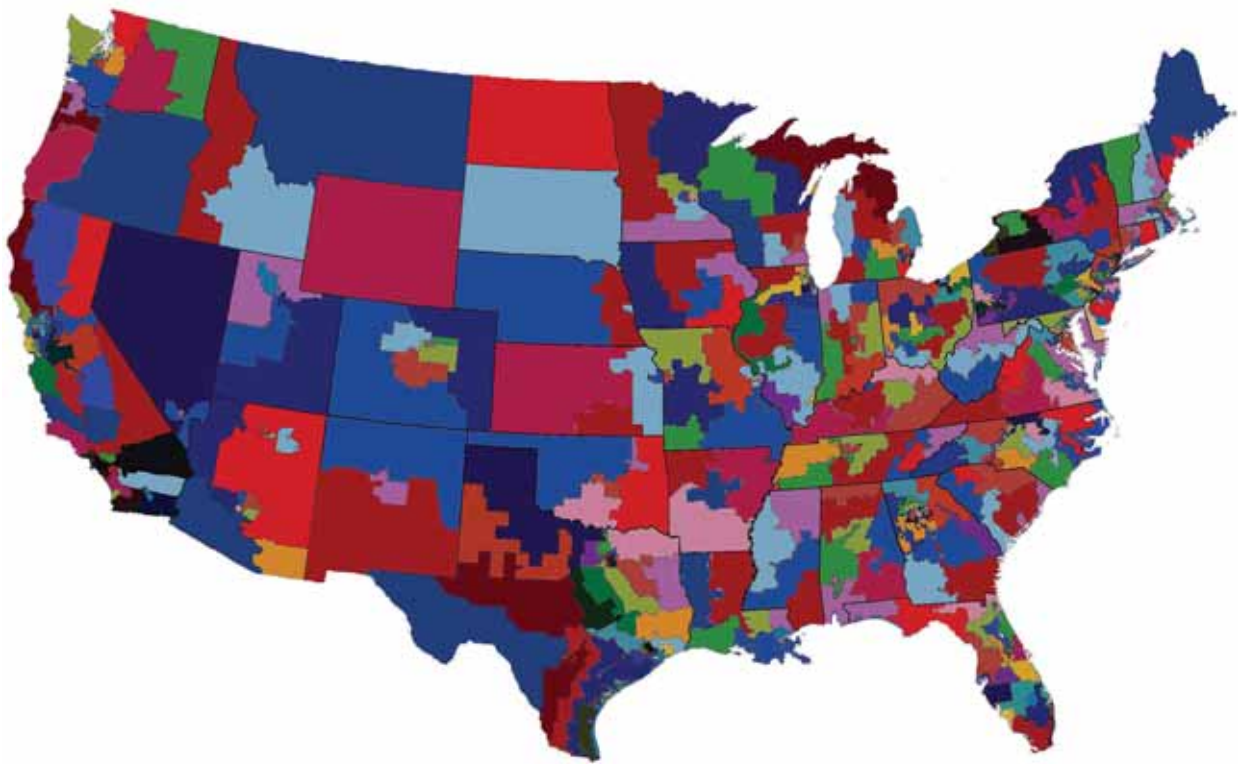


Building a National Redistricting Reform Movement



Redistricting Conference Report

SALT LAKE CITY

APRIL 2006



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Bryson Morgan and Steve Gehrke of the Hinckley Institute of Politics served as rapporteurs for the conference and produced this report.

INTRODUCTION

The nation's political landscape has endured more than the usual partisan turmoil since the years following the 2000 Census. During the congressional redistricting process, officeholders and allied partisan operatives employed a variety of practices to gain partisan advantage or reached bi-partisan compromise that protected each major party's interests and incumbents. Their success in the creation of politically "safe" districts has contributed to a marked decline in electoral competition and turnover, and now barely ten percent of congressional elections are competitive.

When legislators have the sole authority to craft political boundaries, fundamental democratic values of popular sovereignty and officeholder accountability are put at risk. We see legislators using the redistricting process to choose their constituents overwhelming the voters' right to choose their representatives. The contentious and unprecedented mid-decade redistricting in Texas (2003) and Georgia (2005) have added another dimension to partisan manipulation.

In the view of these evident abuses of redistricting powers, the Campaign Legal Center and the Council for Excellence in Government convened a conference in June 2005 aimed at developing consensus principles to guide redistricting reform. Participants agreed upon seven broad principles that, if adopted, would significantly improve the way most states conduct redistricting. We also agreed to reconvene in early 2006 to develop strategies for future state-by-state reforms.

With the League of Women Voters, we convened a second conference, entitled "Building a National Redistricting Reform Movement," held in April 2006, in Salt Lake City, bringing together national and state leaders involved in reform efforts and interested in enacting future reforms.

During the conference, organizers of the unsuccessful 2005 California and Ohio redistricting reform initiatives presented lessons learned from their efforts. Conferees then examined the strategies, tactics, and tools necessary for the adoption of redistricting reform in various states. Among their considerations were key elements such as timing, process, coalition building, public outreach, and message development.

In the end, the conferees agreed that a national redistricting reform project should be organized to establish a national clearinghouse to gather and share redistricting reform information and expertise and to facilitate and possibly coordinate redistricting reform in the states.

We hope this report on the Salt Lake City conference will assist redistricting reformers in advancing reform efforts in the states.

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REDISTRICTING REFORM PRINCIPLES

FROM THE AIRLIE REDISTRICTING CONFERENCE, JUNE 17, 2005

PREAMBLE

Congressional and legislative redistricting should advance the fundamental purposes of representative democracy and a republican form of government by affording the people a meaningful choice in electing their representatives and holding the government accountable to the people.

PRINCIPLES

Procedures for Redistricting

Assign the redistricting power to an independent commission.

Ensure the transparency of the process and a meaningful opportunity for interested parties and the public to participate effectively.

Conduct redistricting once each decade, following the census, with a strict timeline for completion.

Standards for Redistricting (in rank order)

(1) Adhere to all Constitution and Voting Rights Act requirements.

(2) Promote competitiveness and partisan fairness.

(3) Respect political subdivisions and communities of interest.

(4) Encourage geographical compactness and respect for natural geographical features and barriers.

The report on the Airlie conference, entitled *The Shape of Representative Democracy*, contains a detailed analysis of the redistricting reform principles approved at the June 2005 conference as well as a list of individuals and organizations that endorsed them. A copy of the report is available at the following internet addresses:

<http://www.campaignlegalcenter.org/attachments/1460.pdf>
http://www.excelgov.org/admin/FormManager/filesuploading/Conference_Report.pdf

EXECUTIVE SUMMARY

The adoption of independent redistricting commissions and other redistricting reforms, whether through ballot initiative, legislation, or state constitutional amendment, and the resulting increase in more fair and competitive districts, can invigorate campaigns and elections, boost the quality of our officeholders, and improve the nation's governance. In organizing the conference our organizations believe the time was right to assemble a broad set of allies to examine the strategies and tactics that might make the adoption of such reforms possible. As hoped, the Salt Lake City conference produced many insights into past reform efforts and offered important guidance for undertaking future state-level redistricting reforms.

A LOOK BACK: LESSONS FROM THE 2005 CALIFORNIA & OHIO INITIATIVES

Redistricting reform was attempted through ballot initiative in California and Ohio in 2005. Both were met with strong, well-funded opposition and were ultimately defeated. The California initiative gained 40 percent of the vote and the Ohio initiative received 30 percent. At the Salt Lake City Conference, the following points emerged in explaining the defeat of redistricting reform efforts in these two states.

CALIFORNIA (Proposition 77)

- The defeat of Proposition 77 was largely a referendum on Governor Schwarzenegger and not a true gauge of voter support for redistricting reform.
- Proposition 77's provision for immediate mid-decade redistricting made it look like a partisan power-grab.
- The California reform community did not all participate in the drafting of or uniformly support the redistricting reform initiative .
- Proposition 77 was packaged with three other controversial reforms.
- Reformers were successful in increasing the salience of redistricting, and post-election polling showed that despite its defeat, California voters favor reform of the state's redistricting process.

OHIO (Issue 4)

- Despite efforts to form a non-partisan coalition, the reform initiative was ultimately perceived as a partisan effort that included mid-decade redistricting.

- The minority community and key reform organizations were not involved in the reform coalition until too late in the process.
- Redistricting reform was packaged with three other controversial reforms.
- The ballot language was complex, wordy, and overemphasized the goal of creating electoral competition.
- Reformers did not allow adequate time to assemble a diverse coalition, raise funds, conduct polling, or organize a grassroots infrastructure.
- Reform proponents' message strategy was not based on public opinion research and the anti-corruption theme failed to resonate with voters.

LOOKING FORWARD: STRATEGIES FOR SUCCESS

Redistricting reform is a daunting task that takes planning, resources, time, and dedication. The main focus of the conference was to provide reformers with strategies and knowledge that will increase the chances of success.

