I first want to thank the commission for allowing me to speak about the importance of redistricting to our democratic process. The redistricting process should be transparent, and I commend the Commission for creating so many public hearings and opportunities to receive input. We hope that transparency will continue with the publication of the maps and the provision for public comments on the maps.

I am here today, on behalf of BlueWaveNJ to speak about how to measure and ensure fairness in a redistricting map. At the end of my testimony, I will also address the importance of women among our Congressional delegation.

There are many principles that should be used to draw district lines in addition to the equal population requirement required at the federal level. These include
- compactness,
- connectedness,
- preservation of political districts, and
- protection of communities of interest and color and their representation.

These principles, however, take us only so far, and are not sufficient to ensure that a map is "fair". Fairness is of course inimical to racial and partisan gerrymandering and independent commissions help. But there is much more to fairness.

What I want to draw the commission's attention to today, is that a fair map for New Jersey must take into account where we came from, the state's redistricting history...not just the current configuration of seats. And this is important because to my knowledge, most measures of fairness are *static*: they just look at the current or most recent data.

Because of its relevance to NJ, I want to discuss one static measure of "fairness." This is the idea that *a party's share of seats should correspond to its share of the statewide popular vote.* For example, if a party has 66% of all votes cast in a recent election, 12

districts should be configured so that the party is likely to win 8 of them. This "Minimize the Deviation from Proportional Representation" principle sounds straightforward and desirable. But in practice it is extremely misleading.

When you see a lopsided result,
- it could be because districts were substantially gerrymandered through cracking and packing communities, *or*,
- it could be just that the majority party did a good job of winning over swing voters.

This simple measure will not tell you which is the case. You need to look at history.

For example, a number of people have suggested that since the New Jersey Presidential split is usually around 57 percent in favor of the Democrats, and the NJ Congressional ratio is NOW 83% in favor of Democrats (10/2), it would only be fair to balance the scales in 2022 by using a more Republican map or a compromise map. Well, we have been using a Republican-leaning map for the last decade. In 2012, that gerrymandered map gave us an even split--six Republicans, six Democrats, even though Obama won the state with 58%.

The difference between the current 10 to 2 Democrat/Republican split compared to the 6/6 elected in 2012 is attributable to many factors, including increased suburban anti-Trump voters among independents as well as the relative popularity of the Democratic candidates. For example, even though Trump won NJ3 by a narrow margin, Representative Kim won his Congressional seat by eight percentage points in 2020 as voters split their tickets. Representative Sherrill was also popular among Republicans, and in 2018 won by 15 points. For that election, I saw a few lawns that had both Trump and Mikie signs side by side. However, the 2018 gain did not mean that the district was not competitive and in 2020 Sherrill's margin was more in line with other NJ competitive districts. Another factor in the Democratic success in 2018 and 2020 was tremendous grassroots efforts in the swing districts. However, the one factor that did NOT contribute to the turnover in seats was a district map that favored Democrats, just the opposite. Democrats gained seats *in spite of* a

map that favored Republicans and these gains could easily be a reversed in the next election.

Here are two *alternative* measures of fairness: "packing" and "competitiveness". They demonstrate clearly how NJ's current map favors Republicans. Using these measures:
1. There are FIVE "packed" Democratic districts
2. There are FIVE competitive districts (matched by few other states).
3. Each party has one safe district, making 12.

I define a "packed" district as one where the candidate receives more than 60% of the vote over several recent elections. (From an efficiency point of view, votes in excess of 60% are "wasted".) There are five districts where Democrats have been "packed". (They are 1, 8, 9, 10, 12). Two of these "packed" districts voted 83% and 74% in favor of the Democratic candidate in 2020 and they are also two of the districts that had the most significant increases in population, population gains that must be shared with other districts. In contrast the only safe Republican district (4) was won with 59.9% of the vote in 2020.

Not all concentration of voters is negative, some clustering may be desirable to meet other principles such as preservation of communities and racial equity. And I strongly believe these principles should override efficiency arguments. However, there is a limit to the amount of crowding required to ensure representation, additional "packing" in these districts just reduces voters' power.

Now let's talk about competitive districts. You might reasonably expect that New Jersey Republicans are packed into the districts they won just as Democrats are in theirs. However, the flipside to there being so many "packed" Democratic districts in New Jersey is the record number of competitive districts compared to any other majority Democratic state. A working definition of "competitive" uses a value of Cook's Partisan Voting Index (PVI) over several years between 0 and +6 for either party. New Jersey has five competitive districts or 42% of the total. There is a reason why incumbents continue to point out that control of the house runs through NJ,

because we are one of the only Democratic states with so many competitive districts. When these districts were redistricted last for the 2012 election, all five seats were held by Republicans and also leaned Republican with Cook PVI's of between zero to R+6 and still generally lean Republican. Only one, the 7th, is now rated D+1, well within the margin of error.

The bottom line is that the 2022 redistricting process is starting with districts that are clearly to Republicans' advantage as indicated by the number of competitive districts compared to other states or the number of Democratic "packed" districts compared to Republican districts.

Given the population increases in the Democratic Northern counties, there is an added urgency for the new map to reflect and provide a voice for NJ's increasingly diverse population. Further "packing" already safe Democratic districts will only compound the historical partisan gerrymandering and reduce voter power.

