform proposal and is now seeking to qualify it for the November ballot.

GENERAL: *Establishes a panel of appointed Special Masters to propose a redistricting plan for Senatorial, Assembly, Congressional, and Board of Equalization districts.*

COMMISSION MEMBERSHIP AND APPOINTMENT: *The Judicial Council shall identify candidates drawn from retired state and federal judges who have never held partisan political office and have not changed their party affiliation in the preceding five years; candidates must pledge, in writing, that he or she will not accept an appointment to any government position or seek election to partisan political office for at least five years; the Speaker of the Assembly, Minority Leader of the Assembly, the President pro Tempore of the Senate and Minority Leader of the Senate shall each identify three qualified judges who are not members of the same political party as the legislator making the nomination; from this pool, the Judicial Council shall draw, by lot, three persons to serve as Special Masters and three alternates.*

VOTING REQUIREMENTS: *A plan shall be unanimously approved by the panel of Special Masters and then presented to the Legislature; the Legislature shall either enact the statute within ten days or propose modifications to the panel of Special Masters for its consideration; once a bill is adopted by the Legislature, it shall be presented to the Governor; the Secretary of State shall also submit the enacted bill at the next general election for approval or rejection by the voters as if it were proposed as a referendum.*

CRITERIA:

- *Districts of each type shall be numbered consecutively commencing at the northern boundary of the state and ending at the southern boundary.*
- *All districts of a particular type shall be as nearly numerically equal as practicable. For Congressional districts, the maximum population deviation between districts shall not exceed federal constitutional standards. For state legislative and Board of Equalization districts, the maximum population deviation between districts of the same type shall not exceed one percent.*
- *Every district shall be contiguous and as compact as practicable. In regards to compactness, to the extent practicable, a contiguous area of population shall not be bypassed to incorporate an area of population more distant.*
- *Each Board of Equalization district shall be comprised of ten adjacent Senate districts and each Senate district shall be comprised of two adjacent Assembly districts.*
- *District boundaries shall conform to existing geographic boundaries of a county, city, or city and county, and shall preserve identifiable communities of interest to the greatest extent possible. In this regard, a redistricting plan shall not cross any common county boundary more than once nor create more than one county fragment except as necessary to comply with the requirements of any other subdivision of this section.*

COMMISSION COMPENSATION AND COSTS: *The Special Masters shall receive no compensation for their services, but shall be reimbursed for their actual and necessary travel and other expenses incurred in the discharge of their duties. The Legislature shall make such appropriations from the Legislature's operating budget, as limited by section 7.5 of Article IV, as necessary for the panel to employ counsel, independent experts in the field of redistricting and computer technology, and other necessary personnel to assist them in their work.*

THE LOWENTHAL PROPOSAL

This proposal borrows substantially from Arizona's Proposition 106 (see below). It may have particular interest since its author is an incumbent legislator and a prominent member of the Democratic majority.

GENERAL: *Repeals Legislature's power to redistrict and establishes a Districting Commission.*

COMMISSION MEMBERSHIP AND APPOINTMENT: *Commission shall consist of five members. No more than two members of the Commission may be members of the same political party. A panel of 10 retired judges of the courts of appeal shall nominate candidates for appointment to the Commission. By January 8 of each year ending in the number one, the panel judges shall establish a pool of candidates for appointment to the Commission. The pool shall consist of 25 nominees, with 10 nominees from each of the two largest political parties in California based on party registration, and 5 who are not registered with either of the two largest political parties in California. From this pool, the Speaker of the Assembly, the minority floor leader of the Assembly, the President pro Tempore of the Senate and minority leader of the Senate shall each make one appointment. These four appointees will then gather and select by majority vote the fifth member who is not registered with any party already represented on the Commission.*

VOTING REQUIREMENTS: *After public display and review of draft maps, complete with reconsiderations based on comment and recommendations made to the Commission by the Assembly or Senate through majority or minority reports, the Commission shall establish final boundaries for congressional, Assembly, Senate, and Board of Equalization districts, and shall certify those districts to the Secretary of State.*

CRITERIA:

- *Districts shall comply with the United States Constitution and the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.).*
- *Congressional, Assembly, Senate, and Board of Equalization districts shall each have equal population with other districts for the same office, to the extent practicable.*
- *Districts shall be geographically compact and contiguous to the extent practicable.*
- *District boundaries shall respect communities of interest to the extent practicable.*
- *To the extent practicable, district lines shall use visible geographic features, city and county boundaries, and undivided census tracts.*
- *To the extent practicable, competitive districts should be favored where to do so would create no significant detriment to the other goals listed in this subdivision.*

COMMISSION COMPENSATION AND COSTS: *In each year ending in the number nine, the Department of Finance or its successor shall submit to the Legislature a recommendation for an appropriation adequate to meet the estimated expenses of the subsequent redistricting process occurring pursuant to this section, and shall make adequate office space available for the operation of the Commission. The Commission shall have procurement and contracting authority and may hire staff and consultants including legal representation. Members of the Commission are eligible for reimbursement of personal expenses incurred in connection with the duties performed for the Commission pursuant to law.*

PART III: REFORMS IN THEORY AND PRACTICE

California reformers, as the preceding sections have shown, have tried a remarkable range of concepts in a variety of combinations. At a general level, one may distinguish among proposals that replace legislative with commission control of redistricting; maintain legislative control but impose criteria and other constraints on legislative discretion; and combine some elements of both legislative and commission control. Among commissions, one may distinguish different ways of selecting members: appointment by a panel of justices; by party leaders; or a combination of selection by justices with input from party officials. Reform proposals also give emphasis to different criteria: to party competitiveness, communities of interest or county boundaries. And there are many differences concerning the role given to courts and to referenda.