TIMING

- Time reform efforts to take advantage of political opportunities presented by scandals or gross redistricting abuses.
- Shifts in control of the state legislature, or a majority party facing ouster from power, may affect those who support redistricting reform.

RESOURCES AND PROCESS

- Rely on research and polling to choose the right approach to reform. Although expensive, difficult, and time-consuming, initiatives provide the best prospects for success in most states.
- Getting a legislature to adopt reform requires persistence and intense pressure from both inside lobbying and outside community forces. Legislators ordinarily will not surrender their redistricting power unless alternatives are even more doubtful or threatening.
- Successful redistricting reform will likely be expensive. Fundraising plans are as important as other elements of the campaign. Non-partisan, bi-partisan and even partisan-leaning funding should be considered.

COALITION BUILDING

- An effective reform coalition is essential and requires time and patience to build. Organizational partners must be included from the beginning rather than being asked to ratify and support a plan and political strategies created by others.
- Coalitions should encompass a unified reform community, including minority organizations and other representatives of other key constituencies such as business, labor. Divisions in the reform community will be exploited by opponents.
- Be prepared for opponents to characterize reform as partisan instead of a non-partisan or apolitical coalition. Establishing strong bi-partisan credentials is more likely to draw needed resources and be seen as true reform.

PROPOSAL CONTENT

- Proposals that call for immediate redistricting are perceived as political power-grabs by those out of power; implementation after the next census will reduce suspicions that reform is really intended to achieve political advantage.
- Complex and wordy ballot language will make voter education efforts even more difficult; limit the proposal to the basic elements in order to keep it simple and understandable.
- The details of the proposal will determine how it is perceived; plan outreach and message strategies based on a clear understanding of the strengths and weaknesses of the proposal.

PUBLIC OUTREACH

- Rather than creating an independent grassroots infrastructure, a redistricting reform effort has a better chance if it relies on the leadership of existing grassroots organizations which can activate their memberships and use their public credibility.
- The public will look to well-known and highly regarded individuals and organizations to validate reform proposals. These are often the best spokespersons to deliver the reform message.
- Secure the support of state and local media by educating them about the proposals. Newspaper editorial boards can be crucial as they often drive television and radio news coverage and can provide “independent” support for reform.

MESSAGE & BRANDING

- Rely heavily on qualitative and quantitative research to craft a reform message tailored to the circumstances that exist in the state. Themes or messages that work in one state may not work in another.
- Examples of potential message and themes include: fairness; accountability; balance; preventing abuse of power by legislators; avoiding legislative gridlock and poor policy outcomes; protecting communities of interest; the internet conflict of interest when legislators are allowed to choose their constituents (rather than the other way around).
- Consider carefully and test who are the best spokespersons for your campaign. Will particular organizations or individuals appeal to different communities in your state?
- Present redistricting reform as a solution to problems that voters already understand and want solved.

FUTURE REFORM OPPORTUNITIES

DETERMINING FEASIBILITY

Choosing the right time and approach for redistricting reform is critical. The following questions should be carefully considered in determining the feasibility of reform in a particular state or locale:

Urgency: Is redistricting a pressing issue in the state? Has the legislature been guilty of particularly egregious gerrymanders, or have they exercised restraint?

Feasibility: Which reform approaches (e.g., legislation, referendum, constitutional amendment) are available and practicable? What resources will be needed? Do major political actors in the state agree with reform or oppose it?

Favorability: What does the public know about redistricting? Where does the media stand?

Political Landscape: What is the likely coalition that can be assembled to undertake reform? Who are the potential allies? Who is likely to oppose reform and what resources and allies will they have?

Campaign Readiness: Is there an existing reform movement? Can there be agreement on a reform proposal? Has polling been conducted? Is funding available? Is there a strong grassroots infrastructure in the state?

STATES SUITABLE FOR REFORM

Conferees identified the following states where redistricting reform appears most feasible: California, Colorado, Florida, Georgia, Maryland, Michigan, New York, Ohio, Pennsylvania, and Texas.

STATUS OF REDISTRICTING REFORM

LITIGATION

In *Davis v. Bandemer* (1986), the Supreme Court of the United States ruled redistricting plans *could* be challenged under the Constitution as partisan gerrymanders. More recently, all nine justices agreed in *Vieth v. Jublierer* (2004) that excessive partisanship in redistricting is unconstitutional but did not state a standard for determining what is excessive. Courts have yet to find a single congressional or legislative redistricting plan illegal on partisan grounds, despite the fact that they were blatant partisan gerrymanders.

In 2006, the courts heard two cases challenging the adoption of partisan mid-decade redistricting plans, one in Georgia (*Kidd v. Cox*, U.S. District Court, Northern District of Georgia) and the other in Texas (*LULAC v. Perry*, United States Supreme Court). In both cases, the redistricting plans were adopted for the purpose of advancing partisan interests.

On June 28, 2006, the Supreme Court rejected the claim that the Texas plan constituted an unconstitutional political gerrymander, but found that the redrawing of one district in Southwest Texas was a violation of Section 2 of the Voting Rights Act. *LULAC* suggests that the Supreme Court will ignore even the most blatant partisan gerrymanders and will encourage state legislatures to redistrict as often as they see fit.

PENDING REFORM PROPOSALS

Redistricting reform proposals are currently pending before the United States House of Representatives and in states such as California, Florida, New York, Ohio, and Pennsylvania. In 2005, Rep. John Tanner (D-TN) introduced the "Federal Fairness and Independence in Redistricting Act of 2005" (HR 2642) that would require states to establish independent redistricting commissions and prohibit mid-decade redistricting. In California, both legislation and

initiatives that would establish independent redistricting commissions have emerged following the defeat of Proposition 77.

In Florida, the Committee for Fair Elections is leading the effort to pass redistricting reform. Despite a March 2006 ruling of the Florida Supreme Court that invalidated their proposed amendment (supported by nearly one million signers), they believe they can rework the amendment's language and qualify it for the ballot in 2008. In New York (AB 6287), Ohio (HJR 13), and Pennsylvania (HB1116), legislation that would create independent redistricting commissions is pending before the respective state assemblies and legislatures.

THE NATIONAL REDISTRICTING REFORM PROJECT

The Salt Lake City conferees agreed that some form of national umbrella organization is needed to coordinate future redistricting reform efforts and provide resources to state-level reform entities and groups. The national effort was not envisioned as a formal governing body, but instead would carry out the following functions:

- Examining the feasibility of, and resources needed to, enact state-level redistricting reform throughout the United States.
- Researching past redistricting reform efforts in order to gain more insight into factors that led to their success or defeat.
- Polling and research of potential campaign strategies and message themes.
- Developing redistricting reform campaign strategies and timelines, and a national base of financial support.
- Creating and sustaining attention to redistricting reform by disseminating a reform message with high-level spokespeople using national media channels.

A LOOK BACK: LESSONS FROM THE 2005 CALIFORNIA & OHIO INITIATIVES

One purpose of the Salt Lake City conference was to conduct an in-depth analysis of the 2005 redistricting initiatives in California and Ohio. Both proposed amendments were met with strong, well-funded opposition, and ultimately failed. What follows is a summary of the initiatives in these two states.

CALIFORNIA

Governor Arnold Schwarzenegger and 2003 recall leader Ted Costa spearheaded the effort to pass California Proposition 77 in 2005. The proposed amendment would have transferred congressional and legislative redistricting authority to an independent commission composed of three retired federal or state judges to adopt plans that would minimize population deviations and splitting of city and county lines. The proposed amendment prohibited the commission from considering political party affiliation, incumbent addresses, or past voting behavior, and required a mid-decade redistricting to commence in 2006. Once approved by the commission, plans would be subject to voter approval at the following general election.

California Democrats and groups such as Alliance for a Better California and Californians for Fair Representation quickly mobilized aggressive opposition to Prop. 77. Proponents of Prop. 77 spent \$8 million and opponents answered with more than \$13 million. On November 8, 2005, Proposition 77 failed, with just 40.3 percent of the vote.

TIMING AND STRATEGY ERRORS

Three major timing and strategy mistakes plagued the California effort: packaging Proposition 77 with other controversial reforms; placing it on the ballot in an unpopular special election; and aligning it too heavily with Governor Schwarzenegger.

Proposition 77 was presented along with three initiatives also backed by Governor Schwarzenegger. Together they constituted what was called “Governor Schwarzenegger’s Reform Agenda.” The other reforms modified teacher tenure requirements, limited state government and school spending, and placed restrictions on the use of union funds for political purposes. If adopted, Schwarzenegger claimed they would “clean up Sacramento” and pave the way for policy changes promised during his gubernatorial campaign. Reformers hoped the other reforms would leverage support for Proposition 77, but the controversial nature of the accompanying propositions weighed down the entire package.

At Schwarzenegger's urging, the state spent more than \$50 million on a special off-year election to consider his reforms. Many Californians were concerned about the cost of an unnecessary election to consider initiatives that did not appear to be especially urgent and seemed designed more for partisan gain than true reform.

