Exhibit E
SENATOR GIANARIS: Yes, sir.

ACTING PRESIDENT FLANAGAN: I would remind everyone in the chamber that the house being in order and having a sense of decorum is really a good thing for everybody. We've been doing pretty well up until this point, Senator Dilan having set the appropriate tone.

I would remind you as well that Senator Nozzolio has engaged you and listened to your questions, and he is entitled to answer those questions as he deems fit. If he doesn't answer them to your liking, he is entitled to answer the questions the way he deems appropriate.

SENATOR GIANARIS: I don't believe, Mr. President, that I have taken issue with the way he's answered any of my questions.

ACTING PRESIDENT FLANAGAN: Senator Gianaris, you just said you don't want to hear any of his talking points. So I'm just reminding you that if he is going to speak to your questions, he is entitled to answer them the way he deems fit.

SENATOR GIANARIS: Point taken, Mr. President.

SENATOR NOZZOLIO: Thank you, Mr. President. And I'd like to respond to Senator Gianaris's question directly. Senator Gianaris should know that I am not in any way, shape or form ashamed of this plan. Frankly, the question was insulting.
I am very proud of this plan. I am very proud of the fact that we have fully complied with all tenets of the federal Voting Rights Act, that we have restored five majority-minority districts in this state and within the covered counties of this state, even though those five districts fell below 50 percent.

Senator Gianaris's definition of packing I think is totally inappropriate, totally beyond the formal judicially termed definitions of packing.

And that this plan does not engage in such behavior. This plan is totally within the tenets of the federal Voting Rights Act. And I am in fact proud of the job that has been done in establishing minority rights in this State Senate and minority districts in this State Senate.

SENATOR GIANARIS: Thank you, Senator Nozzolio.

If the sponsor would continue to yield.

ACTING PRESIDENT FLANAGAN:

Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes,

Mr. President.

SENATOR GIANARIS: Thank you. I'd like to move on to a different topic now, the question of the 63rd seat.
would the sponsor be willing to stipulate that the purpose of the constitutional provision that determines the size of the Senate exists so that when the population of the state grows in a certain region, that that region does not end up taking a Senator from another part of the state?

In other words, was it not a compromise in 1894 to deal with counties that had growing populations so that we wouldn't have Senators shifted, and the idea would be those counties would gain an extra Senator by increasing the size of the Senate and other counties would maintain their position?

SENATOR NOZZOLIO: Mr. President, please advise Senator Gianaris that I would in no way stipulate to such a definition.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris.

SENATOR GIANARIS: If the sponsor would continue to yield, Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes,

Mr. President.

SENATOR GIANARIS: Well, historical records certainly seem to make that point.

Regardless of whether the sponsor stipulates to it or not, I'd ask the question as
a matter of policy. If we are going to make a
determination that the Senate size should change
and grow by one, does it not make sense for that
district to be placed in the parts of the state
that have experienced the greatest growth in the
last decade?

SENATOR NOZZOLIO: Mr. President,
I believe that it is a decision of this body, as
it accepts the establishment of the 63rd seat,
that that seat is in fact placed in one of the
fastest-growing regions of the state.
The Hudson Valley has historically
been one of the fastest-growing regions. That
this district lines through the Hudson Valley and
in fact is one of the fastest-growing population
centers is this state. That this plan reflects
that growth, and that the addition of the Senate
seat is a reflection of that growth.

SENATOR GIANARIS: If the sponsor
would continue to yield, Mr. President.

ACTING PRESIDENT FLANAGAN:
Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes,
Mr. President.

ACTING PRESIDENT FLANAGAN:
Senator Gianaris.

SENATOR GIANARIS: While it may be
ture that the Hudson Valley has experienced
growth, the numbers make clear that it's in the
Lower Hudson Valley where that growth has been
experienced, the counties of Orange and Putnam
and Westchester and Rockland.
This new district that's being
proposed doesn't touch any of those districts.
It is in the Capital Region and in the Northern
Hudson Valley.
So again I ask, would it not make
sense to place a new district where the
population growth was the greatest?
SENATOR NOZZOLIO: Mr. President,
I think Senator Gianaris's atlas could use the
addition of a few more counties. Saratoga County
is by far one of the fastest-growing counties. I
believe it is the fastest-growing county in the
State of New York.
SENATOR GIANARIS: If the sponsor
would continue to yield, Mr. President.
ACTING PRESIDENT FLANAGAN:
Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes,
Mr. President.