The relative effectiveness of these different approaches remains, of course, a matter of no more than theoretical speculation in California. Other states, however, have actually redistricted under variations of these and other reform approaches. The recent experiences of Arizona, Washington, and New Jersey illustrate the benefits and challenges of redistricting reform. Of particular interest is Arizona's Proposition 106 (which will be addressed by the Chairman of Arizona's Independent Redistricting Commission, Mr. Steve Lynn)

Following are the criteria required by Arizona's Proposition 106:²

- *Districts shall comply with the United States Constitution and the United States Voting Rights Act;*
- *Congressional districts shall have equal population to the extent practicable, and State Legislative districts shall have equal population to the extent practicable;*
- *Districts shall be geographically compact and contiguous to the extent practicable;*
- *District boundaries shall respect communities of interest to the extent practicable;*
- *To the extent practicable, district lines shall use visible geographic features, city, town and county boundaries, and undivided census tracts;*
- *To the extent practicable, competitive districts should be favored where to do so would create no significant detriment to the other goals.*

PART IV. MODEL CONSTITUTIONAL AMENDMENTS FOR CALIFORNIA

Partisan—not bipartisan—gerrymanders have energized most redistricting reform movements; but, often, the cures for partisan abuse (supermajority votes in the Legislature or bi-partisan commissions) merely smooth the path for sweetheart gerrymanders. California's unhappy historical experiences (harsh partisan gerrymanders in 1951 and 1981, bipartisan gerrymanders in 1983 and 2001) emphasize the need for a reform that will prevent or limit both types. To many reformers, this means ending legislative power over redistricting, however constrained, in favor of some type of commission. Yet there may be ways of checking both partisan and bipartisan abuse within a legislative context. In this paper, as a way of focusing discussion by conferees, we briefly outline the major features of suggested model amendments for both legislative and commission control of redistricting.

MODEL A. LEGISLATIVE REDISTRICTING

Many years ago, former California speaker Robert Monagan, suggested a constitutional amendment to match the number of state senate districts to the number of congressional districts, requiring the Legislature to create common congressional and senate districts, each divided into two Assembly districts.³ Speaker Monagan believed that this one change would limit the drive for partisan gain while also promoting competitive districts. Proposition 140 may have given additional point to the Monagan approach, for term-limited legislators now look more hungrily than ever to Congressional seats. Would a fully nested district system, however, prove invulnerable to partisan gerrymanders? Gordon Baker showed his skepticism when he recommended combining it with a two-thirds requirement for passage in each house.⁴ But such a requirement would merely restore the priority of incumbent protection. Instead, we think the Monagan approach should be combined with strict geographic criteria (along the lines of those provided for in Proposition 118) together with provision for automatic referenda; given the substantial potential for legislative deadlock, it should also provide for court adoption of a plan.

MODEL B. COMMISSION REDISTRICTING

Although there was once a near consensus among academics that bi-partisan, tiebreaker commissions offer the best approach to non-legislative redistricting, this reform approach has encountered many difficulties in the real world.⁵ Much depends on the ability and integrity of the chairman (who is typically chosen by the other members); connections between the partisan members and incumbents promote allegations of improper influence; and the commissions typically work with loosely defined criteria, which then become the focus of challenges. We think a model commission for California must seek to correct all of these weaknesses. In terms of membership, we think it makes most sense to follow Proposition 39 in the use of retired appellate court justices combined with non-voting legislative party appointees. In terms of criteria, we think the commission can work with more generally-stated criteria than the legislature; but we propose that clear priority be given to the creation of competitive districts, with an explicit requirement for the definition of “competitiveness.”⁶ Exclusive jurisdiction should be vested in the Supreme Court.

COMMUNITY, REDISTRICTING, AND UNITS OF REPRESENTATION

Too little attention, we believe, has been paid by nearly all past redistricting reform approaches to the protection of communities as defined by the citizens who live in them; and this is a particularly important problem in California with its rapidly growing urban and suburban populations. Legislators have been notoriously cavalier with communities in redistricting, cutting through neighborhoods to better their election prospects, and sometimes deliberately dividing communities that form the base of potential opponents.

Commissions often lack both the knowledge of local areas and the time to develop citizen testimony. The pioneering work of Leroy Hardy in developing the concept of “Units of Representation” (UR’s) provides a solution.⁷ We propose that redistricting, whether conducted by the Legislature or a commission, be preceded by the constitution of citizen commissions in each county, including both county and city representatives, charged with the duty of defining UR’s that must be used as building blocks in the development of plans.⁷

CONCLUSION

We believe that either of the model amendments sketched above would greatly improve California’s redistricting process. As a practical matter, of course, the prior question is whether there is the public interest and the funding to support qualification and passage of any redistricting amendment. The initiatives of the 1980s, which were aimed to solve the problem of partisan Democratic gerrymanders, were led and largely funded by the California Republican Party and by a Republican governor. What forces will come together to end today’s bipartisan gerrymanders? And the answer to that question will help decide the kind of amendment to be offered to the voters.