In contrast a good map:

- Will be one that protects minority communities from being cracked apart or packed into the minimum number of districts possible.
- Will empower communities of color to elect candidates of their choice and preserve political districts where possible.
- Will reflect the will of the electorate. While competitiveness is a good thing and helps our democracy thrive, a good map should not be drawn to protect any party just because that party has not had recent electoral success.

In closing, I would like to say a few words about the importance of maintaining and increasing women representatives, a cause I am passionate about. We know from experience and research what a difference women in elected office make with respect to policy and decision making on childcare, employment, wage discrimination and healthcare to name only a few issues. We also know the importance elected women play as role models for other women running for

elected office and engaging more women in the process, which is desperately needed in the garden state. In the entire history of NJ, there have been 316 individuals elected to the House and around 350 elected to the house and senate, only 7 of these have been women and that includes the current two. Our delegation has only 2 women out of 14 (House and Senate) representatives and New Jersey has never elected a woman senator. This is unacceptable. Commission members, I understand that this is not a question of drawing maps that favor one gender, we are roughly 50% of the population, but I am asking you to recognize how important our two remarkable women representatives are to the well-being of families and all residents. We need to support them.

Thank you for your time.

**FAIR
DISTRICTS
NEW JERSEY**

LWV LEAGUE OF
WOMEN VOTERS'

League of Women Voters of New Jersey and Fair Districts New Jersey Testimony

New Jersey Redistricting Commission Public Hearing

October 23, 2021

Good morning, Chairman Wallace and members of the committee. Thank you for this opportunity to present testimony. My name is Philip Hensley, and I am here on behalf of the League of Women Voters of New Jersey and the Fair Districts New Jersey coalition. The Fair Districts coalition advocates for a transparent and inclusive redistricting process. We believe New Jerseyans deserve a map-making process that prioritizes public input; a process that ensures all our communities have an equal opportunity to participate in our democracy.

I would like to begin by thanking the Commission for holding this hearing today, and the upcoming hearings on October 26th and October 30th. The Commission's decision to hold at least 10 public hearings represents a substantial improvement over the practice of a decade ago.

However, there are still improvements that can and should be made to facilitate public participation in these hearings. A transparent and public process requires not only that the Commission hold public hearings, but that those hearings are truly accessible to all. **We strongly urge the commission to make use of all of the resources available to it to make its website more accessible and user friendly.** The Commission's registration form is unnecessarily confusing. The Commission should make it easier for the public to submit written testimony, by creating a submission form directly on its website. The website should also allow members of the public to submit maps, including maps of individual Congressional districts, maps for the state as a whole, and maps depicting communities of interest. Excellent models for such a site can be seen on the California Citizens Redistricting Commission's DrawMyCACommunity.org site, and on the website of the Colorado Independent Redistricting Commission. The Commission could also improve public awareness of these hearings by livestreaming hearings directly on social media sites, and by promoting the hearings in print and digital media. The Commission should also make recordings and transcripts of each meeting available on its website within 24 hours.

Making the redistricting process accessible to all New Jerseyans also requires that the Commission provide translation services for languages commonly spoken in our state. The

Commission should provide translations for written materials, including the Commission's website, hearing notices, and transcripts. Translations should be provided in the languages currently provided by the New Jersey Division of Elections for voter registration materials—Arabic, Portuguese, Spanish, Gujarati, Creole, Hindi, Korean, Punjabi, and Chinese – as well as a few additional languages which are commonly spoken in parts of the state – Tagalog, Polish, Bengali, Urdu, Vietnamese and Nepali.

Fair Districts New Jersey also advocates for greater transparency throughout the redistricting process. The Commission should *publicly release preliminary maps in advance of certification, and then hold hearings on the proposed maps to give the public the opportunity to weigh in before a final vote.* The Commission should also publish a written report justifying all map-making decisions.

In addition to calling for a transparent and public process, the Fair Districts New Jersey coalition advocates that redistricting should be conducted in accordance with clear, non-partisan line-drawing standards. Specifically, Commissioners should follow three criteria when drawing districts: First, a racial equity criterion, reinforcing the principles of the Voting Rights Act, that ensures that New Jersey's communities of color have an equal opportunity to participate in the political process. Second, redistricting should preserve communities of interest to the greatest extent possible. And third, an anti-gerrymandering principle that district plans should not favor or disfavor any office holder, candidate, or political party.

The 2020 Census demonstrated the importance of our first criterion, racial equity. The census results show that New Jersey is becoming more diverse; in particular, Latino populations grew by 29 percent, while Asian populations grew by 31 percent. New Congressional districts should be drawn that reflect the fact that New Jersey's population growth has been concentrated among New Jersey's communities of color

It is also vital that New Jersey's Congressional districts keep communities of interest together. Communities of interest can consist of areas with shared cultural, ethnic, linguistic or economic ties. The commission should keep communities together and minimize the number of county and municipal splits. Splitting counties, municipalities and school districts impairs their ability to advocate for their shared interests.

I want to thank Chairman Wallace, the Commissioners and their staff for their work organizing today's hearing. Fair Districts New Jersey will provide additional testimony at future hearings to discuss specific proposals about how the Commission should redraw Congressional districts.

Thank you for your time.

Testimony submitted by: Philip Hensley, Democracy Policy Analyst, League of Women Voters of New Jersey