Exhibit 13

Dickson Exhibit 55
(5 Public Statements by Rucho-Lewis)
Joint Statement by Senator Bob Rucho, Chair of the Senate Redistricting Committee, and Representative David Lewis, Chair of the House Redistricting Committee, released on June 17, 2011

The Chairs of the Joint House and Senate Redistricting Committee are committed to proposing fair and legal districts for all citizens of North Carolina, including our minority communities. Therefore, on June 23, 2011, the Joint House and Senate Redistricting Committee will hold a public hearing on Voting Rights Act districts and four other districts proposed by the Chairs for the 2011 State Senate and State House redistricting plans.

Locations for this public hearing include the North Carolina Museum of History in Wake County, Fayetteville Technical Community College, Guilford Technical Community College, UNC Charlotte, UNC Wilmington, East Carolina University, and Roanoke-Chowan Community College. The public hearing will run from 3:00 PM to 9:00 PM. Individuals interested in speaking should call the General Assembly or consult the General Assembly’s web site for sign-up procedures.

We have decided to focus this public hearing on proposed legislative Voting Rights Act ("VRA") districts and four other proposed districts. We have chosen this option because of the importance of minority voting rights. Moreover, the decisions by the North Carolina Supreme Court in Stephenson v. Bartlett, 355 N.C. 354 (2002) ("Stephenson I"), and Stephenson v. Bartlett, 357 N.C. 301 (2003) ("Stephenson II"), require that VRA districts be created before other legislative districts.
The Chairs believe that there is a strong basis in the record to conclude that North Carolina remains obligated by federal and state law to create majority African American districts. Our conclusion is based upon the history surrounding the creation of VRA districts in the State of North Carolina, both as ordered by the federal courts and as adopted by the Legislature, from 1986 through the present. Our conclusion is also supported by evidence and testimony submitted to the Joint Redistricting Committee or received at public hearings.

In creating new majority African American districts, we are obligated to follow the decisions in *Stephenson I* and *II* as well as the decisions by the North Carolina Supreme Court and the United States Supreme Court in *Strickland v. Bartlett*, 361 N.C. 491 (2007), affirmed, *Bartlett v. Strickland*, 129 S.Ct. 1231 (2009). Under the *Strickland* decisions, districts created to comply with section 2 of the Voting Rights Act, must be created with a “Black Voting Age Population” (“BVAP”), as reported by the Census, at the level of at least 50% plus one.\(^1\) Thus, in constructing VRA majority black districts, the Chairs recommend that, where possible, these districts be drawn at a level equal to at least 50% plus one “BVAP.” To determine the percentage of “BVAP” in proposed districts, we have used a more specific census category listed in our reports as “Total Black Voting Age Population” (“TBVAP”). This category includes any person 18 years old or older, who self identifies as wholly or partially “any part black.” It is our understanding that this Census category is preferred by the United States Department of Justice and the United States Supreme Court. See *Georgia v. Ashcroft*, 539 U.S. 461, 473 n. 1 (2003).

During our proceedings we have asked for advice on the number, shape, and locations of VRA districts that should be included in the Senate and House plans. During our public hearings, members of the public requested that current majority African American districts be retained, where possible, and that additional majority black districts be created, where possible.

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\(^1\) The North Carolina Supreme Court described the required majority as Citizen Black Voting Age Population (“CBVAP”). The 2010 Census did not report on this category of information.
Based upon this testimony, along with input we have received from at least one black incumbent House member, the Chairs recommend, where possible, that each plan include a sufficient number of majority African American districts to provide North Carolina’s African American citizens with a substantially proportional and equal opportunity to elect their preferred candidates of choice.

Based upon the statewide TBVAP figures, proportionality for the African American citizens in North Carolina means the creation of 24 majority African American House districts and 10 majority African American Senate districts. Based upon census figures for both 2000 and 2010, the 2003 plans do not satisfy this standard. The 2003 Senate plan, used in elections from 2004 to 2010, contains zero districts in which African Americans constitute a TBVAP majority. The 2003 House plan, as amended for the 2010 General Election, contains nine districts in which African Americans constitute a TBVAP majority based upon 2000 census figures. The 2003 House plan, as amended for the 2010 General Election, contains ten districts in which African Americans constitute a TBVAP majority based upon 2010 census figures.

The Chairs note that under the benchmark 2003 plans, only eighteen African American members are currently serving in the House and only seven African Americans are currently serving in the Senate. The Chairs also note that two incumbent African American senators were defeated in the 2010 General Election. Both of these former African American incumbents (Don Davis in District 5 and Tony Foriest in District 24) were defeated by white candidates in districts with a TBVAP population below 40%.

Unlike the 2003 benchmark plans, the Chairs’ proposed 2011 plans will provide substantial proportionality for North Carolina’s African American citizens. The 2011 House plan, recommended by Chairman Lewis, consists of 24 majority African American House districts and two additional districts in which the TBVAP percentage exceeds 43%. Moreover, the 2011 Senate plan proposed by Chairman Rucho consists of 9 majority African American
Senate districts. Chairman Rucho has been unable to identify a reasonably compact majority African American population to create a tenth majority African American district.


In creating proposed majority black districts, the Chairs have been guided by testimony and advice received from experts recommended by the Democratic legislative leadership. Based upon this information, the Chairs have rejected the possibility of any districts that would constitute the “cracking” or “packing” of any reasonably compact African American population, as those terms have been defined by the United States Supreme Court. See Quilter v. Voinovich, 507 U.S. 146, 153-154 (1993). Nor have the Chairs supported any district that would involve the “stacking” of a minority population. We understand the term “stacking” to mean the submergence of a less affluent, geographically compact, African American population capable of being a majority in a single member district, within a larger, more affluent majority white population.

We wish to point out several features of the proposed VRA districts upon which the Chairs invite public comment.

