

SUPREME COURT OF NORTH CAROLINA

NORTH CAROLINA LEAGUE OF)	
CONSERVATION VOTERS, INC., et al.,)	
Plaintiffs-Appellants,)	
)	
REBECCA HARPER, et al.,)	
Plaintiffs-Appellants, and)	
)	
COMMON CAUSE,)	
Plaintiff-Intervenor-Appellant,)	
)	
v.)	
)	
REPRESENTATIVE DESTIN HALL, in)	<u>From Wake</u>
his official capacity as Chair of the House)	<u>County</u>
Standing Committee on Redistricting, et)	21 CVS 015426
al.,)	21 CVS 500058
)	
Defendants-Appellees.)	
)	
)	
)	
)	
)	
)	
)	

RULE 9(d) COPIES OF EXHIBITS AND OTHER ITEMS

VOLUME 6 OF 6

INDEXVOLUME 1

Plaintiffs' Trial Exhibit List (served 8 January 2022)	Ex. 1
Legislative Defendants' Trial Exhibit List (served 6 January 2022)	Ex. 29
Plaintiffs' Joint Trial Exhibit PX1	Ex. 37
Plaintiffs' Joint Trial Exhibit PX2	Ex. 38
Plaintiffs' Joint Trial Exhibit PX3	Ex. 39
Plaintiffs' Joint Trial Exhibit PX4	Ex. 40
Plaintiffs' Joint Trial Exhibit PX5	Ex. 56
Plaintiffs' Joint Trial Exhibit PX6	Ex. 58
Plaintiffs' Joint Trial Exhibit PX7	Ex. 59
Plaintiffs' Joint Trial Exhibit PX8	Ex. 60
Plaintiffs' Joint Trial Exhibit PX9	Ex. 74
Plaintiffs' Joint Trial Exhibit PX10	Ex. 76
Plaintiffs' Joint Trial Exhibit PX11	Ex. 77
Plaintiffs' Joint Trial Exhibit PX12	Ex. 78
Plaintiffs' Joint Trial Exhibit PX13	Ex. 91
Plaintiffs' Joint Trial Exhibit PX14	Ex. 93
Plaintiffs' Joint Trial Exhibit PX15	Ex. 94
Plaintiffs' Joint Trial Exhibit PX16	Ex. 95

Plaintiffs’ Joint Trial Exhibit PX17	Ex. 96
Plaintiffs’ Joint Trial Exhibit PX18	Ex. 97
Plaintiffs’ Joint Trial Exhibit PX19	Ex. 98
Plaintiffs’ Joint Trial Exhibit PX20	Ex. 99
Plaintiffs’ Joint Trial Exhibit PX21	Ex. 100
Plaintiffs’ Joint Trial Exhibit PX22	Ex. 109
Plaintiffs’ Joint Trial Exhibit PX23	Ex. 126
Plaintiffs’ Joint Trial Exhibit PX24	Ex. 160
Plaintiffs’ Joint Trial Exhibit PX25	Ex. 161
Plaintiffs’ Joint Trial Exhibit PX26	Ex. 163
Plaintiffs’ Joint Trial Exhibit PX27	Ex. 165
Plaintiffs’ Joint Trial Exhibit PX28	Ex. 179
Plaintiffs’ Joint Trial Exhibit PX29	Ex. 184
Plaintiffs’ Joint Trial Exhibit PX30	Ex. 208
Plaintiffs’ Joint Trial Exhibit PX31	Ex. 210
Plaintiffs’ Joint Trial Exhibit PX32	Ex. 212
Plaintiffs’ Joint Trial Exhibit PX33	Ex. 214
Plaintiffs’ Joint Trial Exhibit PX34	Ex. 216
Plaintiffs’ Joint Trial Exhibit PX35	Ex. 218
Plaintiffs’ Joint Trial Exhibit PX36	Ex. 282
Plaintiffs’ Joint Trial Exhibit PX37	Ex. 353
Plaintiffs’ Joint Trial Exhibit PX38	Ex. 437

Plaintiffs' Joint Trial Exhibit PX39	Ex. 486
Plaintiffs' Joint Trial Exhibit PX40	Ex. 517
Plaintiffs' Joint Trial Exhibit PX41	Ex. 564
Plaintiffs' Joint Trial Exhibit PX42	Ex. 606
Plaintiffs' Joint Trial Exhibit PX43	Ex. 653
Plaintiffs' Joint Trial Exhibit PX44	Ex. 703
Plaintiffs' Joint Trial Exhibit PX46	Ex. 704
Plaintiffs' Joint Trial Exhibit PX47	Ex. 710
Plaintiffs' Joint Trial Exhibit PX48	Ex. 713
Plaintiffs' Joint Trial Exhibit PX49	Ex. 718
Plaintiffs' Joint Trial Exhibit PX52	Ex. 728
Plaintiffs' Joint Trial Exhibit PX53	Ex. 730
Plaintiffs' Joint Trial Exhibit PX55	Ex. 731
Plaintiffs' Joint Trial Exhibit PX56	Ex. 732
Plaintiffs' Joint Trial Exhibit PX57	Ex. 733
Plaintiffs' Joint Trial Exhibit PX59	Ex. 734
Plaintiffs' Joint Trial Exhibit PX60	Ex. 735
Plaintiffs' Joint Trial Exhibit PX61	Ex. 736
Plaintiffs' Joint Trial Exhibit PX62	Ex. 737
Plaintiffs' Joint Trial Exhibit PX63	Ex. 738
Plaintiffs' Joint Trial Exhibit PX64	Ex. 739
Plaintiffs' Joint Trial Exhibit PX65	Ex. 740