At the beginning of the campaign, Schwarzenegger's endorsement was thought to be a powerful asset. While it was true then, Schwarzenegger's approval rating dropped as the election neared, reaching as low as 35 percent. When November arrived, the election had become little more than a way for Californians to express their dissatisfaction with their governor. Instead of muscling the amendment through, Schwarzenegger ultimately crippled its chances of success.

PROCESS

The decision to pursue reform through a ballot initiative was not itself problematic. Californians widely consider initiatives to be an effective avenue of reform and are familiar with and view initiatives more favorably than voters in most other states. Faced with the repeated failure of redistricting reform proposals before the California Legislature, the initiative route was a logical next step for reformers. While initiatives do present messaging challenges, especially in the case of redistricting, reformers were confident that they would be able to capture the attention of the electorate with extensive funding and the backing of high-profile individuals such as Governor Schwarzenegger.

COALITION BUILDING

Proposition 77 was backed by a Republican-leaning coalition led by Ted Costa, a fierce partisan heavily involved in the 2003 recall of Governor Gray Davis. Unified Republican Party support provided much needed funding and support for the campaign, but became a liability as Governor Schwarzenegger's popularity waned. Few attempts were made to attract members of the Democratic Party because reformers were convinced Governor Schwarzenegger would provide more than sufficient leverage to pass the measure. Reportedly, reformers were so confident they would be successful that they refused to negotiate with certain Democrats who, in the initial stages of the campaign, expressed some willingness to support the reform.

Reformers assembled a broad coalition but some felt that key organizations were absent from this coalition; and the traditional California reform community, which had been supportive of past redistricting reform attempts, was divided regarding support for Proposition 77. Many believed the proposal would be better than the status quo, but others found the measure problematic. The lack of a unified reform community reinforced existing suspicions of partisan intent and impaired grassroots organizing efforts.

PROPOSAL CONTENT

Proposition 77's content severely undermined its prospects for success. Most significantly, its requirement for a mid-decade redistricting triggered suspicions that the amendment was really a Republican attempt to wrest control of the state from Democrats. Placing redistricting authority in the hands of three retired judges was also criticized because the small pool of predominately white, male, judges was seen as not adequately representative of California's diverse population. Critics of Prop. 77 also urged rejection because it failed to protect communities of interest and contained no provision to enhance district competitiveness. Even Prop. 77's requirement that any redistricting plan would be subject to voter approval was criticized because if a plan was not approved, the redistricting process could be stuck in limbo indefinitely.

PUBLIC OUTREACH

Reformers' outreach strategy in California focused heavily on winning the support of the press and using Governor Schwarzenegger to deliver the redistricting reform message. Remarkably, reformers were successful in gaining the endorsement of almost every major paper in California. Having such a visible messenger did benefit the campaign with extensive media coverage and attention. However, reformers did not engage in large-scale efforts to mobilize grassroots support.

State and national media attention focused on redistricting reform the moment Schwarzenegger began pounding on the issue with passionate one-line indictments of Sacramento politicians. Unfortunately, in pushing his other reform initiatives, he was also pounding on California teachers, nurses, firefighters, and police officers—making him appear brash and mobilizing fierce grassroots opposition to the reform package.

MESSAGE & BRANDING

Reformers

Relying heavily on the use of television advertisements and direct mail, reformers argued legislators were drawing districts in a way that guaranteed their reelection rather than looking out for the voters. As Schwarzenegger said, "They drew the district lines to protect themselves, rather than the people of California." Reformers pointed to the 2004 election, when 53 congressional and 100 state legislative seats were on the ballot and not a single one changed parties. As one widely used ad featuring a cane-waving senior citizen announced, "They rig the election; they rig everything. And what do you get for it? Nothing! Stop the politicians. Yes on 77."

Reformers also argued that California lawmakers were not responsive to the needs of the state. A television commercial featured a politician lounging on a tropical beach and as an alarm clock sounded, a voice-over told viewers that

“politicians need a wake-up call!” The ad’s message was clear: taking redistricting out of legislators’ hands so they can no longer guarantee their elections would be just such a call, and result in a more responsive and accountable state legislature that would tackle important issues.

Opponents

Opponents employed an aggressive television and direct mail campaign of their own. They effectively focused on the proposition’s perceived weaknesses, arguing that it was intended for political gain, not honest reform.

The Democratic Party alone spent more than \$1.7 million on mailers that inundated voters with more than 16 million pieces of anti-Proposition 77 literature and on negative television ads throughout the state. As one such ad stated, “powerful forces are trying to rewrite the Constitution for their own political advantage. Tell the power-hungry politicians to keep their hands off.” Many Republican voters received a mailer labeled, “Jury Duty is Good Citizenship,” designed to give the look of a government document. Inside was a quote from House Speaker Dennis Hastert calling Proposition 77 “A disastrous idea.” The Democratic Party also sent out a mailer urging voters to “join with the California League of Women Voters and other reform groups in opposing Proposition 77,” but without consent from the League.

Opponents vilified the pool of retired judges by portraying them in a series of television ads as old white men in a back room smoking cigars and playing poker. The message was that the proposition transferred redistricting authority out of an elected and accountable legislature into the hands of three retired unelected judges, a setting ripe for back-door politics and one that would fail to represent California’s diversity. As some noted, three judges could never adequately represent a state with more than 33 million residents.

The proposal’s call for a mid-decade redistricting enabled opponents to claim that Proposition 77 was nothing more than a match of the re-redistricting that Tom Delay and state Republicans had engineered in Texas only two years earlier.

CONCLUSION

Proposition 77 offers both lessons and hope for future reforms. Perhaps most importantly, it illustrates how it is possible to inform voters with effective messaging about redistricting reform. Shortly after the election, a Lake Research Partners survey of 800 Californians who voted in the 2005 election confirmed that “efforts to grab voters’ attention did work.” The California electorate understood the issue and recognized what was at stake. Thus, Proposition 77’s failure was not due to inadequate voter education, but to the content of the proposition, the package of other reforms it was linked to, and the endorsement of an unpopular governor.

Despite the failure in 2005, the Lake Research Partners survey indicates that redistricting reform is still very possible in California. Half of those who voted against Proposition 77 support redistricting reform in principle and two-thirds of California voters think the redistricting process needs to be changed.

LESSONS LEARNED FROM CALIFORNIA

- **Redistricting reform is more likely to fail when the political climate is unfavorable.**
- **Redistricting reform should not be packaged with other unpopular proposals.**
- **Reforms calling for mid-decade redistricting will raise suspicions that it is intended to benefit one political party.**
- **At the outset, work to secure unified reform community input and support.**
- **Raising the salience of redistricting reform among voters is possible.**

OHIO

Reform Ohio Now (RON) led the 2005 redistricting reform effort in Ohio. The proposed constitutional amendment, Issue 4, would have transferred redistricting authority from the state legislature to an independent five-member commission composed of two members from each political party and one neutral member chosen by the other four members. Following each decennial census, the commission would adopt the congressional and state legislative plans that best met the top-ranked criteria of maximizing electoral competition and respecting municipal and county boundaries. The amendment also prohibited packing or splitting concentrations of voters for partisan advantage.

Ohio First, formed by high-level Ohio and national Republicans, led a well-funded and aggressive opposition that perplexed voters, focused on the perceived weaknesses of the proposal, and portrayed the reform as a Democratic Party power-grab. Total spending for and against the amendment topped \$12 million, with RON spending more than \$5 million and Ohio First spending close to \$7 million. In the end, the amendment failed, with only 30 percent of the vote.

TIMING

RON began working immediately following the 2004 presidential election to place the redistricting amendment on the ballot the following November. The short time to assemble a coalition, finalize ballot language, raise funds, gather signatures, and mount a grassroots campaign, created a host of problems that increased as the election approached. Most notably, at a time when extensive planning and outreach for the fall campaign should have taken place, RON's central staff and volunteers instead were frantically raising funds to keep professional signature gatherers at work. When the signature gathering effort was finally complete, RON's energy was largely spent, and this hurt their ability to mount a strong fall campaign.

RON chose to package the redistricting amendment with three other proposals: limiting campaign contributions; creating an independent elections administration board; and, providing for mail-in and early voting. RON's rationale for this packaging was two-fold. First, by grouping redistricting with other reforms, proponents would be able to combine resources and unify their message. Second, the other measures were expected to increase the turnout of voters likely to favorable to redistricting reform. Instead, controversial aspects of the other reforms made many voters see the entire package as a Democratic Party power-grab, and educating voters on four complex issues proved to be an insurmountable obstacle. Ultimately, all four proposals met a similar fate, with the most successful receiving only 36.5 percent of the vote.

PROCESS

Ohio legislators had been reluctant to address redistricting reform by legislation, leaving reformers no option but pursuing a ballot initiative. Some conferees observed that the moment RON chose to pursue the initiative route, the effort was destined to lose, as Ohio voters have passed only six initiated measures since 1950.