First, testimony during the public hearing in New Hanover County indicated that the minority community in that area of the State would support the creation of a new majority African American House district to replace the former House District 18. That district was
constructed in the 2003 House plan with an African American voting age population substantially below 50% plus one. In *Strickland v. Bartlett*, both the North Carolina Supreme Court and the Supreme Court of the United States ruled that African American districts needed by the State to comply with Section 2 of the Voting Rights Act must be established with a BVAP of 50% plus one. In response to testimony during the New Hanover public hearing, the plan proposed by Chairman Lewis includes a revised black voting age majority version of District 18 that complies with the *Strickland* decisions.

The Chairs also wish to receive comments regarding the Senate and House districts to be adopted in Forsyth County. Districts in Forsyth County were found to be in violation of Section 2 of the Voting Rights Act in the decision of *Thornburg v. Gingles*, 478 U. S. 30 (1986). This decision has never been vacated or over-ruled and is still binding on the State. Moreover, the historical and legislative records indicate that all of the elements necessary to prove a Section 2 violation in Forsyth County still remain, except as described below.

In 2003, as reported by the 2000 Census, the State created three legislative districts in Forsyth that consisted of a TBVAP in excess of 40%: Senate District 32 – 41.42%; House District 71 – 51.57%; and House District 72 – 43.40%. Pursuant to the 2010 Census, these districts have the following percentage of TBVAP population: Senate District 32 - 42.52%; House District 71 - 51.09%; and House District 72 - 45.40%. Unfortunately, also under the 2010 Census, all three districts are under-populated for compliance with the constitutional requirement of one person one vote. Because all three districts are under-populated, all three must be adjusted to add additional total population. See *Stephenson I* and *II*. Adding additional total population has the effect of decreasing the percentage of the African American voting age population in each district.

Because House Districts 71 and 72 are both significantly under-populated, Chairman Lewis believes that it is not possible to create two majority African American House districts in
Forsyth. He is concerned that it may not be possible to create one reasonably compact majority black house district in Forsyth County and another district that would keep District 72 at a TBVAP level that reasonably approaches its benchmark level. Based upon the experience in Democratic primaries for Senate District 32, there is also concern that a plurality House district in the 40% range or under may not re-elect the current African American incumbent in House District 72. Therefore, at this time, Chairman Lewis has recommended that both House districts, which currently elect two black incumbents, be created at TBVAP levels above 43%. Thus, under the 2010 Census, proposed House District 71 has a TBVAP population of 47.31%, Proposed District 72 would be established with a TBVAP percentage of 43.33%.

Chairman Rucho believes that it is not possible to create a majority black Senate district in Forsyth. He therefore recommends that proposed Senate District 32 be created at a TBVAP percentage of 39.32%. Chairman Rucho also recommends that the current white incumbent for the Forsyth Senate district not be included in the proposed Senate District 32. The white incumbent has defeated African American candidates in Democratic primaries in 2004 and 2010. The Senate Chair recommends this adjustment in the absence of a tenth reasonably compact majority African American senate population. If adopted by the General Assembly, proposed coalition District 32 will provide African American citizens with a more equal, and tenth opportunity, to elect a candidate of choice.

The Chairs also wish to note their attempts to consider political access and opportunities for the Native American population located in southeastern North Carolina. In recognition of those important interests, the House Chair recommends that House District 47 be retained as a majority Native American District.

\[2 \text{ Proposed Senate District 32 also contains a Hispanic population of } 12.21\%, \text{ thus rendering this district as a "majority minority" district. While we have not performed a cohesion analysis involving African Americans and Hispanics, we have been advised by Congressman Watt that, in his opinion, urban African American and Hispanic voters who reside in his congressional district are cohesive.}\]
In the 2003 Senate plan, Robeson County was combined with Hoke County to create a two county, single Senate district (Senate District 13). Chairman Rucho believes that it is not possible to create a majority Native American Senate district that complies with federal and state law. Because it is not possible to create a majority Native American Senate district, the Stephenson I and II county combination rules prevent the re-establishment of District 13 based upon a combination of Robeson and Hoke Counties. Under the 2010 Census, the combined population of Robeson and Hoke is slightly lower than the maximum negative population deviation range (minus 5%). Thus, unlike the 2003 Senate plan, Robeson County cannot be grouped with Hoke County. As a result, Robeson County has been combined with Columbus County to form a two county senate district. Under this configuration, proposed Senate District 13 will retain a significant and influential percentage of Native American citizens.

The Chairs have solicited redistricting input from North Carolina’s Hispanic population. Based upon the 2010 Census, neither Chair was able to identify a reasonably compact Hispanic population that could form the basis for either a majority Hispanic House or Senate District. The Chairs would entertain any proposals for a majority Hispanic House or Senate district that complies with applicable federal and state law.

On March 24, 2011, we announced that the Chairs would recommend legislative redistricting plans that complied with the criteria established in Stephenson I and II and Bartlett v. Strickland. On that date, and on other occasions, including numerous public hearings, the Chairs have solicited members of the General Assembly and the public for any information, comments and advice related to redistricting. On March 24, 2011, every member of the General Assembly received notice of the resources available to them for the preparation of proposed districts and plans. The Chairs also have taken the unprecedented step of providing additional expert staff and technology assistance to the Legislative Black Caucus, requested by the Black Caucus in order to draw their own proposed districts and plans. As of today, we have not
received any proposals for specific legislative districts or proposed state wide legislative plans
from the Democratic leadership or the Legislative Black Caucus

Nevertheless, the Chairs remain interested and open to other proposed configurations for
majority minority districts as well as non-VRA districts. The Chairs will also consider
recommendations regarding legislative districts in Forsyth County and any proposed Senate plan
that includes ten majority African American districts, provided any such proposals are based
upon ten reasonably compact majority African American populations.

