

September 20, 2011

Chief, Voting Section
Civil Rights Division
United States Department of Justice
Room 7254-NWB
1800 G Street NW
Washington, DC 20006

**Re: Preclearance Submission of Alabama Act No. 2011-518
(Congressional Redistricting)**

Dear Sir:

Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c (2006), requires that, before an Alabama statute that affects voting can be enforced, it must be precleared and that such a statute can be precleared either judicially by the United States District Court for the District of Columbia, sitting as a three-judge court, or administratively by the Attorney General, who has delegated this review to the Voting Section in the Civil Rights Division. As you are aware, Alabama has filed an action in the United States District Court for the District of Columbia seeking judicial preclearance of Act No. 2011-518, which provides for the redistricting of Alabama's seven seats in the United States House of Representatives. *Alabama v. Holder*, No. 1:11-cv-1628-TFH (D.D.C. filed Sept. 9, 2011). Alabama understands that the Department of Justice prefers the administrative process and takes the position that timely administrative preclearance moots any pending unresolved lawsuit seeking judicial preclearance of the change involved. At your request, we are furnishing all of the materials that must be included in an administrative submission to you to allow you to review them. We encourage you to undertake that review and preclear Act No. 2011-518 administratively before a response to the lawsuit is due.

Act No. 2011-518 was enacted in the 2011 Regular Session of the Alabama Legislature which began on March 1, 2011, and ended on June 9, 2011. Act 2011-518 originated as Senate Bill 484 and was the subject of substantial legislative action. Ultimately, the Senate and House passed different versions that were reconciled in conference committee. The vote on the conference committee version was 16 to 15 in

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favor in the Senate with 3 members passing and 1 abstention, and 57-45 in favor in the House with 3 members passing.

As you are also aware, the Republican Party gained control over both houses of the Alabama Legislature in the 2010 elections. Notwithstanding the party's leadership position, the votes on the conference committee version of SB484, while largely along party lines, show some significant deviations on both party and racial lines. In the Senate, 4 white Republicans (Bussman, Sanford, Scofield, and Williams) joined the 7 African-American Democrats (Coleman, Dunn, Figures, Ross, Sanders, Singleton, and Smitherman) and 4 white Democrats (Bedford, Fielding, Irons, and Keahey) in voting against the plan. See Exhibit A-5. In the House, 4 African-American Democrats (Coleman, Givan, McAdory, and Newton) voted for the plan, and 12 white Republicans (Brown, Buttram, Farley, Galliher, Greer, Greeson, Millican, Nordgren, Oden, Roberts, Thomas, and Wren) voted against it. See Exhibit A-6.

As in previous years, The Legislature's preparation for redistricting was coordinated by its Permanent Joint Legislative Committee on Reapportionment. That Committee has 22 members and includes members from both Houses and both political parties. It also includes four minority African-American members (Senator Linda Coleman, Senator Vivian Figures, Representative Barbara Boyd, and Representative George Bandy). A list of the Committee's members is attached as Exhibit E.

The Committee directs the work of the Legislative Reapportionment Office. That Office has a staff of six full-time employees and one part-time employee. As in previous years, it has been working with the Census Bureau on a continuing basis for some time, gathering and reconciling information and installing new computer hardware and software.

The Committee began the work on redistricting by adopting Guidelines. It solicited comments on the old Guidelines and considered those received. A copy of the Guidelines is attached as Exhibit F.

After the regular session began, the Committee conducted seven public hearings at various locations in the State. A copy of the Committee's Notices, which contain a

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listing of the dates, times, and locations of those seven hearings is attached as Exhibit H-1. The hearings were transcribed and a copy of the transcript for each of those hearings is included as Exhibits H-2 through H-8.

Furthermore, we include minutes of the meetings of the Permanent Committee on Reapportionment as Exhibits G-1 through G-6, and press releases and news articles as Exhibit I.

In accordance with 28 C.F.R. § 51.27 (2011), we submit the following information to the Attorney General:

- (a) **New Act:** A copy of Act No. 2011-518 is attached as exhibit A-1. A map of the congressional redistricting plan adopted in Act No. 2011-518 is attached as Exhibit A-2. A printout of demographic data for each of the districts adopted in Act No. 2011-518, using both total population and voting age population, is attached as Exhibit A-3. A printout of compactness and contiguity scores is attached as Exhibit A-4.
- (b) **Prior Act:** The seven Alabama congressional districts used in elections in 2002, 2004, 2006, 2008, and 2010 were adopted as the result of the enactment of Alabama Act No. 2002-57 in the 2002 Regular Session of the Alabama Legislature. The plan adopted as the result of that enactment was administratively precleared by letter dated March 4, 2002. Submission No. 2002-0470. The submission relating to Act No. 2002-57 included a copy of the Act, a map of the plan adopted, and the demographic data for the plan and for the previous plan with the 2000 Census loaded into it. We hereby incorporate those materials by reference. *See* 28 C.F.R. § 51.26(e)(2011). Of course, if you require a copy of these materials, we will be happy to provide one.