With an aggressive professional and volunteer signature-gathering campaign, RON obtained more than 521,000 signatures and qualified the redistricting reform initiative in 75 counties—31 more than required. However, over 90 percent of the signatures were gathered by expensive professional petition circulators, significantly depleting RON's financial resources.

COALITION BUILDING

Key reform and minority community organizations were largely absent from the coalition in Ohio. Not invited to join the reform effort until after ballot language was finalized, the minority community did not unite in support of the amendment due to certain aspects of the proposal that could have been corrected had they been involved earlier. The Ohio League of Women Voters, although highly credible and typically supportive of redistricting reform, also was not actively involved.

Fearing the appearance of partisanship, RON purposely avoided aligning with Ohio Democratic Party leaders who supported their cause. Eventually, Democratic leaders split over the amendment, with various prominent Democrats speaking out in opposition. Despite the non-partisan approach RON was seeking, voters still believed the opposition's claims that the reform had been "forced onto the ballot by out-of-state liberal special interests" and was designed to favor the Ohio Democratic Party. In the end, RON was faced with the disadvantages of a partisan image, while lacking the resources and support that unified Democratic Party-backing might have provided.

PROPOSAL CONTENT

Crafting the amendment was an exhausting and time-consuming process; more than 20 drafts were produced and circulated. The result was over three pages of complex ballot language that confused voters and made voter education efforts significantly more difficult. The amendment's strong emphasis on creating competitive districts worried minority community leaders that their hard-fought majority-minority districts would be placed at risk since many such districts are not politically competitive. This enabled the opposition to claim communities would be torn apart in the name of electoral competition.

PUBLIC OUTREACH

Exhausted from the intense summer signature-gathering campaign and left with limited financial resources, RON engaged in a variety of grassroots organizing activities but failed to achieve broad and active mobilization.

RON relied heavily on volunteers to conduct door-to-door voter education drives and was successful in placing a large number of lawn signs. Scores of media reports focused on campaign activities, and a Cleveland State University town hall-style debate drew extensive coverage from state and local press. Despite these efforts, Ohio's lack of a strong citizen-engagement infrastructure and the difficulty of arousing grassroots excitement around redistricting reform led to only marginal results for RON's public outreach campaign.

RON aired several radio and television advertisements, but was unable to conduct an extensive media campaign due to limited financial resources. Ohio First, with more than \$6 million in funding and without the need to gather signatures, funneled nearly all of its resources into an aggressive television campaign that got on the air earlier and with many more ads than RON.

MESSAGE & BRANDING

Reformers

RON's decision to package the reforms did enable them to present a unified message of reform, but it left them with the difficult task of educating voters on four detailed and complex issues in short television and radio advertisements—a task that ultimately proved impossible. As some noted, it was “too much, and too complicated, and could never be explained with a bumper-sticker campaign.” Despite extensive media coverage, details of the individual initiatives remained obscure to many voters.

RON employed a two-stage message strategy. First, they argued that corruption was a persistent problem in Ohio government that necessitated immediate action. Second, they tied this corruption to legislative-controlled redistricting, relaxed campaign finance regulations, and a state elections administration office that was run in a highly partisan manner. As one ad featuring politicians in a back room passing around money urged, “Send them a message. Enough is enough. It's time to restore honesty and integrity. Vote yes on issues two, three, four, and five, and cleanup Ohio.”

The decision to combine all four amendments was based on instinct rather than sound public opinion research. Post-election polling revealed that the anti-corruption message never really resonated with the public. Voters saw little connection between the proposed reforms and their daily lives and the message failed to convey a positive vision or connection.

Opponents

Ohio First carried out a well-funded and aggressive strategy designed to confuse voters and hijack the anti-corruption message. In many instances, Ohio First used the same themes, arguments, and visuals as RON, only calling for a different result. For example, to counter an ad that asked voters to “hold politicians accountable,” Ohio First aired a similar ad telling voters that voting *against* the four issues would “keep politicians accountable.” The result this and other such ads was to confuse an electorate caught between conflicting campaigns, inundated with contradictory messages, and unable to see the merits of redistricting reform.

Ohio First appeared reasonable by conceding there were problems with the state’s redistricting process but claimed the specifics of the proposed amendment would result in unintended consequences. In particular, they focused on the amendment’s emphasis on creating competitive districts. They warned that communities would be torn apart to promote electoral competition and flooded the media with maps of what bizarrely shaped districts could look like if redistricting reform passed. They urged voters to wait until “good reform” was put forward, rather than accepting a problematic solution.

CONCLUSION

It is important to note that many of the strategic decisions RON made were essentially double-edged swords. The initiative route posed several challenges, but it was the only feasible avenue of reform. If RON had decided not to package the amendment with other reforms, it may have improved its chances. But such a strategy would have also diminished RON’s ability to build a broad coalition and raise funds. Including more organizations and seeking their consensus in the drafting process might have improved the final language, but could have proven more difficult and drawn out the process even more.

What is clear, however, is that packaging redistricting with other reforms presented insurmountable messaging challenges, that the details of the proposal opened it to attack, and that there was insufficient public opinion research guiding the campaign.

LESSONS LEARNED FROM OHIO

- **Allow adequate time for coalition building, research, fundraising, and grassroots organizing.**
- **Initiative language should be as simple as possible and not call for mid-decade redistricting.**

- **Message strategies and themes should be based on public-opinion research rather than instinct or gut feeling.**
- **Minority and reform communities should be involved from the very beginning.**
- **Packaging redistricting reforms with other reforms can prove problematic.**

LOOKING FORWARD: STRATEGIES FOR SUCCESS

The central purpose of the Salt Lake City conference was to assemble activists and political strategists to consider how we might accomplish state-by-state implementation of redistricting reforms in line with the principles adopted at the Airlie Conference (*see page four for principles*). Conferees shared their experience and expertise and discussed potential campaign strategies in the areas of timing, process, coalition building, content, public outreach, and message development – recognizing that seemingly small decisions can have large repercussions for the success or failure of redistricting reform. This section recaps some tactical guidance for state-level activists and may help reformers as they map out campaign strategy.

TIMING

For redistricting reform to be successful, it should be carefully timed to capitalize on the political climate, receive adequate attention from voters, and gain the backing of a strong and diverse coalition.

A state's political climate carries obvious implications for redistricting reform. An inherently unpopular special election is not a good setting for a redistricting initiative. On the other hand, scandals, egregious gerrymanders, or events that result in outcries from the media, elected officials, and the public can create a positive environment and provide important momentum for redistricting reform. This axiom was illustrated when Governor Schwarzenegger's unpopularity helped flatten Proposition 77 in 2005, and when high-level corruption in Arizona in the late 1990's paved the way for the passage of redistricting reform there in 2000.

Competing or complementary measures pending before the legislature or appearing simultaneously on the ballot may leverage support for redistricting reform, or divert attention and resources away from it. Reformers in Ohio painfully learned that grouping redistricting reform with other proposals added to already challenging voter-education obstacles. Instead, redistricting reform should be attempted at a time when the electorate's attention can be focused on redistricting reform and resources can be amassed and targeted to the campaign.

PROCESS

In some states, redistricting reform will require a constitutional amendment, while legislation may be the route in others. Initiatives and legislation are not mutually exclusive; reformers might pursue both paths by amending the state

constitution to establish an independent commission and passing legislation to delineate redistricting guidelines. Achieving redistricting reform depends on assessing the potential advantages and pitfalls of each possible approach and choosing the one with the best net chance for success.

BALLOT INITIATIVE

Currently, 24 states allow ballot initiatives, but the rates of success varies greatly from state to state. California and Florida have long histories of voters participating in and approving initiatives, whereas voters in Ohio have rejected all but a few. Due to the difficulty of passing redistricting reform legislation, ballot initiatives may provide the best chance for redistricting reform in many states, despite being expensive, time-consuming, and challenging.

Because of the immense challenges they face, two-thirds of all initiatives end in failure. Proponents are faced with the expensive and difficult tasks of message development, voter education, and grassroots mobilization. Opponents have an advantage before campaigning even begins, can hone in on a few weak points and can often win with much less money. As was demonstrated in Ohio, casting doubt and relying on the public predisposition to vote against initiatives was all that was needed to ensure an initiative's defeat.

To be successful a ballot initiative campaign must be well organized, thoroughly researched, adequately funded and backed by a diverse and broad coalition of key leaders. Every aspect, from the title and wording of ballot language to the advertising message and outreach strategy has to be grounded in extensive qualitative and quantitative public opinion research. Adequate funding is necessary to gather required signatures and pay for adequate television and radio advertising.

LEGISLATION

While an initiative campaign may have the best prospects for success in most states where it is available, reformers might still begin by pursuing legislation. Subjecting a reform proposal to the legislative process may reveal its strengths and weaknesses and suggest the kind of support and opposition that a future initiative will draw from legislators, the public, and the media. The legislative process can also serve to educate the media and voters on redistricting reform and give reformers a head start in reaching out to potential coalition members and funders.