As we stated on March 24, 2011, the Chairs continue to recommend that alternative
proposals comply with the requirements of Stephenson I and II and Bartlett v. Strickland. We
also recommend that any proposed state-wide plan contain a sufficient number of districts that
will bring African American citizens as close as possible to substantial proportionality in the
number of majority African American districts.

In anticipation of the public hearing scheduled for June 23, 2011, we want to correct several erroneous statements that have appeared in the news media regarding our proposed Voting Rights Act ("VRA") districts.

**Claim 1:** The proposed VRA districts plan includes an illegal "packing" strategy.

"I think they unnecessarily and probably illegally pack minority voters into districts," said Sen. Dan Blue, D-Wake. "I need to analyze them a little bit further, but my initial impression is they're engaged in packing in non-Section 5 Voting Rights Act districts." ("Blue questions legality of draft redistricting maps," SGR Today, 6/20/11)

"How... 'packing' may dilute minority voting strength is not difficult to conceptualize. A minority group, for example, might have sufficient numbers to constitute a majority in three districts. So apportioned, the group inevitably will elect three candidates of its choice, assuming the group is sufficiently cohesive. But if the group is packed into two districts in which it constitutes a super-majority, it will be assured only two candidates." Voinovich v. Quilter, 507 U.S. 146, 153-154 (1993).

Senator Dan Blue, among others, has stated that our proposed majority black districts result in illegal "packing" of black voters. There is no factual or legal basis for this argument.

The U.S. Supreme Court has defined the term "packing" to mean the intentional creation of super majority black districts designed to prevent the creation of one or more other majority black districts. See Voinovich v Quilter, 507 U.S. 146 (2003). We have not engaged in this practice. Senator Blue is presumably aware of the Supreme Court's definition of packing. If there is another Supreme Court case that supports Senator Blue’s definition we request that he provide it to us.

**Claim 2:** The proposed VRA districts plan includes too many majority-minority districts.
"The new maps include 24 majority-black districts in the N.C. House and 10 in the Senate, according to an attached memo." ("North Carolina redistricting maps may hurt Republican allies William Brisson, Dewey Hill," Fayetteville Observer, 6/20/11)

"Any legislative district designated as a Section 2 district under the current redistricting plans, and any future plans, must satisfy either the numerical majority requirement as defined herein, or be redrawn in compliance with the Whole County Provision of the Constitution of North Carolina and with Stephenson I requirements." Strickland v. Bartlett, 649 S.E.2d 364, 376 (N.C. 2007).

Our proposed Senate plan includes only nine majority black Senate districts. We were unable to identify a tenth reasonably compact majority black population which could be used to create a tenth majority black Senate district. Senate District 32 is not a majority black district because of the absence of sufficient black population in Forsyth County. In proposed Senate District 32, blacks comprise 39.48% of the voting age population. Voting age Hispanics constitute 12.21%.

Congressman Watt has advised us that urban Hispanic populations in his Congressional district tend to vote for the same candidates favored by urban African Americans voters. Thus, our proposed version of Senate District 32 provides the black community with a tenth opportunity to elect a candidate of their choice, provided African American voters in Forsyth County can build a coalition with urban Hispanic voters.

Our proposed Senate District 13 was constructed, as was the predecessor District 13, to have a plurality Native American population (26.49%). The Native American population combines with the black population (25.92%) to establish a majority minority district. However, this district is neither majority Native American nor majority black.

Congressman Watt has advised us that black voters and Native American voters do not tend to vote for the same candidate and are not politically cohesive. The predecessor district to our proposed Senate District 13 has always elected a white candidate. Current Senate District 13 never elected a black or a Native American candidate. The failure of an African American or
Native American to be elected from current Senate District 13 seems to support Congressman Watt’s opinion.

There are only twenty four proposed majority black House districts in our proposed plan. Some media outlets have reported that there are twenty seven majority black House districts.

The alleged twenty-fifth district, House District 47, is a majority Native American district and replicates a similar district in the 2003 house plan. It does not count towards giving the black community a proportional and equal opportunity to elect candidates of their choice.

Two other alleged majority black districts, House Districts 71 and 72 in Forsyth County cannot both be drawn with a black voting age population of over 50%. Neither district is therefore a majority black district.

**Claim 3:** The proposed VRA districts plan is solely an attempt to maintain Republicans’ political power.

"Democrats charged that Republicans are trying to pack black Democrats into districts so as to make it easier for the GOP to win the remaining ones... ‘They want to make sure they maintain their power,’ said Fleming El-Amin, a local activist who sits on the Democratic committee that will review the redistricting recommendations.” (“GOP well within rights on redistricting, but Garrou would be heavy loss,” *Winston-Salem Journal*, 6/22/11)

The State has an obligation to comply with the Voting Rights Act. In the 2003 plans, rather than comply with the VRA, the previous Legislative leadership engaged in a redistricting technique called “cracking.”

Under Supreme Court precedent, one example of “cracking” or “fragmenting” occurs when Legislative leaders remove black population from a majority black district and spread these voters into other adjoining districts that will elect a white candidate but not a black candidate. *See* *Voinovich v Quilter* 507 US 146, 153 (2003); *Thornburg v Gingles*, 478 U.S. 30, 46 n.11 (1986). Based upon these Supreme Court definitions, in creating the 2003 plans, the former Legislative leaders “cracked” majority black districts in two different ways.
First, in the 2003 plans, populations in several formerly majority black districts were reduced to populations levels of 39% to 49% black. This practice was rejected by the North Carolina and United States Supreme Courts in *Strickland v Bartlett*, 129 S.Ct. 1231 (2009). Where possible, majority black districts drawn to comply with the VRA must be based upon an actual majority of black voters.

Second, the Legislative leaders rejected several majority black districts in locations at which the black community had a right, under the VRA, to a majority black district.

While districts that adjoin majority black districts may become more competitive for Republican candidates because of compliance with the VRA, such competitiveness results from compliance with the VRA. This is the opposite of the prior Legislative leadership intentionally cracking majority black districts required by the VRA to ensure the re-election of white incumbents.