Plaintiffs' Joint Trial Exhibit PX66	Ex. 741
Plaintiffs' Joint Trial Exhibit PX68	Ex. 742
Plaintiffs' Joint Trial Exhibit PX69	Ex. 743
Plaintiffs' Joint Trial Exhibit PX70	Ex. 744
Plaintiffs' Joint Trial Exhibit PX71	Ex. 759
Plaintiffs' Joint Trial Exhibit PX72	Ex. 777
Plaintiffs' Joint Trial Exhibit PX73	Ex. 787
Plaintiffs' Joint Trial Exhibit PX74	Ex. 788
Plaintiffs' Joint Trial Exhibit PX75	Ex. 827
Plaintiffs' Joint Trial Exhibit PX76	Ex. 857
Plaintiffs' Joint Trial Exhibit PX77	Ex. 869
Plaintiffs' Joint Trial Exhibit PX78	Ex. 979
Plaintiffs' Joint Trial Exhibit PX79	Ex. 1012
Plaintiffs' Joint Trial Exhibit PX80	Ex. 1099
Plaintiffs' Joint Trial Exhibit PX81	Ex. 1151
Plaintiffs' Joint Trial Exhibit PX82	Ex. 1296
Plaintiffs' Joint Trial Exhibit PX83	Ex. 1409
Plaintiffs' Joint Trial Exhibit PX84	Ex. 1568
Plaintiffs' Joint Trial Exhibit PX85	Ex. 1632
Plaintiffs' Joint Trial Exhibit PX86	Ex. 1640
Plaintiffs' Joint Trial Exhibit PX87	Ex. 1641
Plaintiffs' Joint Trial Exhibit PX88	Ex. 1650

Plaintiffs' Joint Trial Exhibit PX89	Ex. 1663
Plaintiffs' Joint Trial Exhibit PX90	Ex. 1690
Plaintiffs' Joint Trial Exhibit PX91	Ex. 1725
Plaintiffs' Joint Trial Exhibit PX92	Ex. 1742
Plaintiffs' Joint Trial Exhibit PX93	Ex. 1759
Plaintiffs' Joint Trial Exhibit PX94	Ex. 1779
Plaintiffs' Joint Trial Exhibit PX95	Ex. 1809
Plaintiffs' Joint Trial Exhibit PX96	Ex. 1843
Plaintiffs' Joint Trial Exhibit PX97	Ex. 1860
Plaintiffs' Joint Trial Exhibit PX98	Ex. 1868
Plaintiffs' Joint Trial Exhibit PX99	Ex. 1897
Plaintiffs' Joint Trial Exhibit PX100	Ex. 1930
Plaintiffs' Joint Trial Exhibit PX101	Ex. 1950
Plaintiffs' Joint Trial Exhibit PX102	Ex. 1967
Plaintiffs' Joint Trial Exhibit PX103	Ex. 1996
Plaintiffs' Joint Trial Exhibit PX109	Ex. 2009
Plaintiffs' Joint Trial Exhibit PX110	Ex. 2011
Plaintiffs' Joint Trial Exhibit PX114	Ex. 2056
Plaintiffs' Joint Trial Exhibit PX115	Ex. 2087
Plaintiffs' Joint Trial Exhibit PX116	Ex. 2162
Plaintiffs' Joint Trial Exhibit PX117	Ex. 2357
Plaintiffs' Joint Trial Exhibit PX118	Ex. 2442

Plaintiffs' Joint Trial Exhibit PX119	Ex. 2517
Plaintiffs' Joint Trial Exhibit PX120	Ex. 2522
Plaintiffs' Joint Trial Exhibit PX121	Ex. 2527
Plaintiffs' Joint Trial Exhibit PX122	Ex. 2546
Plaintiffs' Joint Trial Exhibit PX123	Ex. 2593
Plaintiffs' Joint Trial Exhibit PX124	Ex. 2725
Plaintiffs' Joint Trial Exhibit PX125	Ex. 2882
Plaintiffs' Joint Trial Exhibit PX126	Ex. 3011
Plaintiffs' Joint Trial Exhibit PX127	Ex. 3012
Plaintiffs' Joint Trial Exhibit PX129	Ex. 3024
Plaintiffs' Joint Trial Exhibit PX130	Ex. 3026
Plaintiffs' Joint Trial Exhibit PX131	Ex. 3032
Plaintiffs' Joint Trial Exhibit PX132	Ex. 3033
Plaintiffs' Joint Trial Exhibit PX133	Ex. 3035
Plaintiffs' Joint Trial Exhibit PX134	Ex. 3037
Plaintiffs' Joint Trial Exhibit PX135	Ex. 3044
Plaintiffs' Joint Trial Exhibit PX136	Ex. 3047
Plaintiffs' Joint Trial Exhibit PX137	Ex. 3053
Plaintiffs' Joint Trial Exhibit PX138	Ex. 3055
Plaintiffs' Joint Trial Exhibit PX139	Ex. 3056
Plaintiffs' Joint Trial Exhibit PX140	Ex. 3067
Plaintiffs' Joint Trial Exhibit PX141	Ex. 3074