Convincing legislators to give up primary authority for redistricting is perhaps the only thing more difficult than passing a ballot initiative. For various reasons, including the absence of the initiative process or lack of available resources, reformers may be limited to pursuing redistricting reform through legislation. Ultimately, persistence and intense pressure from the public and

media are critical to legislative success. As one conferee expressed, “you have to force the legislature to give up redistricting power.”

COALITION BUILDING

For redistricting reform to succeed it takes a strong coalition that is able to gather resources, mobilize the grassroots, and deliver a unified message. Assembling the right groups and building relationships of trust and confidence between organizations is a difficult process that requires patience and time, but it is essential. Quality is as important as quantity, and leaders should be less concerned with the number of allied groups and more focused on involving those that reflect broad-based support (labor, business, minority community, etc.), and can leverage the necessary resources.

Reform leaders have to figure out how to manage the coalition so that the political goals of individual groups do not interfere with the strategies needed for a successful campaign. In particular, they should understand the roles, strengths, weaknesses, and level of commitment of each member organization. Some groups may want to play a more active role than others in designing the proposal or drafting the ballot language; some groups may raise funds or conduct research; still others may be best suited to outreach and grassroots mobilization. Keeping coalition members focused on their strengths will improve the chances for delivering the redistricting-reform message effectively.

UNIFIED REFORM COMMUNITY

At the core of a successful redistricting reform coalition is a unified reform community. As demonstrated in California in 2005, disagreements between reform organizations will be exploited by the opposition and hinder grassroots mobilization and voter education efforts. Voters will be suspicious of measures that divide the traditional good-government community and more accepting of reform that has united support. Organizations with high public credibility add legitimacy to a coalition and should be heavily involved in every stage of the reform process.

MINORITY COMMUNITY PARTICIPATION

The importance of minority community participation in every step of the redistricting reform process received a great deal of attention at the conference. Coalitions should not treat minorities as monolithic, but instead reach across all racial and demographic lines to incorporate organizations that represent various sectors of the minority community. Minority organizations must have a role in the coalition that ensures that their policy concerns and issues are adequately addressed in reform proposals from the start.

REACHING BEYOND THE REFORM COMMUNITY

Coalitions should attempt to involve organizations not typically involved in good-government reforms. Involvement of the business and labor communities can contribute much needed funding, credibility and grassroots organizing infrastructure to the effort. And because principles such as honesty, fairness, integrity, and accountability resonate with the faith community, they may be interested in the redistricting reform fight.

BI-PARTISAN SUPPORT

A redistricting reform campaign can suffer a lot of damage from the charge that it is really designed to achieve a partisan result. Thus, many argue that reformers must adopt a *non*-partisan approach in coalition building and avoid aligning with either party in order to capture the mantle of true reform. Another approach, however, is to seek *bi*-partisan support.

Regardless of a coalition's composition, opponents will claim redistricting reform is backed by fierce partisan interests. Proposition 77 in California, for example, was supported by an array of independent groups. Even so, opponents still effectively framed the reform effort as partisan because of the one-sided support of the Republican governor. Reform Ohio Now tried to avoid aligning with either political party, but the reform was still perceived as being motivated by Democratic interests.

A bi-partisan strategy may offer the best chances for success. Endorsement from both political parties may be challenging, but getting key members from each party on board – perhaps most easily achieved with senior statesmen types – can provide significant outreach and messaging advantages. The support of just a handful of prominent members of each party can deflate the opposition's ability to make allegations of partisanship stick and undermine its efforts to convince voters that reform is spurred by partisan interests.

REFORM PROVISIONS

The substantive terms of a redistricting reform proposal have to be seen as a central component of a reform campaign's strategy. Details of the proposal will largely determine how it is attacked by opponents and perceived by voters. Reformers should have a clear understanding of the strengths and weaknesses of their proposal, and its language, and they should plan their campaign accordingly. As some conferees noted, "policy forms politics rather than politics forming policy." For initiatives, particular care must be given to the wording because, once approved, ballot language cannot be amended or altered in any way.

In this regard, the Salt Lake City conference examined how content affects a proposal's success. The 2005 California and Ohio initiative campaigns powerfully illustrated how opponents will exploit controversial or complex

elements of redistricting reform proposals. Reformers should avoid calling for any form of mid-decade redistricting because that is inevitably seen as benefiting one political party or the other. Rather, an implementation date after the next decennial census will add to the proposal's legitimacy, counter opposition claims of a partisan power-grab, and assure voters that reformers want to improve the redistricting process not affect an upcoming election.

Putting too much emphasis on competitiveness often raises concern in the minority community because majority-minority districts may lack partisan competitiveness. This in turn enables those opposed to redistricting reform to claim that the reform will disadvantage minority communities.

Reform proposals, especially initiatives, should be kept as simple as possible. Complexity can be a natural outgrowth of drafting by coalition, but rather than dismissing broad participation coalitions should identify the necessary core elements of the proposal and include only language essential to address those elements. A proposal that contains numerous provisions considered ideal by a broad coalition of drafters will often stand little chance being understood by the average voter or of passing. A "good" proposal that can be easily explained is much better than a "perfect" one that can't.

DESIGN OF INDEPENDENT REDISTRICTING COMMISSIONS

During the conference, participants offered their insights into the composition of independent redistricting commissions. While proposals vary widely with regard to the number of commissioners, how they are appointed, and their authority and discretion, conferees widely agreed that redistricting commissions should be structured in a way that balances partisan interests. In order to provide fair partisan representation on the commission yet avoid deadlock, some stressed the need for commissions to include a "tiebreaker." However, others expressed concern that having such an individual would place too much power in the hands of one person. Some suggested requiring decision by super-majority to insure minimal bi-partisan consensus.

As the number of minorities elected to state legislatures has steadily increased the minority community has gained an important and increasingly powerful voice in the legislative redistricting process. Removing redistricting from a state legislature to an independent commission may be seen by some in the minority community as stripping them of their voice in the redistricting process just as they are positioned to exercise influence. Therefore, redistricting reform proposals should include safeguards that ensure adequate minority community representation on the commission and participation in the redistricting process, as well as in the criteria to be used by the commission.

Conferees also discussed the level of discretion given to redistricting commissions and what types of voting information should be made available to them during the redistricting process. A few argued that redistricting

commissions should conduct “politics-blind redistricting,” meaning the redistricting commission would be precluded from considering information such as voting history and incumbent addresses. However, most believed that commissioners should be given access to all voting information including voting patterns and incumbent addresses – pointing out that depriving commissioners of such data may be an invitation for disaster and, given such information is often public knowledge, litigation over who inevitably had access to such information anyway.

The goal is to allow commissioners access to relevant voter information yet ensure fair outcomes. To that end, redistricting reform proposals could establish criteria that would constrain the commission in how it draws lines. In one such proposal outlined at the conference by attorney Sam Hirsch, plans adopted by the commission might be required to meet six “threshold criteria” including compliance with federal law, racial and ethnic fairness, population equality, contiguity, respect for neighborhoods, and compactness. Once a plan had met these six threshold criteria it would then be scored according to three “optimizing criteria” including county integrity, partisan fairness, and competitiveness. The highest-scoring plan - allowed to be amended in certain specific and limited ways - would then be adopted by the commission. Some states are also looking at proposals for commissions to propose unamendable plans for ratification or rejection through the legislative process.

PUBLIC OUTREACH

It is imperative that the redistricting-reform message be delivered by the right individuals and organizations. With a strong supporting coalition in place, reformers should turn their attention to effective outreach and communications.

GRASSROOTS INFRASTRUCTURE

Rather than creating a new grassroots operation for redistricting reform, it is a better to harness the power of existing organizations. As touched on earlier, a diverse and broad coalition is invaluable in outreach efforts. Effective mobilization of community organizations is more likely to occur if the message comes from the leadership within such groups rather than from outside.

MESSENGERS

Credible spokespeople are essential to success. Voters respond to signals from prominent public figures in elected office and the media. Therefore, reform leaders should not only be concerned with building a grassroots movement, but also with gaining the backing of opinion leaders. A credible person who says the right thing at the right time can obviously be an enormous help in getting attention and support for reform. Particularly with such a complex subject, the

public will look to independent organizations and individuals to validate reform efforts. It is a vital part of any campaign to select the best messengers for reform. This is another area where public opinion research can provide important guidance.

MEDIA

Essential to any communications strategy is the use of a broad and diverse mix of print, television, and radio outlets. Strong support from newspaper editorial boards is especially helpful because their views are widely considered to reflect public opinion and often drive television and radio news coverage. Positive media coverage should be used in voter education efforts to add third-party validation and legitimacy to the campaign. Stories about the impact of redistricting reform on individual communities and neighborhoods will often attract coverage by humanizing what is otherwise fairly abstract arguments.