**Claim 4:** The proposed VRA districts plan dilutes the influence of minority voters.

"It is illegal to arbitrarily pack minorities into the same districts just for the sake of doing it because you dilute the minorities' voting strength in other districts." Senator Dan Blue, D-Wake ("Blue questions legality of draft redistricting maps," SGR Today, 6/20/11)

"[A] minority group must constitute a numerical majority of the voting population in the area under consideration before Section 2 of the VRA requires the creation of a legislative district to prevent the dilution of the votes of that minority group." *Strickland v. Bartlett*, 649 S.E.2d 364, 371 (N.C. 2007).

In 2003, the Legislative leadership pursued a strategy which reduced the number of majority black districts and replaced them with two types of districts.

Districts that were between 40 and 50% black were called “effective” majority districts. The Legislative leaders argued that it was not necessary to create majority black districts under the VRA because black populations over 40% were “good enough” to elect a black candidate.

In 2003, Legislative leaders also supported “influence districts.” These were districts with black populations between 30% and 40%. These districts have very rarely elected black
candidates, but the Legislative leaders argued that black voters would be able to “influence” the
election of candidates who were “sympathetic” to their point of view.

A Supreme Court case called Georgia v Ashcroft, 539 U.S. 461 (2000), provided some
legal support for this proposition. However, in a case called LULAC v Perry, 548 U.S 399
(2006), the US Supreme Court clarified that “influence” districts were not required by the VRA.

Moreover, Georgia v Ashcroft was legislatively over-ruled in 2006 when the Congress re-
enacted Section 5 of the VRA. See Federal Register Vol. 76, no. 27 at 7471: Report by the

Finally, in Strickland v Bartlett, 361 N.C. 491 (2007), affirmed by Bartlett v Strickland,
129 S.Ct. 123 (2009), the North Carolina and U.S. Supreme Courts announced that majority
black districts must be drawn with an actual majority black voting age population.

Thus, the current 2003 plans violate the voting rights of black citizens in two ways.
Alleged majority black districts were not drawn with a true majority of black voters. And
“influence districts” were incorrectly substituted for true majority black districts. Our proposed
VRA districts do not repeat these violations.

Claim 5: These districts are a done deal and will be enacted with no input from voters.

We have had an unprecedented number of public hearings. For example, in 2001
Legislative leaders held 26 public hearings including hearings in 13 counties covered by section
5 of the Voting Rights Act. In 2001, Legislative leadership did not produce proposed legislative
or congressional plans until the end of the public hearing process. In 2003, we are aware of no
public hearings held on proposed plans.

By way of contrast, in 2011, we have already held 36 public hearings including 24 in
counties that are covered by section 5 of the Voting Rights Act. Under our current schedule we
intend to hold three public hearings. The first will be on June 23 and will focus on proposed
VRA districts and four other districts. On July 7, 2011, we intend to hold an additional public hearing.

We have also provided an unprecedented level of redistricting support to the Black Caucus. This included the hiring of additional staff with special redistricting expertise and technology assistance not provided to other members of the General Assembly.

Starting on March 24, 2011, we have repeatedly asked for input from the Democratic leadership and the Black Caucus on the issue of majority black districts. We understand that the Black Caucus has produced alternative maps, however, they have not been provided to us. Further, while we have received some input from individual members regarding specific districts, to date we have received no suggestions for proposed plans from the Democratic leadership or any of several interest groups to whom we have made requests for recommendations and input.

We are more than willing to entertain specific suggestions related to our proposed plans and specific districts.

**Claim 6:** The proposed VRA districts plan violates principles of compactness.

"State Sen. Eric Mansfield, a Democrat, said he's disappointed by the shape of his new district. The old district is a compact, somewhat rectangular shape covering the northwest corner of Cumberland County. Mansfield said the new shape resembles a crab." ("North Carolina redistricting maps may hurt Republican allies William Brisson, Dewey Hill," *Fayetteville Observer, 6/20/11*)

This argument misstates the law. Majority black districts must be based upon reasonably compact black populations, not districts.

Congressman Butterfield’s First Congressional district has been found by a federal court to be based upon a reasonably compact black population. Using Congressman Butterfield’s district as an example, we believe that all of our proposed legislative districts are based upon reasonably compact black populations.
However, we would entertain any specific suggestions from the Black Caucus or others identifying more compact majority black populations to form the core of alternative majority black districts, provided the total districts proposed provide black voters with a substantially proportional state-wide opportunity to elect candidates of their choice. Moreover, any such districts must comply with *Strickland v Bartlett*, and be drawn at a level that constitutes a true majority of black voting age population.
Statement by Senator Bob Rucho and Representative David Lewis Regarding the Proposed 2011 Congressional Plan

July 1, 2011

From the beginning, our goal has remained the same: the development of fair and legal congressional and legislative districts. Our process has included an unprecedented number of public hearings (36) scheduled before the release of any maps. These included an unprecedented number of hearings in (24) counties covered by Section 5 of the Voting Rights Act. In another unprecedented act, we provided the Legislative Black Caucus with staff support and computer technology resulting in costs to the General Assembly in excess of $60,000. We also decided to schedule twenty-five public hearings to give the public an opportunity to comment on legislative and Congressional maps. Consistent with the guidance provided by the North Carolina Supreme Court in *Stephenson v Bartlett* 355 N.C. 354 (2002), our first public hearing was focused on our proposed VRA legislative districts. Our second public hearing, scheduled for July 7, 2011, will give the public an opportunity to comment on our proposed Congressional plan. Finally, our third public hearing, scheduled for July 18, 2011 will solicit feedback on our proposed legislative plans.