Plaintiffs’ Joint Trial Exhibit PX142	Ex. 3080
Plaintiffs’ Joint Trial Exhibit PX143	Ex. 3229
Plaintiffs’ Joint Trial Exhibit PX144	Ex. 3234
Plaintiffs’ Joint Trial Exhibit PX145	Ex. 3235
Plaintiffs’ Joint Trial Exhibit PX146	Ex. 3556
NCLCV Plaintiffs’ Trial Exhibit PX150	Ex. 3901
NCLCV Plaintiffs’ Trial Exhibit PX151	Ex. 3929
NCLCV Plaintiffs’ Trial Exhibit PX152	Ex. 3936
NCLCV Plaintiffs’ Trial Exhibit PX153	Ex. 3937
NCLCV Plaintiffs’ Trial Exhibit PX154	Ex. 3938
NCLCV Plaintiffs’ Trial Exhibit PX155	Ex. 3939
NCLCV Plaintiffs’ Trial Exhibit PX156	Ex. 3940
NCLCV Plaintiffs’ Trial Exhibit PX157	Ex. 3941
NCLCV Plaintiffs’ Trial Exhibit PX158	Ex. 3942
NCLCV Plaintiffs’ Trial Exhibit PX159	Ex. 3943
NCLCV Plaintiffs’ Trial Exhibit PX160	Ex. 3944
NCLCV Plaintiffs’ Trial Exhibit PX161	Ex. 3945
NCLCV Plaintiffs’ Trial Exhibit PX162	Ex. 3946
NCLCV Plaintiffs’ Trial Exhibit PX163	Ex. 3947
NCLCV Plaintiffs’ Trial Exhibit PX164	Ex. 3948
NCLCV Plaintiffs’ Trial Exhibit PX165	Ex. 3949
NCLCV Plaintiffs’ Trial Exhibit PX166	Ex. 3950

NCLCV Plaintiffs' Trial Exhibit PX167	Ex. 3951
NCLCV Plaintiffs' Trial Exhibit PX168	Ex. 3952
NCLCV Plaintiffs' Trial Exhibit PX169	Ex. 3953
NCLCV Plaintiffs' Trial Exhibit PX170	Ex. 3954
NCLCV Plaintiffs' Trial Exhibit PX171	Ex. 3955
NCLCV Plaintiffs' Trial Exhibit PX172	Ex. 3956
NCLCV Plaintiffs' Trial Exhibit PX173	Ex. 3957
NCLCV Plaintiffs' Trial Exhibit PX174	Ex. 3958
NCLCV Plaintiffs' Trial Exhibit PX175	Ex. 3959
NCLCV Plaintiffs' Trial Exhibit PX176	Ex. 3960
NCLCV Plaintiffs' Trial Exhibit PX177	Ex. 3961
NCLCV Plaintiffs' Trial Exhibit PX178	Ex. 3963
NCLCV Plaintiffs' Trial Exhibit PX179	Ex. 3965
NCLCV Plaintiffs' Trial Exhibit PX180	Ex. 3967
NCLCV Plaintiffs' Trial Exhibit PX181	Ex. 3969
NCLCV Plaintiffs' Trial Exhibit PX182	Ex. 3971

VOLUME 2

NCLCV Plaintiffs' Trial Exhibit PX183	Ex. 3973
NCLCV Plaintiffs' Trial Exhibit PX184	Ex. 3975
NCLCV Plaintiffs' Trial Exhibit PX185	Ex. 3977
NCLCV Plaintiffs' Trial Exhibit PX186	Ex. 3979

NCLCV Plaintiffs' Trial Exhibit PX187	Ex. 3981
NCLCV Plaintiffs' Trial Exhibit PX188	Ex. 3983
NCLCV Plaintiffs' Trial Exhibit PX189	Ex. 3985
NCLCV Plaintiffs' Trial Exhibit PX190	Ex. 3987
NCLCV Plaintiffs' Trial Exhibit PX191	Ex. 3989
NCLCV Plaintiffs' Trial Exhibit PX192	Ex. 3991
NCLCV Plaintiffs' Trial Exhibit PX193	Ex. 3993
NCLCV Plaintiffs' Trial Exhibit PX194	Ex. 3995
NCLCV Plaintiffs' Trial Exhibit PX195	Ex. 3997
NCLCV Plaintiffs' Trial Exhibit PX196	Ex. 3999
NCLCV Plaintiffs' Trial Exhibit PX197	Ex. 4001
NCLCV Plaintiffs' Trial Exhibit PX198	Ex. 4003
NCLCV Plaintiffs' Trial Exhibit PX199	Ex. 4005
NCLCV Plaintiffs' Trial Exhibit PX200	Ex. 4007
NCLCV Plaintiffs' Trial Exhibit PX201	Ex. 4009
NCLCV Plaintiffs' Trial Exhibit PX202	Ex. 4010
NCLCV Plaintiffs' Trial Exhibit PX203	Ex. 4103
NCLCV Plaintiffs' Trial Exhibit PX204	Ex. 4110
NCLCV Plaintiffs' Trial Exhibit PX205	Ex. 4116
NCLCV Plaintiffs' Trial Exhibit PX206	Ex. 4121
NCLCV Plaintiffs' Trial Exhibit PX207	Ex. 4123
NCLCV Plaintiffs' Trial Exhibit PX208	Ex. 4125