MESSAGE & BRANDING

There is perhaps no element of redistricting reform as important and challenging as voter education. This section outlines common message and branding challenges, identifies tactics that reformers can use to meet these challenges, and offers potential message themes. Ultimately, reformers should rely on extensive public-opinion research in designing a message strategy that suits the unique demands of their state. The most salient and persuasive points for redistricting campaigns may be: (1) that voters should choose their elected representatives rather than letting representatives choose their voters; and, (2) that communities should be kept together.

CHALLENGES

Communicating about redistricting reform faces two major challenges: relevance, making it meaningful to the average citizen; and complexity, making it understandable. As one expert pointed out, “There is no magic-bullet solution; we simply don’t have complete answers to these problems.”

Issues such as health-care, education, and taxes dominate voters’ attention, and redistricting reform never appears in polls that identify voter priorities. Voters fail to see a connection between gerrymandering and their daily lives, and making that connection requires an extensive voter-education effort. The public knows little about the redistricting process and its effects, and the media is often unable to provide clear reporting on the intricacies of redistricting-reform proposals. This makes it all the more important for prominent and credible spokespeople to validate the significance of the issue and the value of the redistricting reform proposal.

SOLUTIONS

Both qualitative (focus groups) and quantitative (polling) research should be used to test initiative language and campaign messages. Subtle wording changes often result in significant swings in favorability. For example, the title “Independent Redistricting Reform Commission” may be received quite differently than “Citizen Redistricting Reform Commission.” Research should also look for so-called “sweeteners;” for example, including a provision that precludes lobbyists from participation on the redistricting commission may draw additional support.

Crafting advertising messages should be grounded in a thorough understanding of the attitudes and desires of voters in a state. Reform should then be presented as a solution to problems that voters already understand and want solved. For example, if research reveals that voters strongly favor increased officeholder accountability, then redistricting reform should be packaged and presented as a response to this concern.

Instinct and intuition should not be substituted for research. Just because a particular theme is clever or witty does not mean that it will work. Moreover, the success of a particular theme in one state is not a reliable indicator of how it will work with voters in another. Again, extensive public opinion research should support messaging decisions in every step of the campaign.

POTENTIAL MESSAGES

Recent polling data shows that voters will support redistricting reform when they understand the issue. Based on the results of recent reform attempts and various surveys, the conference discussed a wide array of themes that may resonate with voters. The following examples may serve as the basis for more in-depth state-level public-opinion research:

Conflict of Interest

A seemingly powerful message is that elected representatives are choosing their voters rather than the other way around. Members of Congress and state legislators should not be able to hand-pick whom they represent.

Protecting Communities of Interest

Redistricting reform can be presented as a way to ensure that local communities and neighborhoods are not torn apart for partisan advantage.

Fairness

Redistricting is being used by legislative majorities to cripple and disfranchise the minority party and voters. The adoption of an independent redistricting

commission is the fairest thing for both political parties and will ensure the public does not become the victim of partisan warfare.

Accountability and Balance

There is strong evidence voters do not respond favorably to arguments for more competitive districts because political competition is often associated with partisan bickering, negative advertising, and exorbitant campaign spending. Instead, the underlying values inherent in competition, such as accountability, balance, choice, or responsiveness should be substituted. Voters overwhelmingly want officeholders to be held accountable for their actions, and they easily understand that elected officials who face real competition will be motivated to address issues important to the public. Another persuasive aspect of the accountability rationale for competitive districts is that it makes elections meaningful and encourages voter participation.

Taking Power away from the Legislature

Capitalize on the willingness of the electorate to take power away from the legislature. Polling in California, Colorado, Florida, and Ohio has indicated that people feel that politicians have too much power and they want to take it back.

Gerrymandering Directly Impacts Issues Voters Care About

Redistricting does have a direct bearing on the issues and topics that voters care about, and connecting gerrymandering with bad policy outcomes can be extremely valuable. Polling has revealed that voters are upset with the gridlock and ineffectiveness of the federal government and redistricting reform may be received favorably if presented as a solution to government malaise.

REFORM OPPORTUNITIES

The goal of the conference was to help encourage state-level reforms in as many states as possible. This section examines factors that contribute to the feasibility of reform and suggests some states that appear ready for reform efforts.

DETERMINING FEASIBILITY

Various factors contribute to a state's readiness for redistricting reform. The following questions may assist in determining the feasibility of reform in a state.

URGENCY

Is redistricting a pressing issue?

Proponents will have a difficult time increasing the salience of redistricting reform in states where legislatures have exercised restraint in redistricting or where gerrymandering has failed to receive widespread media attention. Reformers should have a thorough understanding of the history of redistricting in their state. States where extreme gerrymanders have occurred – whether partisan or bi-partisan – are prime targets for reform.

FEASIBILITY

What reform approaches are available?

In many states transferring redistricting authority to an independent commission requires a constitutional amendment, while in others the legislature can merely amend a statute. Whether through initiative or legislation, reformers should understand the challenges inherent in each approach. Among the states that allow ballot initiatives, qualifying requirements and public attitude toward initiatives vary widely. Reformers should carefully consider the difficulty such requirements pose and the public perception of initiatives. In some states, combining initiative and legislation may be best.

What is the legal landscape?

Court interpretation of the “single-subject” requirement in a state constitution can determine the scope and practicability of a ballot initiative. Most recently, for example, the Florida Supreme Court ruled that a proposed constitutional amendment violated this rule because it provided for the creation of an independent redistricting commission and eliminated multi-member electoral districts. Reformers should know how their state courts construe legislative and initiative powers and how they have resolved conflicts.

What resources will be needed?

The resources necessary for successful redistricting reform will be peculiar to each state. Flooding the market with television and radio advertising may be sufficient in some states, while advertising may need to be combined with widespread grassroots mobilization in others. Adequate resources are necessary for any reform effort to succeed.

FAVORABLE PREDISPOSITION

What does the public know about redistricting?

Public knowledge about redistricting varies from one state to another. States where voters understand the negative ramifications of legislative-controlled redistricting and see an independent commission as a potential solution are going to be more ready for reform. States in which redistricting has received little attention will require more extensive voter education and outreach efforts.

Where does the media stand?

The media plays an important role in forming public opinion. Favorable stories and editorials provide reformers with a powerful weapon that adds third-party verification and legitimacy to their cause. Reformers should know the media's attitude toward redistricting reform, how they received and portrayed any past reform attempts and how receptive they will be to a [new] reform effort.

POLITICAL LANDSCAPE

Who is on your side?

Support for redistricting reform may come from many places. Opponents will try to frame the reform as a partisan power-grab. Securing bi-partisan support or the endorsement of highly-esteemed officeholders or individuals will increase the chances of success. Where only minority or majority party support is available, reformers should ensure that one party's endorsement will be adequate, or at least not a block to success.

Are you ready for the opposition?

Reformers must know the source and preparedness of the likely opposition and be ready to counter their strengths and exploit their weaknesses. Where redistricting reform has been attempted in the past, a strong opposition infrastructure may remain intact. While proponents have a significant strategic advantage in states where an opposition has yet to materialize, they should expect a fierce and well-funded opposition will form quickly.

CAMPAIGN READINESS

Is there an existing reform movement?

Redistricting reform coalitions have formed in many states. To be successful, a coalition must be diverse, focused, unified, and committed to reform regardless of shifts in a state's political climate. Credible reform organizations such as the League of Women Voters should be heavily involved; reaching beyond the traditional reform community to business and labor organizations will provide

needed resources and added legitimacy. Coalitions must be able to raise sufficient funds and organize an effective grassroots base.

Has research and polling been conducted?

What is known about the history of redistricting and the attitudes of voters towards reform in the state? Past excessive and often highly publicized gerrymanders can serve as justification for reform. Extensive public opinion research will reveal invaluable information to be used in determining the best reform approach and in crafting an effective message.

Do you have the funds?

Successful redistricting reform is expensive. From the early stages of research and polling to gathering signatures and educating voters, success will depend on money. Securing necessary funds early will enable the reform coalition to concentrate on developing effective message strategies and build grassroots support.

STATES SUITABLE FOR REFORM

Based on the criteria previously mentioned and other important factors, conferees identified various states in which redistricting reform seemed to be most feasible in the near future. (This summary of state activity is current as of July 2006.)

CALIFORNIA

California has a long history of voter receptivity to ballot initiatives. Proposition 77 in 2005 effectively raised the saliency of redistricting and most voters favor some sort of reform.

COLORADO

Qualifying initiatives in Colorado is a relatively simple and easy process. Democrats, facing uncertain prospects for keeping control of the state legislature, have expressed some support for redistricting reform.

FLORIDA

Historically, voters in Florida have been favorable to ballot initiatives. Despite a recent ruling of the Florida Supreme Court that removed a redistricting reform proposition from the 2006 ballot, reform organizations have formed a strong coalition and established an effective grassroots infrastructure.

GEORGIA

On March 1, 2006, the same day that a mid-decade re-redistricting bill passed the Georgia legislature and was signed by Governor Sonny Perdue, the Governor issued an executive order creating an 11-member Independent Redistricting Taskforce. The task force is to make recommendations prior to

December 31, 2006 on ways an independent redistricting commission can help to ensure balanced, fairly drawn districts, and restore public confidence in the electoral process.