Endnotes

1. A very brief overview of the history is available in the text of Heslop's talk at the Rose Institute's conference of November 2003. See Appendix A.
2. The full text of Proposition 106 is available in Appendix B.
3. *California Journal*, 1985, pp.83-4
4. "Lessons from the 1973 Masters' Plan," in *Political Gerrymandering and the Courts*, ed. B. Groffman, Agathon Press, NY, 1990
4. Robert Dixon, *Democratic Representation: Reapportionment in Law and Politics*. Oxford: Oxford University Press. 1968.
5. To assure the priority of this criterion, the Commission should be required to start its process by defining "competitive;" (acceptance of the definition should require a 2/3 vote). Alternatively (and/or as a "fall-back definition" in the event the commission deadlocks on the issue) language along the following lines could apply:

"Highly competitive" is defined to mean that the average difference between the Republican and Democratic candidate in the most recent races for President, for each US Senate seat, and for each CA Statewide office is less than 5 percent; "Somewhat competitive" is defined to mean that the average is between 5 and 10 percent. The plan must maximize "highly competitive" districts and then maximize "somewhat competitive" districts, within the limits of the other criteria.
6. See Dr. Hardy' work in, *Redistricting Reform: An Action Program*. Claremont: The Rose Institute of State and Local Government. 1990.
7. After census numbers are released, each county would create a committee to define "Units of Representation;" and each county supervisor and each mayor/city council would appoint one member to the committee. The Committee would have 90 days to hold public hearings and to divide the entire County into UR's. If the Committee fails to identify UR's within the 90-day time frame, the unified school districts and elementary school districts within the county would become the UR's. There should be no minimum population size for a UR, but the *maximum* allowed size of a UR would be 33 percent of the ideal population of an Assembly district. The Committee could also make non-binding recommendations to the legislature or commission (whichever is doing the redistricting) regarding which UR's should be placed together, and the redistricting entity could cite these recommendations as reasons for impinging on other criteria. The point of these requirements, of course, is that UR's would then be used as the building blocks for a redistricting plan. To further emphasize their importance in the process, language could be added regulating division of URs by district lines.

APPENDIX A

**COMMENTS DELIVERED BY ALAN HESLOP
OCTOBER 23, 2003**

Well, of course—it's going to surprise no one—my subject is redistricting. There are others here who know more about redistricting than I—not only Tony Quinn, but also Leroy Hardy and Alan Hoffenblum. Most of us came to the conclusion quite a long time ago, that there was a combination of effects—the one-man-one-vote decisions of the Supreme Court, plus computerization, plus Proposition 1A—that have made redistricting a central political process. That is, the court decisions removed all of the older constraints on redistricting (principally, of course, county boundaries); computers could aid the almost infinite refinement of districts for political purposes; and Proposition 1A, adding powers to the legislative branch and according legislators far greater perquisites than before, increased the stakes for manipulating the redistricting process.

I thought, given the title of our conference today, that it might be interesting to look at the reasons for failure of redistricting reform in California. This topic may gain interest from the fact that last week, Ted Costa, the author of the recall initiative, indicated that he is drafting a new redistricting reform initiative. A second fact that gives point to this discussion is that Governor Schwarzenegger will be confronting a legislature that has been creatively redistricted to assure the easy re-election of nearly all incumbents. The result is not only that it is dominated by a Democratic majority with whom the Governor must find a way of working, but that the Democratic majority is itself dominated by its most liberal members (just as the Republican caucus is dominated by its most conservative members). Of course, it is with liberal Democrats and conservative Republicans that our new Governor is likely to face most difficulties.

So, the task I am attempting is to look at past re-districting reform initiatives to see if we can tease out the reasons why they failed. I will then ask whether there are any lessons in that history for the future of such reform.

Although restricting obviously involves partisan stakes, it's not more partisan as an issue than term limits. Redistricting threatens incumbents and party majorities, but so do term limits. Yet in the case of term limits, Proposition 140, although massively outspent, passed easily; whereas in the case of redistricting reform, several initiatives, on which many millions were spent, all failed. Why? The usual explanation is that redistricting is too complicated, too arcane, people just don't understand it. History, as we'll see, does not fully support that conclusion.

Let me take you back rather more than twenty years to 1981. You won't find it in the Rose Institute's compilation of initiatives, but there was that year an extraordinary occurrence. It was the rapid qualification, with very little expense, of a referendum against the Assembly, State Senate and Congressional redistricting plans that had been passed by the legislature. How did this come about? There is a man in the audience here,

who could explain it, much better than I. His name is Jack Schultz, the principal deputy for the California Round Table, which worked with the Rose Institute to bring public attention to the stakes involved in redistricting. For the first, and perhaps, for the last time in California, redistricting became a household word—and in Republican households, a dirty word. Spear-headed by the Republican Party, this referendum quickly qualified. Two million pieces of mail were sent to Republican households with a 17-page packet, including the Assembly plan on white paper, the Senate plan on yellow paper, and the Congressional plan on pink; and this huge package of paper landed in people's mailboxes together with a request for funding. Within forty days, Tirso del Junco, who was the chairman of the Party, had raised 920,000 signatures, and not only that, but \$800,000 in small donor contributions.