NCLCV Plaintiffs' Trial Exhibit PX209	Ex. 4127
NCLCV Plaintiffs' Trial Exhibit PX210	Ex. 4129
NCLCV Plaintiffs' Trial Exhibit PX211	Ex. 4131
NCLCV Plaintiffs' Trial Exhibit PX214	Ex. 4133
NCLCV Plaintiffs' Trial Exhibit PX215	Ex. 4134
NCLCV Plaintiffs' Trial Exhibit PX216	Ex. 4140
NCLCV Plaintiffs' Trial Exhibit PX217	Ex. 4155
NCLCV Plaintiffs' Trial Exhibit PX234	Ex. 4156
NCLCV Plaintiffs' Trial Exhibit PX235	Ex. 4166
NCLCV Plaintiffs' Trial Exhibit PX236	Ex. 4168
NCLCV Plaintiffs' Trial Exhibit PX237	Ex. 4169
NCLCV Plaintiffs' Trial Exhibit PX238	Ex. 4170
NCLCV Plaintiffs' Trial Exhibit PX239	Ex. 4171
NCLCV Plaintiffs' Trial Exhibit PX240	Ex. 4172
NCLCV Plaintiffs' Trial Exhibit PX241	Ex. 4173
NCLCV Plaintiffs' Trial Exhibit PX247	Ex. 4174
NCLCV Plaintiffs' Trial Exhibit PX248	Ex. 4175
NCLCV Plaintiffs' Trial Exhibit PX249	Ex. 4176
NCLCV Plaintiffs' Trial Exhibit PX250	Ex. 4177
NCLCV Plaintiffs' Trial Exhibit PX251	Ex. 4178
Harper Plaintiffs' Trial Exhibit PX400	Ex. 4179
Harper Plaintiffs' Trial Exhibit PX401	Ex. 4180

Harper Plaintiffs' Trial Exhibit PX402	Ex. 4181
Harper Plaintiffs' Trial Exhibit PX403	Ex. 4182
Harper Plaintiffs' Trial Exhibit PX404	Ex. 4183
Harper Plaintiffs' Trial Exhibit PX405	Ex. 4184
Harper Plaintiffs' Trial Exhibit PX406	Ex. 4185
Harper Plaintiffs' Trial Exhibit PX407	Ex. 4186
Harper Plaintiffs' Trial Exhibit PX408	Ex. 4187
Harper Plaintiffs' Trial Exhibit PX409	Ex. 4188
Harper Plaintiffs' Trial Exhibit PX410	Ex. 4189
Harper Plaintiffs' Trial Exhibit PX411	Ex. 4190
Harper Plaintiffs' Trial Exhibit PX412	Ex. 4191
Harper Plaintiffs' Trial Exhibit PX413	Ex. 4192
Harper Plaintiffs' Trial Exhibit PX414	Ex. 4193
Harper Plaintiffs' Trial Exhibit PX415	Ex. 4194
Harper Plaintiffs' Trial Exhibit PX416	Ex. 4195
Harper Plaintiffs' Trial Exhibit PX417	Ex. 4196
Harper Plaintiffs' Trial Exhibit PX418	Ex. 4197
Harper Plaintiffs' Trial Exhibit PX419	Ex. 4198
Harper Plaintiffs' Trial Exhibit PX420	Ex. 4199
Harper Plaintiffs' Trial Exhibit PX421	Ex. 4200
Harper Plaintiffs' Trial Exhibit PX422	Ex. 4201
Harper Plaintiffs' Trial Exhibit PX423	Ex. 4202

Harper Plaintiffs' Trial Exhibit PX424	Ex. 4203
Harper Plaintiffs' Trial Exhibit PX425	Ex. 4204
Harper Plaintiffs' Trial Exhibit PX426	Ex. 4335
Harper Plaintiffs' Trial Exhibit PX427	Ex. 4336
Harper Plaintiffs' Trial Exhibit PX428	Ex. 4337
Harper Plaintiffs' Trial Exhibit PX429	Ex. 4338
Harper Plaintiffs' Trial Exhibit PX430	Ex. 4339
Harper Plaintiffs' Trial Exhibit PX431	Ex. 4340
Harper Plaintiffs' Trial Exhibit PX432	Ex. 4341
Harper Plaintiffs' Trial Exhibit PX433	Ex. 4342
Harper Plaintiffs' Trial Exhibit PX434	Ex. 4343
Harper Plaintiffs' Trial Exhibit PX435	Ex. 4344
Harper Plaintiffs' Trial Exhibit PX436	Ex. 4345
Harper Plaintiffs' Trial Exhibit PX437	Ex. 4346
Harper Plaintiffs' Trial Exhibit PX438	Ex. 4347
Harper Plaintiffs' Trial Exhibit PX439	Ex. 4348
Harper Plaintiffs' Trial Exhibit PX440	Ex. 4349
Harper Plaintiffs' Trial Exhibit PX441	Ex. 4350
Harper Plaintiffs' Trial Exhibit PX442	Ex. 4351
Harper Plaintiffs' Trial Exhibit PX443	Ex. 4352
Harper Plaintiffs' Trial Exhibit PX444	Ex. 4353
Harper Plaintiffs' Trial Exhibit PX445	Ex. 4354