MARYLAND

Redistricting reform has been attempted through legislation many times in Maryland in recent years. In 2005, the Maryland General Assembly considered five separate pieces of legislation that would have created independent redistricting commissions. Senate Bill 365 and House Bill 318 both called for the creation of a redistricting taskforce, and House Bills 1300, 1301, and 1302 would have created an Iowa-type redistricting process for both congressional and legislative districts.

MICHIGAN

State Representative Glenn Anderson (D-18th) introduced House Joint Resolution K to place on the ballot an amendment to the Michigan Constitution to create an independent redistricting commission. The commission would consist of nine members, four from each political party and one selected by the eight other members, and be tasked with drawing both legislative and congressional districts. The resolution has over 40 co-sponsors and has been referred to the House Oversight, Elections, and Ethics Committee.

NEW YORK

A split legislature and Eliot Spitzer's possible election as Governor improve the prospects for redistricting reform in New York. Assembly Bill 6287, currently in committee, would create an independent redistricting commission. The legislation has over 20 co-sponsors and is endorsed by leading good-government organizations such as Citizens' Union, NYPIRG, The Brennan Center, Common Cause, and the League of Women Voters.

OHIO

While redistricting reform failed in Ohio in 2005, the momentum from that initiative produced a more favorable climate for redistricting reform legislation in 2006. This past year, Republicans sponsored HJR 13, which would have established a seven member redistricting commission and required maps to adhere to the principles of compactness, respect for political boundaries, and competitiveness. The bill was defeated, however, in May 2006. Even when Republicans brought up a Democratic-sponsored proposal similar to HJR 13 (HJR 6), that too was defeated. Press reports in the aftermath of these votes questioned whether Democrats in the Ohio Legislature are genuinely in favor of redistricting reform when, given the opportunity to pass their own redistricting reform proposal, they chose instead to vote it down.

PENNSYLVANIA

H.B. 1116, introduced by Rep. Daylin Leach (D-Montgomery), currently has 16 cosponsors and would create a redistricting commission with four Democrats and four Republicans appointed by each party's legislative leaders and one independent appointed by the other eight. It would forbid the commission from

considering any political information, prohibit awarding any advantage or disadvantage to any political party, incumbent, or challenger, and set a strict formula to ensure district compactness.

TEXAS

Hard work and persistence by Senator Jeff Wentworth (R-San Antonio) resulted in Senate passage in 2005 of redistricting reform legislation for congressional redistricting only. Many expect the legislation to pass in both the Texas Senate and House in the 2007 legislative session.

STATUS OF REDISTRICTING REFORM

The 2000 redistricting cycle resulted in dozens of legal challenges to plans adopted in several states. Most notably, cases in Pennsylvania, Texas, and Georgia have called the attention of the courts to the “political thicket” of blatant partisan intent in drawing district lines and the most recent gerrymandering tactic, mid-decade redistricting. The Supreme Court’s July 2006 ruling in the Texas congressional redistricting case, *LULAC v. Perry*, while leaving the issue of partisan gerrymandering before the courts, nevertheless upheld a mid-decade redistricting intended solely to achieve partisan gain. With a majority of the Justices on the Supreme Court unable to agree on a standard for measuring excessive political gerrymandering, *Vieth v. Jubilerer*, and unwilling to invalidate a re-redistricting map even when undertaken solely for partisan advantage, the need for redistricting reform on a state-by-state basis becomes even more apparent.

REDISTRICTING LITIGATION

PENNSYLVANIA

Vieth v. Jubilerer

In 2002, The Republican-controlled Pennsylvania General Assembly adopted a congressional redistricting plan that was then signed into law by Republican Governor Mark Schweiker. Plaintiffs, comprised of registered Democrats in Pennsylvania, challenged the plan as unconstitutional, alleging that it created malapportioned districts in violation of the one-person, one-vote standard and constituted a political gerrymander in violation of Article I and the Fourteenth Amendment’s Equal Protection Clause by creating “meandering” and “irregular” districts designed to maximize partisan electoral outcomes. Plaintiffs also alleged that the Republican General Assembly had “ignored all traditional redistricting criteria, including preservation of local government boundaries, solely for the sake of partisan advantage.”

On April 28, 2004 the Court issued a split decision with no majority opinions in which the Court decided not to intervene in the case because no judicially manageable standards had been found to provide an appropriate remedy to political gerrymandering claims. While all nine justices agreed that excessive partisanship in redistricting is unconstitutional, Justice Antonin Scalia, writing for a four-member plurality asserted that all political gerrymandering claims should be declared nonjusticiable because no court had been able to find a fitting remedy in the 17 years since *Davis v. Bandemer*. According to Scalia, it was time to recognize that the solution to political gerrymandering simply did not exist. Justice Kennedy, however, wrote in his concurring opinion that while no judicially manageable standards had been found, the Court should not give up on eventually finding such standards.

TEXAS

League of United Latin American Citizens v. Perry, Travis County Texas v. Perry, Jackson v. Perry, and GI Forum of Texas v. Perry (consolidated), known as LULAC v. Perry.

In 2003, the Republican-controlled Texas State Legislature, with the assistance of U.S. Rep. Tom Delay (R-TX), adopted a mid-decade redistricting plan that solidified Republican control of the Texas Legislature and added to the party's domination of Congress by yielding a net gain of five Republican seats. Among other controversial elements, the plan removed 100,000 Mexican-Americans from a competitive district where Republican incumbent Rep. Henry Bonilla (R-TX) was growing vulnerable, and created a long, snake-like district which subsequently reelected Bonilla.

Plaintiffs argued that the plan was unconstitutional because it discriminated on the basis of race, was a blatant partisan gerrymander, violated the Voting Rights Act by diluting the voting strength of minorities, and was adopted via an unconstitutional mid-decade redistricting process. The U.S. District Court ruled that the plan did not violate the United States Constitution, and on appeal, the Supreme Court of the United States vacated the ruling and remanded the case to the lower court due to its ruling in *Vieth v. Jubelirer* (2004), which left open challenges to the influence of party politics in redistricting plans. After the U.S. District Court reaffirmed their ruling in favor of the Texas redistricting plan, the case was again appealed to the Supreme Court, which agreed to hear four cases challenging the Texas plan in a special two-hour oral argument session held March 1, 2006.

On June 28, 2006, the Supreme Court issued its six-part/132 page opinion largely upholding the mid-decade redistricting plan. The Court rejected the claim that the plan constituted an unconstitutional political gerrymander, and rejected a Voting Rights Act challenge to congressional District 24, which incorporates parts of the Dallas-Forth Worth area. However, the Court did find the redrawing of Texas' 23rd congressional district in order to insulate Rep. Henry Bonilla (R-TX) from Latino voters in Laredo violated Section 2 of the Voting Rights Act.

In *LULAC v. Perry*, the Court continues its course of stating that excessive political redistricting may be found unconstitutional, but failing to intervene in even blatant cases of partisan manipulation. In doing so, the Court has essentially opened the floodgates for partisan redistricting. State legislatures have now been given the green light to redistrict as often as they desire and it is likely that states without independent redistricting commissions will suffer from multiple contentious redistricting cycles each decade. The outcome of the Texas redistricting case points to the very serious and urgent need for meaningful redistricting reform so that independent commissions, and not partisan gerrymandering politicians, get to draw the lines. Resources and

attention should be shifted away from the courts and toward state-level reform efforts – where they are now needed more than ever before.

GEORGIA

Kidd v. Cox

In 2002, the then Democratically-controlled Georgia State Legislature adopted a redistricting plan, which was challenged in federal court by Republicans in the case *Larios v. Cox*. A three-judge court found the plan to be unconstitutional due to unequal population distributions between the plan's districts, although the total population deviation in the plan was less than 10 percent. When the legislature failed to adopt a new map by the court-imposed deadline, a Special Master was appointed to create a plan with districts of equal population, which was subsequently approved by the court and implemented without subsequent legal challenge.

In 2005, the Georgia State Legislature adopted S.B. 386, sponsored by Senator Ralph Hudgens (R-47), that re-redistricted the Georgia Senate districts in the Athens-Clarke County region of the state. Plaintiffs, including registered voters and a state senate candidate, challenged the redistricting plan by claiming that it was adopted for the sole purpose of gaining partisan advantage. On May 16, 2006 the U.S. District Court for the Northern District of Georgia upheld the plan. This case is currently on appeal to the United States Supreme Court.

PENDING REFORM PROPOSALS

Several states are currently considering redistricting reform legislation and initiatives. While the conference did not conduct an in-depth analysis of all pending reforms, it did look at reform efforts underway before the U.S. House of Representatives, and in the states of California, New York, Ohio, and Pennsylvania. Information presented in this section was updated to reflect post-conference developments in these states.