We attach a printout of 2010 Census demographic data for the plan adopted in Alabama Act No. 2002-57 as Exhibit B.

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- (c) **Statement Identifying Change:** Act No. 2011-518 provides for the congressional redistricting of the entire State of Alabama.
 - (d) **Persons making the submission:** John J. Park, Jr., Deputy Attorney General, Strickland Brockington Lewis LLP, 1170 Peachtree Street NE, Suite 2200, Atlanta, GA 30309, 678-347-2208; Misty S. Fairbanks, Assistant Attorney General, Office of the Attorney General, 501 Washington Avenue, Post Office Box 300152, Montgomery, AL 36130-0152, 334-353-8674.
 - (e) **Submitting Authority & Jurisdiction Responsible for Change:** State of Alabama.
 - (f) **Location of Submitting Authority if not State or County:** Not applicable.
 - (g) **Body Responsible for Change & Mode of Change:** Act of Alabama Legislature.
 - (h) **Authority for Change:** Act No. 2011-518 was adopted pursuant to U.S. Const. art. I, § 4, cl. 1, the Legislature's state constitutional authority to enact laws, Ala. Const. art. IV, and the Governor's state constitutional authority to approve laws passed by the Legislature, Ala. Const. art. V, § 125.
 - (i) **Date Adopted:** Act No. 2011-518 was adopted on June 8, 2011.
 - (j) **Effective Date:** Act No. 2011-518 became effective upon passage and approval by the Governor which occurred on June 8, 2011. Act No. 2011-518 cannot, however, be enforced until precleared pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c.
 - (k) **Enforcement Statement:** The redistricting plan adopted in Act No. 2011-518 has not been enforced. The State of Alabama intends to use the districts established in Act No. 2011-518 for the congressional elections in 2012. As the result of Act No. 2011-566, which has been precleared (see Submission No. 2011-2500), the primary elections for that cycle will be in March 2012.

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- (l) **Statement of Scope if Less than Entire Jurisdiction:** Not applicable. Act No. 2011-518 affects the entire State of Alabama.
- (m) **Reason for change:** Act No 2011-518 was adopted because the results of the 2010 Census indicate that the congressional districts adopted in Act No. 2002-57 are malapportioned and can no longer be used. See Exhibit B.
- (n) **Anticipated Effect on Minority Groups:** A comparison of the demographic data attached in Exhibit A-3 for the plan adopted in Act No. 2011-518 with the demographic data attached in Exhibit B with respect to the plan in Act No. 2002-57 will show that the redistricting plan adopted in Act No. 2011-518 does not have a discriminatory or retrogressive purpose or effect with respect to minority voting strength.

As with the 1992 Wesch plan and the plan in Act No. 2002-57, the new plan has one African-American majority district, District 7, which is located in the west central part of the state. The table below shows the total and voting age population for the district under the new plan, which preserves the voting strength of the African-American community:

	2011 Plan		2002 Plan with 2010 Data		2002 Plan with 2000 Data	
District	Total %	VAP %	Total %	VAP %	Total %	VAP %
7	63.57%	60.55%	62.83%	59.75%	62.389%	58.327%

This table demonstrates that the percentage of total black and black voting age population in the new plan increased from the benchmark figures. That increase plainly cannot be regarded as retrogressive. *Cf. Beer v. United States*, 425 U.S. 130, 141 (1976) ("It is thus apparent that a legislative apportionment that enhances the position of racial minorities with respect to the effective exercise of the electoral

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franchise can hardly have the 'effect' of diluting or abridging the right to vote within the meaning of § 5.").

The voting in the Legislature is another indicator of the absence of a retrogressive or invidious purpose or effect. While all of the African-American members of the Senate voted against the plan, they were joined by a number of white Republicans. That suggests that dissatisfaction with the plan was not race-based. In the House, four African-American members voted for the plan, and 12 white Republicans voted against it. Again, that suggests that opposition was not race-based.

- (o) **Past or pending litigation:** With the exception of *Alabama v. Holder*, the previously mentioned Section 5 declaratory judgment action pending in the United States District Court for the District of Columbia, the State is not aware of any pending litigation over Act No. 2011-518. The plan adopted in Act No. 2002-57 was not the subject of any litigation.
- (p) **Preclearance of Prior Practice:** Act No. 2002-57 was administratively precleared by letter dated March 4, 2002 (Submission No. 2002-0470).
- (q) **Additional information for Redistricting:** The block assignment file for Act 2011-518, *see* 28 C.F.R. § 51.28(a)(5)(2011), is enclosed as Exhibit D. The block assignment file for Act No. 2002-57 is available in Exhibit C of Submission No. 2002-0470, dated February 1, 2002. *See* 28 C.F.R. § 51.26(e).