Harper Plaintiffs' Trial Exhibit PX446	Ex. 4355
Harper Plaintiffs' Trial Exhibit PX447	Ex. 4356
Harper Plaintiffs' Trial Exhibit PX448	Ex. 4357
Harper Plaintiffs' Trial Exhibit PX449	Ex. 4358
Harper Plaintiffs' Trial Exhibit PX450	Ex. 4359
Harper Plaintiffs' Trial Exhibit PX451	Ex. 4360
Harper Plaintiffs' Trial Exhibit PX452	Ex. 4361
Harper Plaintiffs' Trial Exhibit PX453	Ex. 4362
Harper Plaintiffs' Trial Exhibit PX454	Ex. 4363
Harper Plaintiffs' Trial Exhibit PX455	Ex. 4364
Harper Plaintiffs' Trial Exhibit PX456	Ex. 4365
Harper Plaintiffs' Trial Exhibit PX457	Ex. 4366
Harper Plaintiffs' Trial Exhibit PX458	Ex. 4367
Harper Plaintiffs' Trial Exhibit PX459	Ex. 4368
Harper Plaintiffs' Trial Exhibit PX460	Ex. 4369
Harper Plaintiffs' Trial Exhibit PX461	Ex. 4370
Harper Plaintiffs' Trial Exhibit PX462	Ex. 4371
Harper Plaintiffs' Trial Exhibit PX463	Ex. 4372
Harper Plaintiffs' Trial Exhibit PX464	Ex. 4373
Harper Plaintiffs' Trial Exhibit PX465	Ex. 4374
Harper Plaintiffs' Trial Exhibit PX466	Ex. 4375
Harper Plaintiffs' Trial Exhibit PX467	Ex. 4376

Harper Plaintiffs' Trial Exhibit PX468	Ex. 4377
Harper Plaintiffs' Trial Exhibit PX469	Ex. 4378
Harper Plaintiffs' Trial Exhibit PX470	Ex. 4379
Harper Plaintiffs' Trial Exhibit PX471	Ex. 4380
Harper Plaintiffs' Trial Exhibit PX472	Ex. 4381
Harper Plaintiffs' Trial Exhibit PX473	Ex. 4382
Harper Plaintiffs' Trial Exhibit PX474	Ex. 4383
Harper Plaintiffs' Trial Exhibit PX475	Ex. 4384
Harper Plaintiffs' Trial Exhibit PX476	Ex. 4385
Harper Plaintiffs' Trial Exhibit PX477	Ex. 4386
Harper Plaintiffs' Trial Exhibit PX478	Ex. 4387
Harper Plaintiffs' Trial Exhibit PX479	Ex. 4388
Harper Plaintiffs' Trial Exhibit PX480	Ex. 4389
Harper Plaintiffs' Trial Exhibit PX481	Ex. 4390
Harper Plaintiffs' Trial Exhibit PX482	Ex. 4391
Harper Plaintiffs' Trial Exhibit PX483	Ex. 4486
Harper Plaintiffs' Trial Exhibit PX484	Ex. 4487
Harper Plaintiffs' Trial Exhibit PX485	Ex. 4488
Harper Plaintiffs' Trial Exhibit PX486	Ex. 4489
Harper Plaintiffs' Trial Exhibit PX487	Ex. 4490
Harper Plaintiffs' Trial Exhibit PX488	Ex. 4491
Harper Plaintiffs' Trial Exhibit PX489	Ex. 4492

Harper Plaintiffs' Trial Exhibit PX490	Ex. 4493
Harper Plaintiffs' Trial Exhibit PX491	Ex. 4494
Harper Plaintiffs' Trial Exhibit PX492	Ex. 4495
Harper Plaintiffs' Trial Exhibit PX493	Ex. 4496
Harper Plaintiffs' Trial Exhibit PX494	Ex. 4497
Harper Plaintiffs' Trial Exhibit PX495	Ex. 4498
Harper Plaintiffs' Trial Exhibit PX496	Ex. 4499
Harper Plaintiffs' Trial Exhibit PX497	Ex. 4500
Harper Plaintiffs' Trial Exhibit PX498	Ex. 4501
Harper Plaintiffs' Trial Exhibit PX499	Ex. 4502
Harper Plaintiffs' Trial Exhibit PX500	Ex. 4503
Harper Plaintiffs' Trial Exhibit PX501	Ex. 4504
Harper Plaintiffs' Trial Exhibit PX502	Ex. 4505
Harper Plaintiffs' Trial Exhibit PX503	Ex. 4506
Harper Plaintiffs' Trial Exhibit PX504	Ex. 4507
Harper Plaintiffs' Trial Exhibit PX505	Ex. 4508
Harper Plaintiffs' Trial Exhibit PX506	Ex. 4509
Harper Plaintiffs' Trial Exhibit PX507	Ex. 4510
Harper Plaintiffs' Trial Exhibit PX508	Ex. 4511
Harper Plaintiffs' Trial Exhibit PX509	Ex. 4512
Harper Plaintiffs' Trial Exhibit PX510	Ex. 4513
Harper Plaintiffs' Trial Exhibit PX511	Ex. 4514

