

**Testimony of Yuriy Rudensky, Redistricting Counsel,
Brennan Center for Justice at New York University School of Law
December 13, 2018**

The Brennan Center for Justice at New York University School of Law appears in opposition to Senate Concurrent Resolution No. 43.

The Brennan Center is a nonpartisan law and policy institute that seeks to improve our systems of democracy and justice. Redistricting policy reform has been central to this mission since the Brennan Center was founded in 1995. We partner with legislators and advocates around the country to promote changes that make the redistricting process more independent, transparent, and community driven.

We strongly urge members of the legislature to vote no on Senate Concurrent Resolution No. 43 as it is presently written. There are three principal reasons to reject the resolution:

- First, it does nothing to protect the integrity of communities of color. In fact, by promoting a process where partisan outcomes dominate over other considerations, SCR 43 could make it harder for New Jersey's African-American, Latino, and Asian communities to elect candidates of choice. Under the proposal, these communities can be used, whether cynically or in good faith, to achieve political ends. The reality today is that the easiest way to dictate the political outcomes of any districting plan is to pack or crack voters of color. Not only does SCR 43 fail to prevent this, it incentivizes it.
- Second, it does not address the fundamental flaw in the current process—the disproportionate influence of the tiebreaking commissioner and the winner-take-all effect that occurs when the tiebreaker sides either with one party over the other.
- Third, it does not promote partisan fairness in any meaningful sense. Instead, it advances an ill-conceived formula that reduces New Jersey's residents to simplistic partisan labels and pursues preordained electoral outcomes. No states, other than those with extreme partisan gerrymanders, have taken this approach.

These fundamental flaws and omissions threaten to take the state backwards. New Jersey can do better. The state, after all, broke ground when it adopted bipartisan commission-based redistricting in 1966, and has since served as a national model for other jurisdictions.

It would not take much to turn the current regressive proposal into one that would once again make New Jersey a national leader. Adding a racial equity criterion to protect the hard-won political victories of communities of color would guard against gerrymandering more broadly. It would be an important safeguard in a world where federal voting rights protections may be weakened in the future. Requiring even a modest level of compromise and bipartisanship would lessen the influence of the tiebreaking member. A partisan fairness provision that forbids plans that intend to favor or disfavor either party would accomplish more than any formula can.

It is possible to address the concerns that motivated amending the redistricting process without ignoring best practices. And while we urge you to vote no on the proposal as written, we are committed to working with leaders in New Jersey to improve redistricting.