Although passed by the citizens with 60% of the vote, the referendum fell afoul of the California State Supreme Court, headed by Chief Justice Rose Bird. In January of 1982, the court decided that legislators must run in the districts that had been drawn in 1981, thus fundamentally undercutting the purpose of the referendum. The Republicans shrieked foul but had to compete in the gerrymandered districts. The result was a huge victory for the Democrats. Indeed, at the congressional level, the Republicans claimed that the Democrats had won six additional seats. But, to summarize for our purposes here, the referendum proves that it's not impossible to get a big popular vote for redistricting reform.

The failure of the referendum led directly to Proposition 14: that is in your initiative compilation, on page 31, for the 1982 election. Representatives of the Rose Institute, the California Roundtable, the Republican Party and Common Cause met in a room with attorneys from Neilsen-Merksamer to hammer out the proposal that became Proposition 14. This measure provided for a bipartisan commission, with some citizen members, and it included strong good government criteria.

Qualified in mid-Summer of 1982—but not as easily as Republicans had anticipated - Proposition 14 failed forty-five to fifty-five percent in November of 1982. Why? You can imagine, perhaps, the extensive post-mortems that were done by the different groups that had been involved. One theory was, that because it was bracketed by Proposition 13, water conservation, and Proposition 15, gun control, both unpopular initiatives, it was more vulnerable to a negative vote. Another theory was that the voters in Orange County didn't like the idea of a new piece of governmental mechanism. Another was that the RNC had failed to put up the needed cash. But perhaps the most important fact is that the Democrats, convinced that it was going to pass, failed to oppose it; and, the Republicans seeing the lack of Democratic opposition, failed to advertise it. And so, of its own weight, Proposition 14 died on the vine. Perhaps we may surmise that redistricting reform, if it is to pass, needs controversy to get the attention of the voters. The immediate political aftermath of the failure was that Jerry Brown signed a new plan into law that accommodated both the Democrats and the Republicans. This was California's first experience of a technically proficient bipartisan gerrymander.

The result was yet another initiative: again, however, you won't find it in your packet. This was the so-called Sebastiani initiative. The son of a wine maker, a freshman legislator, Don Sebastiani seems to have perceived in redistricting reform a way of making his name. Fortunately, he had a wise head advising him, Alan Hoffenblum. Fortunately too, it seemed that there would be some funding: he got Parker Montgomery of the Round Table and some other Round Table associates to support him. And wisely he came to the Rose Institute—where, equally wisely, I refused to have anything to do with his initiative. But, one of our more enterprising students, a certain Henry Olsen, agreed to rent the Rose Institute computers and drew a fine good government, politically competitive redistricting plan. (He did this when he was a junior, which shows what a CMC education can do.) So, equipped with this plan, Sebastiani headed for the ballot. The trouble, to put it rather mildly, was that Sebastiani proved to be a very difficult person; the group that he had put together started to fall apart, and Sebastiani made matters worse by extraordinary statements, both sexist and racist. Only when a Long Beach supporter came to his rescue were funds found for the qualification. We already knew—from the controversy in 1981, and indeed prior to that, from the struggle between Berman and McCarthy—to what lengths each party would go to maintain or achieve control over redistricting. The struggle over the Sebastiani initiative was perhaps more comic than cruel, because nearly everyone figured that the initiative would likely fail. But the Democrats were not prepared to risk it. They even threatened their national party with changing the primary date. Indeed, they even—an interesting point—suggested that they would be willing to negotiate on a reform commission, so long as it did not go into effect until later in the decade. Deukmejian, who was the governor, doubtless advised by Steve Merksamer, his Chief of Staff, decided to call a special election for the initiative. Now, once again, the Supreme Court stepped in. The Rose Bird court decided that you really couldn't put the Sebastiani plan on the ballot. It was a decision that clinched Republican resolve to remove Rose Bird from the court.

Failure of the Sebastiani initiative led directly to Proposition 39, which you have in your packet. A creation of the Deukmejian administration, it was rather like Proposition 14, but instead of using partisans and citizens turned to retired justices. Funds for qualification were found, basically from Deukmejian's own treasury, and in 1983, the contest again sparked partisan fury. Once again, this was an initiative that would go into effect immediately; and once again the Democrats saw a dagger pointed at the heart of their majority.

Part of the problem with the campaign for Proposition 39 was that the Deukmejian administration had to work with the Democrats in the legislature, and so there may have been something less than total conviction in the administration's efforts for the initiative. The campaign lacked resources. The Democratic consultants, Berman and Di'Agostino of BAD Campaigns, cleverly used Republican rhetoric against the initiative, calling up the images of backroom gerrymandering proffered by Republicans in the referendum campaign, but adding the specter of corrupt judges, a favorite Republican target, as the line-drawers. The initiative failed fifty-five to forty-five.