Harper Plaintiffs' Trial Exhibit PX512	Ex. 4515
Harper Plaintiffs' Trial Exhibit PX513	Ex. 4516
Harper Plaintiffs' Trial Exhibit PX514	Ex. 4517
Harper Plaintiffs' Trial Exhibit PX515	Ex. 4518
Harper Plaintiffs' Trial Exhibit PX516	Ex. 4519
Harper Plaintiffs' Trial Exhibit PX517	Ex. 4520
Harper Plaintiffs' Trial Exhibit PX518	Ex. 4521
Harper Plaintiffs' Trial Exhibit PX519	Ex. 4522
Harper Plaintiffs' Trial Exhibit PX520	Ex. 4523
Harper Plaintiffs' Trial Exhibit PX521	Ex. 4524
Harper Plaintiffs' Trial Exhibit PX522	Ex. 4525
Harper Plaintiffs' Trial Exhibit PX523	Ex. 4526
Harper Plaintiffs' Trial Exhibit PX524	Ex. 4585
Harper Plaintiffs' Trial Exhibit PX525	Ex. 4590
Harper Plaintiffs' Trial Exhibit PX526	Ex. 4591
Harper Plaintiffs' Trial Exhibit PX527	Ex. 4592
Harper Plaintiffs' Trial Exhibit PX528	Ex. 4593
Harper Plaintiffs' Trial Exhibit PX529	Ex. 4594
Harper Plaintiffs' Trial Exhibit PX530	Ex. 4595
Harper Plaintiffs' Trial Exhibit PX531	Ex. 4596
Harper Plaintiffs' Trial Exhibit PX532	Ex. 4597
Harper Plaintiffs' Trial Exhibit PX533	Ex. 4598

Harper Plaintiffs' Trial Exhibit PX534	Ex. 4599
Harper Plaintiffs' Trial Exhibit PX535	Ex. 4600
Harper Plaintiffs' Trial Exhibit PX538	Ex. 4601
Harper Plaintiffs' Trial Exhibit PX539	Ex. 4602
Harper Plaintiffs' Trial Exhibit PX540	Ex. 4603
Harper Plaintiffs' Trial Exhibit PX541	Ex. 4604
Harper Plaintiffs' Trial Exhibit PX542	Ex. 4605
Harper Plaintiffs' Trial Exhibit PX543	Ex. 4606
Harper Plaintiffs' Trial Exhibit PX544	Ex. 4607
Harper Plaintiffs' Trial Exhibit PX545	Ex. 4608
Harper Plaintiffs' Trial Exhibit PX546	Ex. 4609
Harper Plaintiffs' Trial Exhibit PX547	Ex. 4610
Harper Plaintiffs' Trial Exhibit PX548	Ex. 4611
Harper Plaintiffs' Trial Exhibit PX549	Ex. 4612
Harper Plaintiffs' Trial Exhibit PX550	Ex. 4613
Harper Plaintiffs' Trial Exhibit PX551	Ex. 4614
Harper Plaintiffs' Trial Exhibit PX552	Ex. 4615
Harper Plaintiffs' Trial Exhibit PX553	Ex. 4616
Harper Plaintiffs' Trial Exhibit PX554	Ex. 4617
Harper Plaintiffs' Trial Exhibit PX555	Ex. 4618
Harper Plaintiffs' Trial Exhibit PX556	Ex. 4619
Harper Plaintiffs' Trial Exhibit PX557	Ex. 4620

Harper Plaintiffs' Trial Exhibit PX558	Ex. 4621
Harper Plaintiffs' Trial Exhibit PX559	Ex. 4622
Harper Plaintiffs' Trial Exhibit PX560	Ex. 4623
Harper Plaintiffs' Trial Exhibit PX561	Ex. 4624
Harper Plaintiffs' Trial Exhibit PX562	Ex. 4625
Harper Plaintiffs' Trial Exhibit PX563	Ex. 4626
Harper Plaintiffs' Trial Exhibit PX564	Ex. 4627
Harper Plaintiffs' Trial Exhibit PX565	Ex. 4628
Harper Plaintiffs' Trial Exhibit PX566	Ex. 4629
Harper Plaintiffs' Trial Exhibit PX567	Ex. 4630
Harper Plaintiffs' Trial Exhibit PX568	Ex. 4631
Harper Plaintiffs' Trial Exhibit PX569	Ex. 4632
Harper Plaintiffs' Trial Exhibit PX570	Ex. 4633
Harper Plaintiffs' Trial Exhibit PX571	Ex. 4634
Harper Plaintiffs' Trial Exhibit PX572	Ex. 4635
Harper Plaintiffs' Trial Exhibit PX573	Ex. 4636
Harper Plaintiffs' Trial Exhibit PX574	Ex. 4637
Harper Plaintiffs' Trial Exhibit PX575	Ex. 4638
Harper Plaintiffs' Trial Exhibit PX576	Ex. 4639
Harper Plaintiffs' Trial Exhibit PX577	Ex. 4640
Harper Plaintiffs' Trial Exhibit PX578	Ex. 4641
Harper Plaintiffs' Trial Exhibit PX579	Ex. 4642