Today we are pleased to release our proposed 2011 Congressional Plan. We believe that our proposed Congressional plan fully complies with applicable federal and state law. We also believe that a majority of North Carolinians will agree that our proposed plan will establish Congressional districts that are fair to North Carolina voters.
Unlike state legislative districts, there are very few constitutional criteria that apply to legislative districts. Some of the factors we considered include the following:

1. Use of current Congressional plan as a frame of reference.

The current Congressional plan could not be retained for several reasons. However, we used the current plan as a frame of reference for re-drawing new congressional districts. Thus, our proposed plan and the current Congressional plan (2001: Congress Zero Deviation) are similar in some respects.

2. Compliance with “one person one vote.”

Based upon several decisions by the United States Supreme Court, Congressional districts must be drawn at equal population. See Westberry v Sanders, 376 U.S. 1 (1964); Karcher v Daggett, 466 U.S. 910 (1984). The ideal population for a North Carolina Congressional district under the 2010 census is 733,499. Our proposed districts meet this constitutional requirement.

Re-drawing districts with equal population necessitated significant changes in the boundary lines of the current districts. Revisions were required because six of the current Congressional districts are significantly under-populated below the ideal number. (Districts 1, 5, 6, 8, 10, and 11). In contrast, seven districts are over-populated above the ideal number (2, 3, 4, 7, 9, 12, and 13). The population shift between our thirteen districts is largely the result of more rapid growth in the Mecklenburg/Piedmont and Research Triangle areas of the state as compared to more rural areas located in eastern and western North Carolina.

3. Compliance with the Voting Rights Act.

Our proposed plan, if adopted by the General Assembly, will need to be “precleared” under Section 5 of the Voting Rights Act. States have the option of seeking administrative preclearance by the United States Department of Justice or by filing a lawsuit seeking preclearance by the United States District Court of the District of Columbia. To obtain
preclearance, we are obligated to show that the plan is not retrogressive or purposefully discriminatory. We believe that our plan accomplishes this goal.

(a) Districts Represented by Black Incumbents

Voters in the First and Twelfth Congressional Districts are represented by two African American members of Congress, Congressman G.K. Butterfield and Congressman Mel Watt. As part of our investigation into fair and legal congressional districts, we sought advice from Congressman Butterfield and Congressman Watt. We believed that we could benefit from hearing their views on how their districts should be re-drawn in light of population movement.

The State's First Congressional District was originally drawn in 1992 as a majority black district. It was established by the State to comply with Section 2 of the Voting Rights Act. Under the decision by the United States Supreme Court in Strickland v. Bartlett, 129 U.S. 1231 (2009), the State is now obligated to draw majority black districts with true majority black voting age population. Under the 2010 Census, the current version of the First District does not contain a majority black voting age population.

In addition, the current First District is substantially under-populated by over 97,500 people. Thus, in order to comply with "one person one vote," over 97,500 people must be added to create a new First District.

We met with Congressman Butterfield to discuss these issues. Congressman Butterfield acknowledged that the legal deficiencies of the existing First District could be addressed through the addition of either the minority community located in Wake County or the minority community residing in Durham County. Congressman Butterfield believed that including Wake County in his district would give him the opportunity to represent the communities reflected by Shaw University and St. Augustine College. Between these two options, Congressman Butterfield advised us that he preferred the addition to his district of the minority population in Wake County, as opposed to the minority population in Durham County.
We elected to accommodate Congressman Butterfield’s preference. By adding population from Wake County, we have brought the First District into compliance with “one person, one vote.” Because African Americans represent a high percentage of the population added to the First District from Wake County, we have also been able to re-establish Congressman Butterfield’s district as a true majority black district under the *Strickland* case.

In light of the population growth experienced by urban counties and the slower growth experienced by rural population, drawing Congressman Butterfield’s district into Wake County accomplished another important goal. It is less likely that the First District will become substantially under-populated during this decade and it is more likely that the First District can be retained in our proposed configuration at the time of the 2020 Census. This will provide stability for the minority community that has not been achieved by prior versions of this district.

Finally, we note that the United States Supreme Court has previously found Section 2 liability in Wake County in a case involving legislative districts. See *Thornburg v. Gingles*, 478 U.S. 30 (1986). Thus, with this adjustment to the First District, for the first time in history the black community in Wake County will have the opportunity to be part of a majority black Congressional district.

After we had adopted Congressman Butterfield’s preference, and showed a map of our proposal to him, he expressed concern about the withdrawal of his district from Craven and Wayne Counties. Given our decision to add the minority community in Wake County to our proposed First District, the retention of populations in Wayne and Craven would result in the over-population of the First District. We believe that the benefits of adding the black community in Wake County outweighs any negative impacts. Moreover, by replacing these counties with the community in Wake County, we were also able to create a district that was based upon a more compact minority population.
Current District 12, represented by Congressman Watt, is not a Section 2 majority black
district. Instead, it was created with the intention of making it a very strong Democratic District.
See Easley v Cromartie 121 S.Ct. 1452 (2000). However, there is one county in the Twelfth
District that is covered by Section 5 of the Voting Rights Act (Guilford).

As with Congressman Butterfield, we sought input from Congressman Watt regarding
potential options for revising the Twelfth Congressional district. We have accommodated
Congressman Watt's preference by agreeing to model the new Twelfth District after the current
Twelfth District.

Following the framework of the district created by the 2001 General Assembly, to the
extent practicable and possible, we have again based the Twelfth Congressional District on
whole precincts.

Because of the presence of Guilford County in the Twelfth District, we have drawn our
proposed Twelfth District at a black voting age level that is above the percentage of black voting
age population found in the current Twelfth District. We believe that this measure will ensure
preclearance of the plan.

Finally, we have re-drawn the Twelfth District to reduce some population because 2010
census figures show that it is currently over-populated.

(b) Minority populations in other districts

No district in the 2001 Congressional plan contains a black voting age population in
excess of 28.75% except for the First and Twelfth Districts. Our proposed Fourth Congressional
District establishes one district with a black voting age population of 29.12%. Our proposed
Third Congressional District contains a black voting age population of 23.50%. Our proposed
District 8 has a black voting age population of 19.88% and a Native American voting age
population of 7.12%. All other proposed districts have been created with a black voting age
population of under 18%.
We believe that our proposed plan fully complies with both Section 5 and Section 2 of the Voting Rights Act.