ACTING PRESIDENT FLANAGAN:
Senator Gianaris.

SENATOR GIANARIS: How much of
Saratoga County is located in the new
46th District?
SENATOR NOZZOLIO: Mr. President,
the 46th District, the counties are outlined
here. That Saratoga County is not a component of
the 63rd senatorial district.

SENATOR GIANARIS: If the sponsor
would continue to yield, Mr. President.

SENATOR NOZZOLIO: However, if I may, Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Nozzolio.

SENATOR NOZZOLIO: That no district is created in a vacuum. That each district relies on population centers around it as well as within it, and that the inclusion of this district in the region, extending from the Lower Hudson into the Capital Region, is part of a growth that extends from the Lower Hudson into the Capital Region.

Districts around the 63rd seat are as relevant to its establishment as the growth rate within that 63rd seat.

SENATOR GIANARIS: If the sponsor would continue to yield.

ACTING PRESIDENT FLANAGAN:

Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris.

SENATOR GIANARIS: I'd like to move on to an area that's a little bit complicated to discuss. It took me quite a while to grasp it. But I do want to get into this formula in the Constitution for determining whether or not the Senate size should increase
and how it was applied in this plan.

Can the sponsor explain briefly how
it is that the Constitution provides a formula --
what the formula is in the Constitution for
determining the size of the Senate?

SENATOR NOZZOLIO: I'd refer
Senator Gianaris first to Article 3, Section 4 of
the State Constitution. Also, I would refer him?

1 to the memo presented on the LATFOR website by
counsel. I would also refer to Senator Gianaris
the applicable sites cited in counsel's memo for
further explanation on those judicial opinions
relevant to this issue.

SENATOR GIANARIS: If the sponsor
would continue to yield, Mr. President.

ACTING PRESIDENT FLANAGAN:
Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes,
Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris.

SENATOR GIANARIS: I appreciate
the sponsor's response to that question, but I
think it's important -- because I submit that the
formula was misapplied in an unconstitutional
manner, so I think it's important that we get
into a conversation about what that formula is
and how it was applied in this case.

Now, as I understand it, we're
dealing with a provision in Article 3, Section 4
that was written in 1894 and provides that when
certain counties that are larger in this state experience growth, there's a formula applied to determine whether they are entitled to what the Constitution calls an additional share, or an additional Senator for the purposes of this formula.

Is that in conformance with what the sponsor believes as well?

SENATOR NOZZOLIO: Mr. President, it really was very difficult to follow Senator Gianaris on his trail in trying to frame a question. Not to be critical of Mr. Gianaris, but I believe the Senator tried to ask a question; I really didn't gather one out of that statement. Could he be so kind as to repeat the question or at least rephrase it in the form of a question?

SENATOR GIANARIS: I would be happy to. And excuse my lack of articulateness in that question, Senator.

Would you agree that Article 3, Section 4 provides a formula to determine when certain large counties in this state experience enough growth to justify an additional Senator?

SENATOR NOZZOLIO: Mr. President, it's my understanding that the Constitution sets forward in motion the establishment of a process and that the formula has actually been determined by a number of judicial decisions.
Those decisions are part of a counsel's opinion that has been on the LATFOR website for a number of months. I again refer the Senator to that opinion by counsel. One need only go to the LATFOR website to find it.

SENATOR GIANARIS: Would the sponsor continue to yield, Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris.

SENATOR GIANARIS: With all due respect, is the sponsor aware that his counsel doesn't get a vote in this chamber and we are called upon to apply our judgment to what is proper and improper?

And this is an important issue of constitutional interpretation and what the size of our representative government should be in this state. So with respect, it's not sufficient for me for someone to wave a counsel's memo and say "This is the answer."

I would like to engage in a conversation about this formula and how it was applied here.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris, are you asking -- it seems to me you were commenting and questioning. Can you restate exactly what your question is for Senator
SENATOR GIANARIS: My question is, is the sponsor aware that his counsel is called upon to give advice that would then be interpreted by him and his colleagues, not to actually cast a determinative vote in how we do a redistricting plan?