In 1990 two redistricting reform initiatives qualified, (they're on page 67 of your book), Propositions 118 and 119. Republicans were frustrated by continued Democratic dominance of the Legislature in the 1980s and fearful that 1991 would see a repetition of the harsh partisan gerrymander of 1981. To other reformers, several high-profile scandals suggested that redistricting abuse was part of a more general ethical failure of the professional legislature. Proposition 118, combining the Republican with a more general reform perspective, provided for legislatively conducted redistricting, but tightly constrained by very detailed criteria, subject to automatic referenda and incorporated in a general scheme of ethical reforms. Proposition 119, more conventionally, established an "Independent Citizens' Commission" of 12 members appointed by a panel of retired appellate court justices. Both propositions failed: Proposition 119 by 36 to 64 percent, Proposition 118 by 33 to 67 percent. And here the reasons for failure are not so hard to see. The qualification process had exhausted the funding: there simply wasn't enough money left for the campaign process. There was competition and therefore confusion between the two initiatives; and confusion is the worst basis on which to seek a Yes vote. And neither initiative had strong Republican Party or incumbent support. No wonder they did poorly.

So, to a conclusion: How is it that California—which has had some of the worst redistrictings of any state in the country—has repeatedly failed to pass redistricting reform? Look over our border to Arizona, which after a fairly mild dose of gerrymandering, passed very easily its Proposition 106, establishing a bipartisan tie-breaker commission.

If one reviews California's history, it's clear that the Republicans failed to capitalize on and maintain their support with the public after they were checked by the court. Moreover, there was a gradual erosion of support within the Republican Party itself: incumbents detached themselves from the cause of redistricting reform in favor of keeping their safe districts. And finally, and crucially, one must emphasize the skill, energy and funding that the Democrats put in, every time, to defeating the initiatives.

The redistricting reform initiatives I have spoken of all related essentially to partisan gerrymandering. The issue now in California has to do with the current bipartisan, or sweetheart, gerrymander. In 2002 the White House, the Republican leadership and the Democratic leadership came together—in one case actually hiring the same consultant, Michael Berman—to draw the districts to mutual advantage. This is why today's legislature is so stacked with safe districts.

The interesting question now is whether the energy and the funding—most particularly, of course, the funding—can be found to undo the sweetheart. Mr. Costa evidently thinks so; but given the likely opposition of the Republican leadership, both at the State and the national level, it is hard to see where the money will come from. A further interesting question, of course, is whether any significant number of incumbents will want to be involved. Legislative term limits, and the ambition of term limited legislators to move to Congress, may have made the answer to this question somewhat less obvious than in the past. Another question: will Governor Schwarzenegger risk following in the footsteps of

George Deukmejian to back redistricting reform? Dare he risk his hope of an effective working relationship with the legislature? And, a final question—to which our gloomy history of reform provides no clues—does the recent spate of newspaper editorials favoring reform signal a broad revulsion against what is surely the most complete and effective bi-partisan gerrymander in American history?

Thank you very much.

APPENDIX B

**PROPOSITION 106
OFFICIAL TITLE
AN INITIATIVE MEASURE**

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO ENDING THE PRACTICE OF GERRYMANDERING AND IMPROVING VOTER AND CANDIDATE PARTICIPATION IN ELECTIONS BY CREATING AN INDEPENDENT COMMISSION OF BALANCED APPOINTMENTS TO OVERSEE THE MAPPING OF FAIR AND COMPETITIVE CONGRESSIONAL AND LEGISLATIVE DISTRICTS.

TEXT OF PROPOSED AMENDMENT BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARIZONA:

ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA, IS AMENDED AS FOLLOWS IF APPROVED BY THE VOTERS AND UPON PROCLAMATION BY THE GOVERNOR:

1. Senate; house of representatives; members; special session upon petition of members; CONGRESSIONAL AND LEGISLATIVE BOUNDARIES; CITIZEN COMMISSIONS

Section 1. (1) The senate shall be composed of one member elected from each of the thirty legislative districts established by the legislature PURSUANT TO THIS SECTION.

The house of representatives shall be composed of two members elected from each of the thirty legislative districts established by the legislature PURSUANT TO THIS SECTION.

(2) Upon the presentation to the governor of a petition bearing the signatures of not less than two-thirds of the members of each house, requesting that he call a special session of the legislature and designating the date of convening, the governor shall forthwith PROMPTLY call a special session to assemble on the date specified. At a special session so called the subjects which may be considered by the legislature shall not be limited.

(3) BY FEBRUARY 28 OF EACH YEAR THAT ENDS IN ONE, AN INDEPENDENT REDISTRICTING COMMISSION SHALL BE ESTABLISHED TO PROVIDE FOR THE REDISTRICTING OF CONGRESSIONAL AND STATE LEGISLATIVE DISTRICTS. THE INDEPENDENT REDISTRICTING COMMISSION SHALL CONSIST OF FIVE MEMBERS. NO MORE THAN TWO MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISSION SHALL BE MEMBERS OF THE SAME POLITICAL PARTY. OF THE FIRST FOUR MEMBERS APPOINTED, NO MORE THAN TWO SHALL RESIDE IN THE SAME COUNTY. EACH MEMBER SHALL BE A REGISTERED ARIZONA VOTER WHO HAS BEEN CONTINUOUSLY REGISTERED WITH THE SAME POLITICAL PARTY OR REGISTERED AS UNAFFILIATED WITH A POLITICAL PARTY FOR THREE OR MORE YEARS IMMEDIATELY PRECEDING APPOINTMENT, WHO IS COMMITTED TO APPLYING THE PROVISIONS OF THIS SECTION IN AN HONEST, INDEPENDENT AND IMPARTIAL FASHION AND TO UPHOLDING PUBLIC CONFIDENCE IN THE INTEGRITY OF THE REDISTRICTING PROCESS. WITHIN THE THREE YEARS PREVIOUS TO APPOINTMENT, MEMBERS SHALL NOT HAVE BEEN APPOINTED TO, ELECTED TO, OR A CANDIDATE FOR ANY OTHER PUBLIC OFFICE, INCLUDING PRECINCT COMMITTEEMAN OR COMMITTEEWOMAN BUT NOT INCLUDING SCHOOL BOARD MEMBER OR OFFICER, AND SHALL NOT HAVE SERVED AS AN OFFICER OF A POLITICAL PARTY, OR SERVED AS A REGISTERED PAID