4. Point Contiguity.

In past Congressional plans, prior legislative leadership elected to make a few congressional districts contiguous by a mathematical point. We believe that this past practice is arbitrary and irrational. It is also inconsistent with the standards for contiguity established by the North Carolina Supreme Court for legislative districts. Stephenson v Bartlett, 357 N.C. 301 (2003). We have elected to reject this criterion for congressional districts. All of our congressional districts are contiguous in a real and meaningful manner.

5. Incumbents.

We decided to avoid placing incumbents in the same district. All incumbents in our proposed plan are located in a district in which they face no opposition from another sitting member of Congress.

6. Communities of Interest.

Communities of interest are political considerations which will always create some interests that will be recognized and others that will not. The elected representatives are best equipped to determine this balance.

Because all of our districts are largely based in the same areas of the state in which they are located under the 2001 congressional plan, our districts reflect the same communities of regional interests recognized by the 2001 plan.

New District 4 is substantially based upon the current version of District 4. We decided to expand the district from Chatham County through Lee and Harnett County and into Cumberland County. Lee and Harnett Counties share with Chatham County many of the same rural and other communities of interest. Moreover, the interests of those residing within the urban areas of Cumberland County are similar to those who live in the urban areas of Orange and
Durham Counties. Finally, all of the counties in our proposed District 4 are in the same media market which should help reduce the costs of campaigns in this district.

7. Whole counties and whole precincts.

Counties and precincts are two specific examples of communities of interest. Like other interests, they must be balanced. We have attempted to respect county lines and whole precincts when it was logical to do so and consistent with other relevant factors. Our plan includes 65 whole counties. Most of our precinct divisions were prompted by the creation of Congressman Butterfield’s majority black First Congressional District or when precincts needed to be divided for compliance with the one person one vote requirement.

8. Urban Counties.

We decided to continue the tradition, as reflected in the 2001 plan that results in the division of urban counties into more than one Congressional district. We agree with the decision of prior legislative leadership that urban counties are best represented by multiple members of Congress. Moreover, creating multiple districts within an urban county makes it less likely that congressional districts in 2020 will experience the significant population shifts that make the 2001 plan unbalanced. We extended this policy to Buncombe County but elected not to divide New Hanover County. We concluded that the population in New Hanover is more isolated in the southeastern corner of North Carolina and was needed to anchor our new proposed Seventh Congressional District.


The federal and state constitutions allow legislatures to consider partisan impacts in making Congressional redistricting decisions. While we have not been ignorant of the partisan impacts of the districts we have created, we have focused on ensuring that the districts will be more competitive than the districts created by the 2001 legislature. Along these lines we wish to highlight several important facts. First, in twelve of our proposed thirteen districts, in the 2008
General Election, more voters voted for Democratic candidate for Attorney General, Roy Cooper than those who voted for the Republican candidate. Second, registered Democrats outnumber registered Republicans in ten of our proposed thirteen districts. Finally, the combination of registered Democrats plus unaffiliated voters constitute very significant majorities in all thirteen districts.
Statement by Senator Bob Rucho and Representative David Lewis Regarding Proposed State Legislative Redistricting Plans

July 12, 2011

Today we are pleased to release our initial proposals for 2011 state legislative redistricting maps.

These maps are available on the General Assembly’s website.

We will hold public hearings on these proposed plans on July 18, 2011, from 3:00 P.M. until 9:00 P.M. Locations for these hearings will include: the North Carolina Museum of History in Wake County, Fayetteville Technical Community College, Nash Community College, Roanoke-Chowan Community College, UNC Wilmington, Guilford Technical Community College, Central Piedmont Community College, Western Carolina University, Appalachian State University, and Asheville-Buncombe Technical Community College.

Individuals interested in providing comments should call the General Assembly or consult the General Assembly’s web site for sign-up procedures.

North Carolina has been the subject of numerous legal challenges to redistricting plans. Given this history, our primary goal is to propose maps that will survive any possible legal challenge. The first legal requirement is that legislative districts comply with the “one person one vote” standard affirmed in Stephenson v Bartlett, 355 N.C. 354 (2002) (“Stephenson I”) and Stephenson v Bartlett, 357 N. C. 301 (2003) (“Stephenson II”). The second requirement is the creation of plans that will obtain preclearance under Section 5 of the Voting Rights Act.
("VRA"), and foreclose the possibility of a successful challenge under Section 2 of the Voting Rights Act. Finally, plans must comply with State constitutional requirements as explained in the *Stephenson* decisions, and the decisions by the North Carolina Supreme Court and the United States Supreme Court in *Strickland v. Bartlett*, 361 N.C. 491 (2007), affirmed, *Bartlett v. Strickland*, 129 S.Ct. 1231 (2009).

1. One person, one vote
   
   All of our districts have been constructed with sufficient population so that they are within plus or minus 5% of the ideal population for state senate districts (190,710) and state house districts (79,462).

2. Voting Rights Act districts ("VRA districts")
   
   We have explained our understanding of the Voting Rights Act in our statement issued on June 17, 2011. In our original plans, we proposed nine majority black Senate districts and twenty four majority black House districts. "Majority" means in excess of 50% as required by the *Strickland* decision and affirmed by the US Supreme Court.