Harper Plaintiffs' Trial Exhibit PX580	Ex. 4643
Harper Plaintiffs' Trial Exhibit PX581	Ex. 4644
Harper Plaintiffs' Trial Exhibit PX582	Ex. 4645
Harper Plaintiffs' Trial Exhibit PX583	Ex. 4646
Harper Plaintiffs' Trial Exhibit PX584	Ex. 4647
Harper Plaintiffs' Trial Exhibit PX585	Ex. 4648
Harper Plaintiffs' Trial Exhibit PX586	Ex. 4649
Harper Plaintiffs' Trial Exhibit PX587	Ex. 4650
Harper Plaintiffs' Trial Exhibit PX588	Ex. 4651
Harper Plaintiffs' Trial Exhibit PX589	Ex. 4652
Harper Plaintiffs' Trial Exhibit PX590	Ex. 4653
Harper Plaintiffs' Trial Exhibit PX591	Ex. 4654
Harper Plaintiffs' Trial Exhibit PX592	Ex. 4655
Harper Plaintiffs' Trial Exhibit PX593	Ex. 4656
Harper Plaintiffs' Trial Exhibit PX594	Ex. 4657
Harper Plaintiffs' Trial Exhibit PX595	Ex. 4658
Harper Plaintiffs' Trial Exhibit PX596	Ex. 4659
Harper Plaintiffs' Trial Exhibit PX597	Ex. 4660
Harper Plaintiffs' Trial Exhibit PX598	Ex. 4661
Harper Plaintiffs' Trial Exhibit PX602	Ex. 4662
Harper Plaintiffs' Trial Exhibit PX603	Ex. 4676
Harper Plaintiffs' Trial Exhibit PX604	Ex. 4677

Harper Plaintiffs' Trial Exhibit PX605	Ex. 4678
Harper Plaintiffs' Trial Exhibit PX606	Ex. 4679
Harper Plaintiffs' Trial Exhibit PX607	Ex. 4680
Harper Plaintiffs' Trial Exhibit PX608	Ex. 4681
Harper Plaintiffs' Trial Exhibit PX609	Ex. 4682
Harper Plaintiffs' Trial Exhibit PX610	Ex. 4683
Harper Plaintiffs' Trial Exhibit PX611	Ex. 4684
Harper Plaintiffs' Trial Exhibit PX612	Ex. 4685
Harper Plaintiffs' Trial Exhibit PX613	Ex. 4686
Harper Plaintiffs' Trial Exhibit PX614	Ex. 4687
Harper Plaintiffs' Trial Exhibit PX615	Ex. 4688
Harper Plaintiffs' Trial Exhibit PX616	Ex. 4689
Harper Plaintiffs' Trial Exhibit PX617	Ex. 4690
Harper Plaintiffs' Trial Exhibit PX618	Ex. 4691
Harper Plaintiffs' Trial Exhibit PX619	Ex. 4692
Harper Plaintiffs' Trial Exhibit PX620	Ex. 4693
Harper Plaintiffs' Trial Exhibit PX621	Ex. 4694
Harper Plaintiffs' Trial Exhibit PX622	Ex. 4695
Harper Plaintiffs' Trial Exhibit PX623	Ex. 4696
Harper Plaintiffs' Trial Exhibit PX624	Ex. 4697
Harper Plaintiffs' Trial Exhibit PX625	Ex. 4698
Harper Plaintiffs' Trial Exhibit PX626	Ex. 4699

Harper Plaintiffs' Trial Exhibit PX627	Ex. 4700
Harper Plaintiffs' Trial Exhibit PX628	Ex. 4715
Common Cause & Harper Plaintiffs' Trial Exhibit PX629.....	Ex. 4720
Common Cause & Harper Plaintiffs' Trial Exhibit PX630.....	Ex. 4826
Common Cause & Harper Plaintiffs' Trial Exhibit PX631.....	Ex. 4834
Common Cause & Harper Plaintiffs' Trial Exhibit PX632.....	Ex. 4835
Common Cause & Harper Plaintiffs' Trial Exhibit PX633.....	Ex. 4836
Common Cause & Harper Plaintiffs' Trial Exhibit PX634.....	Ex. 4837
Common Cause & Harper Plaintiffs' Trial Exhibit PX635.....	Ex. 4838
Common Cause & Harper Plaintiffs' Trial Exhibit PX636.....	Ex. 4839
Common Cause & Harper Plaintiffs' Trial Exhibit PX637.....	Ex. 4840
Common Cause & Harper Plaintiffs' Trial Exhibit PX638.....	Ex. 4841
Common Cause & Harper Plaintiffs' Trial Exhibit PX639.....	Ex. 4842
Common Cause & Harper Plaintiffs' Trial Exhibit PX640.....	Ex. 4843
Common Cause & Harper Plaintiffs' Trial Exhibit PX641.....	Ex. 4844