UNITED STATES HOUSE OF REPRESENTATIVES

The “Federal Fairness and Independence in Redistricting Act of 2005” (HR 2642) was introduced by Representative John Tanner (D-TN) on May 25, 2005. The legislation would prohibit a state already redistricted after an apportionment from redistricting again unless ordered to do so by a court to remedy a violation of the U.S. Constitution or the Voting Rights Act. The legislation also requires states to conduct redistricting through an independent commission established in the state that redraws districts according to the following redistricting criteria: adherence to all Constitution and Voting Rights Act requirements, geographic continuity, compactness, and contiguity. In developing redistricting plans, the commission would be prohibited from considering voting history, political party affiliation, and incumbent addresses unless doing so is necessary

to comply with the Voting Rights Act. The act was referred to the House Committee on the Judiciary on Oct. 20, 2005.

CALIFORNIA

The 2005 defeat of Proposition 77 raised the salience of redistricting reform and has spurred the California State Legislature to action. Most notably, Senate Constitutional Amendment 3 sponsored by Senator Alan Lowenthal (D-Long Beach) and developed with input from key reform groups, would amend Article XXI of the California Constitution, creating an 11-member redistricting commission charged with redrawing state legislative, congressional and Board of Equalization districts. The legislation requires that a 10-member panel of retired judges appoint, and legislative leaders confirm, four members of each political party who would then select the remaining three members. In order for an individual to be eligible for one of the three seats, that person must not have ever been a party official, legislative staffer, registered lobbyist, officer of a campaign committee, or candidate for public office.

In creating district maps, the commission would begin by designing equally populated districts across the state and then adjusting them to meet the following ranked goals: (1) compliance with the United States Constitution; (2) compliance with the Voting Rights Act; (3) contiguity; (4) respect for communities of interest; and (5) respect for visible geographical features and city and county boundaries. The commission would be precluded from considering incumbents' or political candidates' addresses and required to conduct business in open meetings. SCA 3 is currently pending before the California Senate.

In addition to Lowenthal's bill, some reform groups that supported the earlier initiative have joined forces on a new redistricting reform initiative for the 2006 ballot. The initiative would create an independent redistricting commission to draw legislative, congressional, and Board of Equalization districts. The commission would be composed of 11 randomly selected registered voters, with four registered members of each major political party, and three members unaffiliated with either party. In order to be eligible for service on the commission, individuals must not have been appointed to, elected to, or ever have been a candidate for public office, or served as legislative staff, or served as an officer of a political party, or been a registered lobbyist. The commission would adhere to the following ranked goals in adopting maps: (1) compliance with the United States Constitution and Voting Rights Act; (2) contiguity; (3) respect for communities of interest, geographical features, and city and county boundaries; and (4) competitiveness. The Committee for an Independent Voice is currently gathering signatures in order to qualify for the 2006 ballot.

FLORIDA

The Committee for Fair Elections gathered nearly one million signatures for Amendment 5, a Florida redistricting initiative scheduled to appear on the November 2006 ballot that would have created a 15-member independent redistricting commission to draw congressional and legislative districts. However, on March 23, 2006 the Florida Supreme Court ruled the amendment violated the single-subject rule by calling for the creation of a redistricting commission and requiring single-member districts in the Florida Constitution. Despite this disappointing setback, the Committee for Fair Elections and reform organizations throughout the state believe the amendment can be reworked and submitted to the Supreme Court and then to the voters of Florida in the 2008 election.

NEW YORK

Assembly Bill 6287, introduced by Assemblyman Michael Gianaris (D-Queens), would create an 11-member independent redistricting commission to propose congressional and state legislative districts following each U.S. Census. Legislative leaders (majority and minority) in both chambers would each appoint two members to the commission. These eight would then select three additional members, one of whom would serve as chair. Once established, the commission would propose district boundaries for legislative approval without amendments. If the first proposal fails, the commission would then submit a second proposal based upon the reasons given by the legislature for the rejection of the first proposal. Like the first, the second plan must be approved by the legislature without amendments. If the second proposal is also rejected, the commission would submit a third plan to the legislature that would be subject to the normal amendment process.

A split legislature (Republicans control the State Senate and Democrats control the Assembly) and state attorney general Eliot Spitzer's potential run for the governorship makes redistricting reform success in New York more likely than ever. Spitzer has indicated he will push redistricting reform as governor. Moreover, Assembly Bill 6287 has more than 20 co-sponsors and is endorsed by several leading and highly-regarded organizations such as Citizens' Union, Common Cause, League of Women Voters, NYPIRG, and The Brennan Center. The bill is currently in committee.

OHIO

On May 25, 2006, HJR 13, sponsored by Rep. Kevin DeWine (R) was defeated. The bill would have established a seven-member redistricting commission tasked with redrawing Ohio's legislative and congressional districts after each Census, according to the criteria of compactness, respect for existing political boundaries, and competitiveness. Reformers fear they have lost Democratic

Party support due to the party's prospects of regaining control of the Ohio Legislature following the 2006 elections.

PENNSYLVANIA

H.B. 1116, introduced by Rep. Daylin Leach (D-Montgomery) would create an independent redistricting commission consisting of four Democrats and four Republicans appointed by the party caucus leaders and one registered independent who is appointed by the eight other members. The law would forbid the commission from drafting a redistricting plan that considers any political information, and further prohibits the commission from awarding any advantage or disadvantage to any political party, incumbent, or challenger. The commission's plan would be submitted to the legislature for approval without amendments. If the legislature rejected the first plan, it would send the draft back to the commission with comments and objections. The commission would then draft a second plan. If the legislature rejected the second plan, the State Supreme Court would then impose one of the two plans. The only constraint placed on maps other than U.S. Constitution and Voting Rights Act requirements would be a formula that ensures district compactness by locating the geographic center of a district, drawing a circle around the center, and requiring that the district fill at least 15 percent of that circle.

A NATIONAL REDISTRICTING REFORM PROJECT

At the end of the Salt Lake City conference, participants unanimously agreed that forming a national coalition or umbrella organization would help to raise the importance of redistricting reform on the national level, facilitate coordination between state and national organizations working for redistricting reform, and be a useful resource for efforts in the states. They recommended that the conference organizers take the steps necessary to start such an effort.

To carry out that recommendation, the organizers hope to recruit a core group of stakeholders to constitute a steering committee to organize and shape the mission of a national redistricting reform project and to seek financial support from foundations and other sources.

Once established and funded, the national redistricting reform project would thoroughly examine the feasibility of a national reform movement. The foundational work of the project should include: public-opinion research on message strategies and themes; research on past redistricting reform efforts; and developing in-depth campaign strategies and funding guidelines.

The national project would work to create and sustain a national “buzz” around redistricting reform, enlisting prominent national political and civic leaders to headline the effort and raise its visibility and credibility. While the odds for reform vary among the states, increasing national attention through various media outlets would boost the chance for success in all states.

The national project would not be a governing structure; nor would it closely manage or fund state-level reform efforts. Rather, it would provide state-level reformers a unified national voice and a body of research and information, political clout and effective techniques essential for them to succeed in the states.

CONFERENCE AGENDA

Salt Lake City, Utah - April 3-5, 2006

Monday, April 3

- 1:00* **Opening Session**
Welcome by Trevor Potter, Lloyd Leonard, David Skaggs; self-introductions by conferees; review of principles adopted at Airlie conference.
- 2:15* **Presentations on 2005 CA and OH Initiatives**
Ohio present: Dan CramerCalifornia present: Shakari Byerly
- 4:00* **Pending Redistricting Legislation: CA, FL, NY, OH, & PA**
Presenters: Ed Jerse, Barbara Bartoletti, Caroline Emmons-Schramm, Jackie Jacobberger
- 4:45* **Lessons Learned**
- 8:00* **Supreme Court Arguments in Texas Redistricting Case**
Presenters: Gerry Hebert and Sam Hirsch

Tuesday, April 4

- 8:30* **State Strategies: Taking the Initiative Route**
Presenters: Doug Johnson and Les Francis
- 9:15* **State Strategies: Taking the Legislative Route**
Presenters: Rodney Ellis and Jeff Wentworth
- 10:15* **Achieving Greater Competitiveness**
Presenters: Michael McDonald and Steve Carbo
- 11:30* **Finding Common Ground: Minority Voting Rights & Redistricting Reform**
Presenters: Anita Earls and Ryan Alexander
- 1:00* **Design of Independent Commissions**
Presenters: Sam Hirsch and Chris Carson
- 2:00* **Message & Communications**
Presenters: David Mermin and Jim Thurber
- 3:30* **Outreach & Coalition Building**
Presenters: Gary Kalman and Sam Gresham
- 4:30* **Determining States Suitable for Implementing Reform Principles; Strategies for Implementing Reform**
Presenters: Deborah Goldberg and Jon Goldin Dubois

Wednesday, April 5

- 8:30* **Discussion of the Years Ahead for Redistricting Reform in the States**
- 10:30* **Concluding Observations & Recommendations for Next Steps**
Presenters: Tom Mann and Mary Wilson

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