   Based upon comments we received during the public hearing process, we have made several changes in our proposed VRA districts. For example, in the House plan, we elected to delete a majority black district we had proposed for southeastern North Carolina based upon the strong statements opposing such a district, including from the Southern Coalition for Social Justice ("SCSJ") as part of the broader Alliance for Fair Redistricting and Minority Voting Rights. The remaining 23 districts with a majority of black voting age population ("BVAP") combined with two over 40% BVAP districts, continue to provide black voters with a substantially proportional and equal opportunity to elect candidates of their choice. See *Johnson v. DeGrandy*, 512 U.S. 997 (1994). Creating these districts also provides the State with a strong

Consistent with feedback provided at the public hearings or in person and as permitted by law, we have also made other changes in our proposed House VRA districts affecting Rep. Mobley, Rep. Gill, Rep. Earle, and the elimination of the southeastern district described above.

In the Senate, we have made two significant changes. Hoke and Cumberland Counties have been combined to form a majority black district (District 21). In the 2003 Senate plan, minorities in Hoke County were included in District 13 which was a mixed minority district which has elected a white Senator. Under our revised proposal, the black community in Hoke will now be part of a cohesive majority black district which should be able to elect a candidate of the minority community’s choice. Both Cumberland and Hoke are covered by Section 5 of the Voting Rights Act.

We have also elected to change our proposed Senate District 32 in Forsyth County to create a district with a percentage of BVAP (42.53%) which exceeds the percentage suggested for that district by the SCSJ.

Several of our critics have incorrectly argued that our plans “pack” African American voters. We have repeatedly asked Democratic leaders and others to provide a legal case which defines “packing” as either a majority black district or creating enough districts to give black voters a substantially equal and proportional opportunity to elect candidates of their choice. To date, we have not received any case citations to this effect from any of our critics. Regardless, in 1982, these same arguments were considered and rejected by Congress when it amended Section 2 of the Voting Rights Act. See Gingles v Edmisten, 590 F. Supp. 345, 356-357 (E.D. N.C. 1984) (Phillips, J.), affirmed, Thornburg v Gingles, 478 U.S. 30 (1986).
Since March 17, 2011, we have repeatedly requested Democratic leaders and members of
the minority community to provide us with proposed redistricting plans. To date, only the SCSJ
has submitted alternative plans. In prior testimony, Anita Earls, Executive Director of the SCSJ,
advised us that majority black districts are still needed in the State of North Carolina. Consistent
with that testimony, the SCSJ has proposed nine senate districts with a BVAP from 40% to over
50%, twenty house districts with a BVAP from 40% to over 50%, and one house district with a
BVAP of 37.06%. Even though all of the SCSJ districts have been drawn to achieve a specific
level of black population, no one has accused the SCSJ of packing black voters.

There are two major differences between the SCSJ minority districts and our proposed
VRA districts.

First, we have complied, as we must, with the holding by the United States Supreme
Court and the North Carolina Supreme Court in Strickland v Bartlett, 361 N.C. 491 (2007),
affirmed, Bartlett v Strickland, 129 U.S. 1231 (2009). These decisions require that districts
drawn to insulate the State from liability under the Voting Rights Act must be drawn with a
black voting age population in excess of 50% plus one.

Five of the nine districts SCSJ contends are “VRA” senate districts are drawn at majority
black levels while four are drawn at levels above 40% BVAP. We have proposed ten senate
districts with nine of those districts drawn at majority levels. We agree with the SCSJ that our
tenth senate district, District 32, cannot be drawn within Forsyth County in excess of 50% plus
one.

The SCSJ has also proposed eleven majority black house districts, nine house districts
with black populations in excess of 40%, and one house district with black population at 37.5%.
We have drawn all of our house districts at levels above 50% except for two districts in Forsyth
County. We again agree with the position of the SCSJ that two majority BVAP districts cannot be drawn in Forsyth County.

Aside from the lack of black population in Forsyth County, which prevents a majority black senate district and two majority black house districts, in light of Bartlett, we see no principled legal reason not to draw all VRA districts at the 50% or above level when it is possible to do so. Now that it is apparent that these majority black districts can be drawn, any decision to draw a few selected districts at less than a majority level could be used as evidence of purposeful discrimination or in support of claims against the State filed under Section 2. Thus, in order to best protect the State from costly and unnecessary litigation, we have a legal obligation to draw these districts at true majority levels.

Second, we have a disagreement with the SCSJ regarding the number of majority black districts that should be drawn in each map. SCSJ has proposed nine districts it contends are “VRA” senate districts as compared to the ten districts in our proposed senate plan. In the House, the SCSJ has recommended 21 districts it contends are “VRA” districts as compared to the 25 districts we have suggested. Our proposed plan provides black voters in North Carolina with substantial or rough proportionality in the number of VRA districts in which they have an equal opportunity to elect their preferred candidates of choice. Our plans, therefore, give the State an important defense to any lawsuit that might be filed challenging the plans under Section 2 of the Voting Rights Act. See Johnson v DeGrandy, 512 U.S. 997 (1994). The plans proposed by the SCSJ fail to give black voters a proportional and equal opportunity and therefore would not provide the State with this defense.

3. State Constitutional requirements

Our senate and house plans have been drawn in compliance with the State constitutional requirements stated in Stephenson I and II, along with the decision of the North Carolina
Supreme Court in Strickland v Bartlett, 361 N.C. 491 (2007), affirmed, Bartlett v Strickland, 109 S.Ct. 1231 (2009). These decisions establish a hierarchy of constitutional rules for drawing districts within a whole county or combinations of counties. We encourage interested members of the public to consult these decisions as well as the Legislator’s Guide to North Carolina Legislative and Congressional Redistricting published on the General Assembly’s website.

We look forward to hearing comments and suggestions related to these proposed legislative maps during the public hearing scheduled for July 18, 2011.
Joint Statement of Senator Bob Rucho and Representative David Lewis regarding the release of Rucho-Lewis Congress 2

On July 1, 2011, we released for public comment our first proposed Congressional Redistricting plan called “Rucho-Lewis Congress 1” (“Rucho-Lewis 1”). We believe that Rucho-Lewis 1 fully complies with all applicable federal and state legal requirements.

On July 7, 2011, we held public hearings on Rucho-Lewis 1 and received many comments and suggestions regarding our initial proposed plan.