LOBBYIST OR AS AN OFFICER OF A CANDIDATE'S CAMPAIGN COMMITTEE.

(4) THE COMMISSION ON APPELLATE COURT APPOINTMENTS SHALL NOMINATE CANDIDATES FOR APPOINTMENT TO THE INDEPENDENT REDISTRICTING COMMISSION, EXCEPT THAT, IF A POLITICALLY BALANCED COMMISSION EXISTS WHOSE MEMBERS ARE NOMINATED BY THE COMMISSION ON APPELLATE COURT APPOINTMENTS AND WHOSE REGULAR DUTIES RELATE TO THE ELECTIVE PROCESS, THE COMMISSION ON APPELLATE COURT APPOINTMENTS MAY DELEGATE TO SUCH EXISTING COMMISSION (HEREINAFTER CALLED THE COMMISSION ON APPELLATE COURT APPOINTMENTS' DESIGNEE) THE DUTY OF NOMINATING MEMBERS FOR THE INDEPENDENT REDISTRICTING COMMISSION, AND ALL OTHER DUTIES ASSIGNED TO THE COMMISSION ON APPELLATE COURT APPOINTMENTS IN THIS SECTION.

(5) BY JANUARY 8 OF YEARS ENDING IN ONE, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE SHALL ESTABLISH A POOL OF PERSONS WHO ARE WILLING TO SERVE ON AND ARE QUALIFIED FOR APPOINTMENT TO THE INDEPENDENT REDISTRICTING COMMISSION. THE POOL OF CANDIDATES SHALL CONSIST OF TWENTY-FIVE NOMINEES, WITH TEN NOMINEES FROM EACH OF THE TWO LARGEST POLITICAL PARTIES IN ARIZONA BASED ON PARTY REGISTRATION, AND FIVE WHO ARE NOT REGISTERED WITH EITHER OF THE TWO LARGEST POLITICAL PARTIES IN ARIZONA.

(6) APPOINTMENTS TO THE INDEPENDENT REDISTRICTING COMMISSION SHALL BE MADE IN THE ORDER SET FORTH BELOW. NO LATER THAN JANUARY 31 OF YEARS ENDING IN ONE, THE HIGHEST RANKING OFFICER ELECTED BY THE ARIZONA HOUSE OF REPRESENTATIVES SHALL MAKE ONE APPOINTMENT TO THE INDEPENDENT REDISTRICTING COMMISSION FROM THE POOL OF NOMINEES, FOLLOWED BY ONE APPOINTMENT FROM THE POOL MADE IN TURN BY EACH OF THE FOLLOWING: THE MINORITY PARTY LEADER OF THE ARIZONA HOUSE OF REPRESENTATIVES, THE HIGHEST RANKING OFFICER ELECTED BY THE ARIZONA SENATE, AND THE MINORITY PARTY LEADER OF THE ARIZONA SENATE. EACH SUCH OFFICIAL SHALL HAVE A SEVEN-DAY PERIOD IN WHICH TO MAKE AN APPOINTMENT. ANY OFFICIAL WHO FAILS TO MAKE AN APPOINTMENT WITHIN THE SPECIFIED TIME PERIOD WILL FORFEIT THE APPOINTMENT PRIVILEGE. IN THE EVENT THAT THERE ARE TWO OR MORE MINORITY PARTIES WITHIN THE HOUSE OR THE SENATE, THE LEADER OF THE LARGEST MINORITY PARTY BY STATEWIDE PARTY REGISTRATION SHALL MAKE THE APPOINTMENT.

(7) ANY VACANCY IN THE ABOVE FOUR INDEPENDENT REDISTRICTING COMMISSION POSITIONS REMAINING AS OF MARCH 1 OF A YEAR ENDING IN ONE SHALL BE FILLED FROM THE POOL OF NOMINEES BY THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE. THE APPOINTING BODY SHALL STRIVE FOR POLITICAL BALANCE AND FAIRNESS.

(8) AT A MEETING CALLED BY THE SECRETARY OF STATE, THE FOUR INDEPENDENT REDISTRICTING COMMISSION MEMBERS SHALL SELECT BY MAJORITY VOTE FROM THE NOMINATION POOL A FIFTH MEMBER WHO SHALL NOT BE REGISTERED WITH ANY PARTY ALREADY REPRESENTED ON THE INDEPENDENT REDISTRICTING COMMISSION AND WHO SHALL SERVE AS CHAIR. IF THE FOUR COMMISSIONERS FAIL TO APPOINT A FIFTH MEMBER WITHIN FIFTEEN DAYS, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE, STRIVING FOR POLITICAL BALANCE AND FAIRNESS, SHALL APPOINT A FIFTH MEMBER FROM THE NOMINATION POOL, WHO SHALL SERVE AS CHAIR.