As requested in 28 C.F.R. § 51.28(h)(2011), we identify the following minority group contacts "who can be expected to be familiar with the proposed change or who have been active in the political process." *Id.*

(1) *Minority Senators*

Sen. Linda Coleman, 926 Chinchona Dr., Birmingham, AL 35214, 205-798-1045;
 Sen. Priscilla Dunn, 460 Carriage Hill Dr., Birmingham, AL 35022, 205-426-3795;
 Sen. Vivian Davis Figures, 104 S. Lawrence St., Mobile, AL 36602, 251-208-5480;

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Sen. Quinton Ross, 3778 Rosswood Rd., Montgomery, AL 36116, 334-280-2963;
 Sen. Hank Sanders, 1405 Jeff Davis Ave., Selma, AL 36702, 334-875-9264;
 Sen. Bobby Singleton, 11 South Union Street, Room 735, Montgomery, AL 36130, 334-242-7935;
 Sen. Rodger Smitherman, 2029 2nd Ave. N, Birmingham, AL 35203, 205-322-0012

(2) *Minority Representatives*

Rep. George Bandy, 1307-A Glenn Circle, Opelika, AL 36801, 334-749-0051;
 Rep. Barbara B. Boyd, 2222 McDaniel Avenue, Anniston AL 36202, 256-236-7423;
 Rep. Napoleon Bracy, Jr., 238 Montgomery Street, Prichard, AL 36610, 251-622-8118;
 Rep. James E. Buskey, 2207 Barretts Lane, Mobile, AL 36617, 251-457-7928;
 Rep. Merika Coleman, P.O. Box 288888, Birmingham, AL 35228, 205-325-5308;
 Rep. David Colston, P.O. Box 996, Hayneville, AL 36040, 334-874-2569;
 Rep. Christopher John England, P.O. Box 2089, Tuscaloosa, AL 35403-2089, 205-248-5140;
 Rep. Juandalynn Givan, 63 Greenleaf Dr., Birmingham, AL 3514, 205-798-8310;
 Rep. Dexter Grimsley, 168 Res Dr., Newville, AL 36353, 334-889-0602;
 Rep. Laura Hall, P.O. Box 3367, Huntsville, AL 35810, 256-859-2234;
 Rep. Alvin Holmes, P.O. Box 6064, Montgomery, AL 36106, 334-264-7807;
 Rep. Thomas E. Jackson, P.O. Box 656, Thomasville, AL 36784-0656, 334-246-3597;
 Rep. Yvonne Kennedy, 1205 Glennon Ave., Mobile, AL 36603, 251-438-9509;
 Rep. John F. Knight, Jr., P.O. Box 6300, Montgomery, AL 36106, 334-229-4286;
 Rep. Lawrence McAdory, 1000 Barclay Dr., Bessemer, AL 35022, 205-428-1156;
 Rep. Thad McClammy, 3035 Rosa Parks Ave., Montgomery, AL 36105, 334-264-6767;
 Rep. Darrio Melton, P.O. Box 371, Selma, AL 36702, 334-874-2569;
 Rep. Joseph C. Mitchell, 465 Dexter Avenue, Mobile, AL 36604, 251-473-5020;
 Rep. Mary Moore, 1622 36th Ave. N., Birmingham, AL 35207, 205-322-0254;
 Rep. Demetrius C. Newton, 1820 7th Ave. N., Birmingham, AL 35202, 205-252-9203;
 Rep. Oliver Robinson, 9640 Eastpoint Cir., Birmingham, AL 35217, 205-849-6765;
 Rep. John W. Rogers, Jr., 1424 18th St. SW, Birmingham, AL 35211, 205-934-0364;
 Rep. Roderick Hampton Scott, 657 Maple St., Fairfield, AL 35064, 205-781-1322;
 Rep. Pebblin W. Warren, One Technology Court, Montgomery, AL 36116, 334-280-4469

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(3) *Other Minority Contacts*

Dr. Joe Reed, Alabama Education Association, 422 Dexter Ave., Montgomery, AL 36104, 334-834-9790;

Hon. Terry Sewell, U.S. House of Representatives, 1133 Longworth House Office Building, Washington, D.C. 20515; and

(r) **Other Information:**

The overall population deviation is 0.00%, which comports with constitutional standards.

All districts are contiguous. See Exhibit A-4.

The compactness scores for the districts established in Act No. 2011-518 are satisfactory.

While the plan splits some counties, some splitting is inevitable given the constitutional requirement of absolute population equality. The plan splits six counties, four of which have been split in previous plans.

A complete demographic picture of the State of Alabama, its counties and its cities is available at the U.S. Census Bureau website, www.census.gov.

Alternative plans: A number of alternative plans were submitted in the Legislature. The block assignment files for these 14 plans have not been created by the Reapportionment Office and are not presently available for that reason. They can be provided on request.

In dealing with alternative plans, we note that a number of such plans or portions thereof may have been delivered to the Alabama Legislature's Reapportionment Office. We will be delivering only those plans that were introduced in and considered by the Legislature.

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For additional information, please contact Jack Park by telephone at 678-347-2208 or by electronic mail at jjp@sblaw.net or Misty S. Fairbanks by telephone at 334-353-8674 or by electronic mail at mfairbanks@ago.state.al.us.

Respectfully submitted,

LUTHER STRANGE
Attorney General of Alabama
By:

Deputy Attorney General

Enclosures

cc: Misty S. Fairbanks, Esq.