Today, we are pleased to release “Rucho-Lewis Congress 2” (“Rucho-Lewis 2”), which constitutes a revision of our original plan. We have made several changes in this second proposed Congressional plan based upon comments received during the public hearings, comments on the General Assembly’s website and feedback from members of Congress.

One of our goals is to create more competitive Congressional districts. In fact, John Dinan, Professor of Political Science from Wake Forest University, prepared an unsolicited report explaining how our initial proposed plan creates more competitive districts than the existing 2001 Congressional plan. Dr. Dinan’s report is available for review on the General Assembly’s web page and its redistricting link.

As explained by Professor Dinan, claims that we have engaged in extreme political gerrymandering, similar to what exists in the current versions of the Thirteenth, Second and Eighth Congressional Districts, are overblown and inconsistent with the facts. For example, based upon the results of the 2008 General Election, Democratic Attorney General Candidate
Roy Cooper would have carried twelve of thirteen districts in Rucho-Lewis 1 and all thirteen districts in Rucho-Lewis 2. In both of our proposals, registered Democrats are a majority in three congressional districts. There are no districts in which registered Republicans are a majority. In both proposals, registered Democrats outnumber registered Republicans in ten districts. Finally, in both proposals, the combination of registered Democrats and unaffiliated voters constitute a majority in all thirteen districts. Thus, in both of our proposals, there are three strong Democratic districts. There are also ten districts in which Democratic candidates have the potential to win, without a single Republican vote, provided they convey a message that appeals to their own registered Democrats and unaffiliated voters.

The changes found in Rucho-Lewis 2 stem in part from comments we received regarding our initial proposal for Congressman Butterfield’s First District. Changes we have made to the First District have had a rippling impact on most of the remaining districts.

Some of our critics have suggested that the First District be eliminated from any new redistricting plan because of its shape. Those who have made this argument fail to understand that the 2011 General Assembly inherited the First District from prior General Assemblies and that prior General Assemblies enacted the First District in order to comply with Section 2 of the Voting Rights Act. For example, some of these same critics are apparently unaware that the shape of the First District has been approved by a federal district court as compliant with the minority population “compactness” requirement for districts drawn to avoid liability under Section 2 of the Voting Rights Act. *Cromartie v Hunt*, 133 F.Supp.2d 407,423 (E.D.N.C. 2000). It would be legally imprudent to dissolve this district.

However, we cannot keep the 2001 version of the First District because of two flaws. First, the current First District is under-populated by over 97,000 people. Second, it does not include a majority black voting age population (“BVAP”), as required by Section 2 of the Voting Rights Act. *See Strickland v. Bartlett*, 129 U.S. 1231 (2009). Thus, any revision of the First
District requires the addition of over 97,000 people. In addition, added population must include a sufficient number of African Americans so that the First District can re-establish as a majority black district.

Prior to our release of Rucho-Lewis 1, we discussed both of these problems with Congressman Butterfield. We believe that he understood and agreed that his district would be drawn into either Wake or Durham Counties to cure the district’s equal population and voting rights deficiencies. We understood that Congressman Butterfield preferred that his district be drawn into Wake County instead of Durham. We also discussed with Congressman Butterfield that drawing his district into Wake County may result in the withdrawal from his district of one or more counties covered by Section 5 of the Voting Rights Act. Our understanding of Congressman Butterfield’s preferences was reflected in our initial version of the First District found in Rucho-Lewis 1.

During our public hearings, several speakers expressed concerns about our decision to withdraw the First District from several counties covered by Section 5 of the Voting Rights Act. Despite these complaints, we have received only one other proposal that would bring the First District back to a majority black level. This sole proposed alternative drew the First District into Durham County instead of Wake. This proposal also included all of the Section 5 counties currently found in the 2001 version of the First District.

Following the public hearing, Congressman Butterfield issued a statement disputing our understanding of our prior discussions with him. Thus, as we now understand Congressman Butterfield’s position regarding revisions to the First District, it appears that he may have no preference between drawing his district into either Wake or Durham Counties. We also assume that Congressman Butterfield would support keeping the black population in Section 5 counties at similar or higher levels as compared to the amount of black population in Section 5 counties under the 2001 version of the First District.
Based upon this feedback, in Rucho-Lewis 2, we have drawn the First District into Durham County instead of Wake. There is historical precedent for a district that combines Durham with counties located in eastern North Carolina. Moreover, our revised version of the First District brings it up to ideal population with other districts and re-establishes it as a majority black district.

While our initial version of the First District was fully compliant with Section 2 and Section 5 of the Voting Rights Act, our second version includes population from all of the Section 5 counties found in the 2001 version of the First District. Moreover, the total BVAP located in Section 5 counties in Rucho-Lewis 2 exceeds the total BVAP currently found in the 2001 version.

Some of our critics have complained about the appearance of our proposed Twelfth District. Again, these critics fail to understand that we inherited District 12 from prior General Assemblies. Further, this district has been approved by the United States Supreme Court as a district lawfully drawn to elect a Democrat. *Easley v Cromartie*, 121 S.Ct. 1452 (2000). The District has also been precleared under Section 5 of the Voting Rights Act on at least two prior occasions.

In adopting the Twelfth District, we intended to accommodate the wishes expressed to us by Congressman Watt, as we understood them, to continue to include populations located in Mecklenburg, Guilford, and Forsyth Counties. Our revised version of this district makes it more compact and continues the district as a very strong Democratic district. Our revision of the Twelfth District is based upon whole precincts that voted heavily for President Obama in the 2008 General Election. We have been accused of illegally “packing” black voters into the Twelfth District and illegally “diluting” the “influence” of black voters. We have repeatedly asked our critics for any case law that supports these arguments and none has been provided. By
continuing to maintain this district as a very strong Democratic district, we understand that districts adjoining the Twelfth District will be more competitive for Republican candidates.