(9) THE FIVE COMMISSIONERS SHALL THEN SELECT BY MAJORITY VOTE ONE OF THEIR MEMBERS TO SERVE AS VICE-CHAIR.

(10) AFTER HAVING BEEN SERVED WRITTEN NOTICE AND PROVIDED WITH AN OPPORTUNITY FOR A RESPONSE, A MEMBER OF THE INDEPENDENT REDISTRICTING COMMISSION MAY BE REMOVED BY THE GOVERNOR, WITH THE CONCURRENCE OF TWO-THIRDS OF THE SENATE, FOR SUBSTANTIAL NEGLECT OF DUTY, GROSS MISCONDUCT IN OFFICE, OR INABILITY TO DISCHARGE THE DUTIES OF OFFICE.

(11) IF A COMMISSIONER OR CHAIR DOES NOT COMPLETE THE TERM OF OFFICE FOR ANY REASON, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE SHALL NOMINATE A POOL OF THREE CANDIDATES WITHIN THE FIRST THIRTY DAYS AFTER THE VACANCY OCCURS. THE NOMINEES SHALL BE OF THE SAME POLITICAL PARTY OR STATUS AS WAS THE MEMBER WHO VACATED THE OFFICE AT THE TIME OF HIS OR HER APPOINTMENT, AND THE APPOINTMENT OTHER THAN THE CHAIR SHALL BE MADE BY THE CURRENT HOLDER OF THE OFFICE DESIGNATED TO MAKE THE ORIGINAL APPOINTMENT. THE APPOINTMENT OF A NEW CHAIR SHALL BE MADE BY THE REMAINING COMMISSIONERS. IF THE APPOINTMENT OF A REPLACEMENT COMMISSIONER OR CHAIR IS NOT MADE WITHIN FOURTEEN DAYS FOLLOWING THE PRESENTATION OF THE NOMINEES, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE SHALL MAKE THE APPOINTMENT, STRIVING FOR POLITICAL BALANCE AND FAIRNESS. THE NEWLY APPOINTED COMMISSIONER SHALL SERVE OUT THE REMAINDER OF THE ORIGINAL TERM.

(12) THREE COMMISSIONERS, INCLUDING THE CHAIR OR VICE-CHAIR, CONSTITUTE A QUORUM. THREE OR MORE AFFIRMATIVE VOTES ARE REQUIRED FOR ANY OFFICIAL ACTION. WHERE A QUORUM IS PRESENT, THE INDEPENDENT REDISTRICTING COMMISSION SHALL CONDUCT BUSINESS IN MEETINGS OPEN TO THE PUBLIC, WITH 48 OR MORE HOURS PUBLIC NOTICE PROVIDED.

(13) A COMMISSIONER, DURING THE COMMISSIONER'S TERM OF OFFICE AND FOR THREE YEARS THEREAFTER, SHALL BE INELIGIBLE FOR ARIZONA PUBLIC OFFICE OR FOR REGISTRATION AS A PAID LOBBYIST.

(14) THE INDEPENDENT REDISTRICTING COMMISSION SHALL ESTABLISH CONGRESSIONAL AND LEGISLATIVE DISTRICTS. THE COMMENCEMENT OF THE MAPPING PROCESS FOR BOTH THE CONGRESSIONAL AND LEGISLATIVE DISTRICTS SHALL BE THE CREATION OF DISTRICTS OF EQUAL POPULATION IN A GRID-LIKE PATTERN ACROSS THE STATE. ADJUSTMENTS TO THE GRID SHALL THEN BE MADE AS NECESSARY TO ACCOMMODATE THE GOALS AS SET FORTH BELOW:

A. DISTRICTS SHALL COMPLY WITH THE UNITED STATES CONSTITUTION AND THE UNITED STATES VOTING RIGHTS ACT;

B. CONGRESSIONAL DISTRICTS SHALL HAVE EQUAL POPULATION TO THE EXTENT PRACTICABLE, AND STATE LEGISLATIVE DISTRICTS SHALL HAVE EQUAL POPULATION TO THE EXTENT PRACTICABLE;

C. DISTRICTS SHALL BE GEOGRAPHICALLY COMPACT AND CONTIGUOUS TO THE EXTENT PRACTICABLE;

D. DISTRICT BOUNDARIES SHALL RESPECT COMMUNITIES OF INTEREST TO THE EXTENT PRACTICABLE;

E. TO THE EXTENT PRACTICABLE, DISTRICT LINES SHALL USE VISIBLE GEOGRAPHIC FEATURES, CITY, TOWN AND COUNTY BOUNDARIES, AND UNDIVIDED CENSUS TRACTS;

F. TO THE EXTENT PRACTICABLE, COMPETITIVE DISTRICTS SHOULD BE FAVORED WHERE TO DO SO WOULD CREATE NO SIGNIFICANT DETRIMENT TO THE OTHER GOALS.