SENATOR NOZZOLIO: Mr. President, of course. That the counsel's advice is just that, it's advice. That that advice was in fact from the identical counsel that provided the advice to the Senate 10 years ago. That advice then was upheld by the appropriate courts. The advice has a great deal of credibility, a great deal of success. And that counsel's memo, in recognizing and recommending similar action this year, I believe is headed towards a similar result, of the courts accepting counsel's analysis of this constitutional required provision.

SENATOR GIANARIS: If the sponsor would continue to yield, Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes,

Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris.

SENATOR GIANARIS: Mr. President,

I'd like to ask the sponsor how he knows that the
advice given by counsel 10 years ago is the same
as the advice he gave this year.

SENATOR NOZZOLIO: I think it's a
very good question, Mr. President.

That the memo provided on the
LATFOR website incorporates the memo that the
counsel provided 10 years ago. That there were a
combination of the advice, through the memo
presented 10 years ago with the analysis updated
based on the assessments today incorporated with
that memo from 10 years ago.

SENATOR GIANARIS: If the sponsor
would continue to yield, Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes,

Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris.

SENATOR GIANARIS: Is the sponsor
aware that there were two different methodologies
used in two different parts of the state in
making the determination that this plan should go
to 63 Senators?

SENATOR NOZZOLIO: Mr. President,
I don't believe that the contention by Senator
Gianaris is accurate.

SENATOR GIANARIS: If the sponsor
would continue to yield.

ACTING PRESIDENT FLANAGAN:

Senator Nozzolio, will you continue to yield?
SENATOR NOZZOLIO: Yes,

Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris.

SENATOR GIANARIS: Is the sponsor not aware that his own counsel, who he's using as the authority, readily admits that there were two different methodologies used in two different parts of the state in his plan?

SENATOR NOZZOLIO: That -- let me try to clear up Senator Gianaris's confusion, Mr. President, with this response.

That counsel's memo provides two alternative paths to basically reach -- that both basically reach the same conclusion, that there are -- the analysis intention is to be comprehensive, and that's why the counsel looked at both alternatives as potentials.

And that both alternatives led to the very same conclusion, that a 63rd seat is in fact constitutionally sound and required for this next redistricting.

SENATOR GIANARIS: If the sponsor would continue to yield, Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes,

Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris.
not aware that what actually happened was both of
those alternatives were applied simultaneously in
the same plan and that is the only way that the
formula resulted in 63?

SENATOR NOZZOLIO: Mr. President,
Senator Gianaris is certainly entitled to his own
opinion and his assessment of counsel's memo.
I believe I have demonstrated my
opinion of counsel's memo. I stand by those
previous answers.

SENATOR GIANARIS: Mr. President,
on the bill, please.

ACTING PRESIDENT FLANAGAN:
Senator Gianaris on the bill.

SENATOR GIANARIS: I find -- it's
not a surprise to anyone in this chamber that I
find this bill woefully inadequate.
And I've heard contentions that --
I want to make sure I get the terms right -- it
was fair and legal and complies with the State
Constitution and the U.S. Constitution and the
Voting Rights Act. The fact is, this plan is
none of those things. It is not fair, it is not
legal, it violates the State Constitution in
determining the size of the Senate, it violates
the U.S. Constitution in applying the "one
person, one vote" rule, and it violates the
Voting Rights Act in numerous counties throughout
this state, most notably in Hempstead in
Nassau County.

Yet we plod on and we use as
authority a counsel's memo that no one seems able
to explain. Makes me wonder whether the counsel
was told "Get us to 63, please. And I don't care
how you get there, but get us there, because
that's the number that works for us politically."
In fact, 10 years ago we have memoranda written
by this same majority that said exactly that in
your path to get to 62 from 61.

So if there's anyone here who would
like to get up and have a conversation about how
this formula was applied and how you got to 63,
I'd love to have it, because I have a pretty good
idea of how it was and I'm pretty confident it
was applied illegally. Yet there's no one here
who seems able to explain it other than referring
back to a counsel's memo -- not only a counsel's
memo from the previous year, but from 10 years
prior.

The fact that we're debating such

an important piece of legislation at 11 o'clock
at night and can't even have a substantive
correlation between it speaks volumes about the
depths we've fallen to in this chamber as we're
doing something as important as determining the
districts under which people get to vote for

their representatives.

We're sitting here with the highest
average deviation in history of this state that