(15) PARTY REGISTRATION AND VOTING HISTORY DATA SHALL BE EXCLUDED FROM THE INITIAL PHASE OF THE MAPPING PROCESS BUT MAY BE USED TO TEST MAPS FOR COMPLIANCE WITH THE ABOVE GOALS. THE PLACES OF RESIDENCE OF INCUMBENTS OR CANDIDATES SHALL NOT BE IDENTIFIED OR CONSIDERED.

(16) THE INDEPENDENT REDISTRICTING COMMISSION SHALL ADVERTISE A DRAFT MAP OF CONGRESSIONAL DISTRICTS AND A DRAFT MAP OF LEGISLATIVE DISTRICTS TO THE PUBLIC FOR COMMENT, WHICH COMMENT SHALL BE TAKEN FOR AT LEAST THIRTY DAYS. EITHER OR BOTH BODIES OF THE LEGISLATURE MAY ACT WITHIN THIS PERIOD TO MAKE RECOMMENDATIONS TO THE INDEPENDENT REDISTRICTING COMMISSION BY MEMORIAL OR BY MINORITY REPORT, WHICH RECOMMENDATIONS SHALL BE CONSIDERED BY THE INDEPENDENT REDISTRICTING COMMISSION. THE INDEPENDENT REDISTRICTING COMMISSION SHALL THEN ESTABLISH FINAL DISTRICT BOUNDARIES.

(17) THE PROVISIONS REGARDING THIS SECTION ARE SELF-EXECUTING. THE INDEPENDENT REDISTRICTING COMMISSION SHALL CERTIFY TO THE SECRETARY OF STATE THE ESTABLISHMENT OF CONGRESSIONAL AND LEGISLATIVE DISTRICTS.

(18) UPON APPROVAL OF THIS AMENDMENT, THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR SHALL MAKE ADEQUATE OFFICE SPACE AVAILABLE FOR THE INDEPENDENT REDISTRICTING COMMISSION. THE TREASURER OF THE STATE SHALL MAKE \$6,000,000 AVAILABLE FOR THE WORK OF THE INDEPENDENT REDISTRICTING COMMISSION PURSUANT TO THE YEAR 2000 CENSUS. UNUSED MONIES SHALL BE RETURNED TO THE STATE'S GENERAL FUND. IN YEARS ENDING IN EIGHT OR NINE AFTER THE YEAR 2001, THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR SHALL SUBMIT TO THE LEGISLATURE A RECOMMENDATION FOR AN APPROPRIATION FOR ADEQUATE REDISTRICTING EXPENSES AND SHALL MAKE AVAILABLE ADEQUATE OFFICE SPACE FOR THE OPERATION OF THE INDEPENDENT REDISTRICTING COMMISSION. THE LEGISLATURE SHALL MAKE THE NECESSARY APPROPRIATIONS BY A MAJORITY VOTE.

(19) THE INDEPENDENT REDISTRICTING COMMISSION, WITH FISCAL OVERSIGHT FROM THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR, SHALL HAVE PROCUREMENT AND CONTRACTING AUTHORITY AND MAY HIRE STAFF AND CONSULTANTS FOR THE PURPOSES OF THIS SECTION, INCLUDING LEGAL REPRESENTATION.

(20) THE INDEPENDENT REDISTRICTING COMMISSION SHALL HAVE STANDING IN LEGAL ACTIONS REGARDING THE REDISTRICTING PLAN AND THE ADEQUACY OF RESOURCES PROVIDED FOR THE OPERATION OF THE INDEPENDENT REDISTRICTING COMMISSION. THE INDEPENDENT REDISTRICTING COMMISSION SHALL HAVE SOLE

AUTHORITY TO DETERMINE WHETHER THE ARIZONA ATTORNEY GENERAL OR COUNSEL HIRED OR SELECTED BY THE INDEPENDENT REDISTRICTING COMMISSION SHALL REPRESENT THE PEOPLE OF ARIZONA IN THE LEGAL DEFENSE OF A REDISTRICTING PLAN.

(21) MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISSION ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO LAW, AND A MEMBER'S RESIDENCE IS DEEMED TO BE THE MEMBER'S POST OF DUTY FOR PURPOSES OF REIMBURSEMENT OF EXPENSES.

(22) EMPLOYEES OF THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR SHALL NOT INFLUENCE OR ATTEMPT TO INFLUENCE THE DISTRICT-MAPPING DECISIONS OF THE INDEPENDENT REDISTRICTING COMMISSION.

(23) EACH COMMISSIONER'S DUTIES ESTABLISHED BY THIS SECTION EXPIRE UPON THE APPOINTMENT OF THE FIRST MEMBER OF THE NEXT REDISTRICTING COMMISSION. THE INDEPENDENT REDISTRICTING COMMISSION SHALL NOT MEET OR INCUR EXPENSES AFTER THE REDISTRICTING PLAN IS COMPLETED, EXCEPT IF LITIGATION OR ANY GOVERNMENT APPROVAL OF THE PLAN IS PENDING, OR TO REVISE DISTRICTS IF REQUIRED BY COURT DECISIONS OR IF THE NUMBER OF CONGRESSIONAL OR LEGISLATIVE DISTRICTS IS CHANGED.

THE SECRETARY OF STATE SHALL SUBMIT THIS PROPOSITION TO THE VOTERS AT THE NEXT GENERAL ELECTION.