Common Cause & Harper Plaintiffs' Trial Exhibit PX642.....	Ex. 4845
Common Cause & Harper Plaintiffs' Trial Exhibit PX643.....	Ex. 4846
Common Cause & Harper Plaintiffs' Trial Exhibit PX644.....	Ex. 4847
Common Cause & Harper Plaintiffs' Trial Exhibit PX645.....	Ex. 4848
Common Cause & Harper Plaintiffs' Trial Exhibit PX646.....	Ex. 4849
Common Cause & Harper Plaintiffs' Trial Exhibit PX647.....	Ex. 4850
Common Cause & Harper Plaintiffs' Trial Exhibit PX648.....	Ex. 4851
Common Cause & Harper Plaintiffs' Trial Exhibit PX649.....	Ex. 4852
Common Cause & Harper Plaintiffs' Trial Exhibit PX650.....	Ex. 4853
Common Cause & Harper Plaintiffs' Trial Exhibit PX651.....	Ex. 4854
Common Cause & Harper Plaintiffs' Trial Exhibit PX652.....	Ex. 4855
Common Cause & Harper Plaintiffs' Trial Exhibit PX653.....	Ex. 4856
Common Cause & Harper Plaintiffs' Trial Exhibit PX654.....	Ex. 4857
Common Cause & Harper Plaintiffs' Trial Exhibit PX655.....	Ex. 4858

Common Cause & Harper Plaintiffs' Trial Exhibit PX656.....	Ex. 4859
Common Cause & Harper Plaintiffs' Trial Exhibit PX657.....	Ex. 4860
Common Cause & Harper Plaintiffs' Trial Exhibit PX658.....	Ex. 4861
Common Cause & Harper Plaintiffs' Trial Exhibit PX659.....	Ex. 4862
Common Cause & Harper Plaintiffs' Trial Exhibit PX660.....	Ex. 4863
Common Cause & Harper Plaintiffs' Trial Exhibit PX661.....	Ex. 4864
Common Cause & Harper Plaintiffs' Trial Exhibit PX662.....	Ex. 4865
Common Cause & Harper Plaintiffs' Trial Exhibit PX663.....	Ex. 4866
Common Cause & Harper Plaintiffs' Trial Exhibit PX664.....	Ex. 4867
Common Cause & Harper Plaintiffs' Trial Exhibit PX665.....	Ex. 4868
Common Cause & Harper Plaintiffs' Trial Exhibit PX666.....	Ex. 4869
Common Cause & Harper Plaintiffs' Trial Exhibit PX667.....	Ex. 4870
Common Cause & Harper Plaintiffs' Trial Exhibit PX668.....	Ex. 4871
Common Cause & Harper Plaintiffs' Trial Exhibit PX669.....	Ex. 4872

Common Cause & Harper Plaintiffs' Trial Exhibit PX670.....	Ex. 4873
---	----------

Common Cause & Harper Plaintiffs' Trial Exhibit PX671.....	Ex. 4874
---	----------

VOLUME 3

Common Cause & Harper Plaintiffs' Trial Exhibit PX672.....	Ex. 4893
---	----------

Common Cause & Harper Plaintiffs' Trial Exhibit PX673.....	Ex. 4894
---	----------

Common Cause & Harper Plaintiffs' Trial Exhibit PX674.....	Ex. 4895
---	----------

Common Cause & Harper Plaintiffs' Trial Exhibit PX675.....	Ex. 4896
---	----------

Common Cause & Harper Plaintiffs' Trial Exhibit PX676.....	Ex. 4897
---	----------

Common Cause & Harper Plaintiffs' Trial Exhibit PX677.....	Ex. 4898
---	----------

Harper Plaintiffs' Trial Exhibit PX678	Ex. 4899
--	----------

Harper Plaintiffs' Trial Exhibit PX679	Ex. 4912
--	----------

Harper Plaintiffs' Trial Exhibit PX680	Ex. 4919
--	----------

Harper Plaintiffs' Trial Exhibit PX681	Ex. 4927
--	----------

Common Cause & Harper Plaintiffs' Trial Exhibit PX682.....	Ex. 4935
---	----------

Harper Plaintiffs' Trial Exhibit PX683	Ex. 4936
--	----------

Harper Plaintiffs' Trial Exhibit PX684	Ex. 4937
--	----------

Harper Plaintiffs' Trial Exhibit PX685	Ex. 4938
Harper Plaintiffs' Trial Exhibit PX686	Ex. 4939
Harper Plaintiffs' Trial Exhibit PX687	Ex. 5217
Common Cause Trial Exhibit PX1400.....	Ex. 5270
Common Cause Trial Exhibit PX1401.....	Ex. 5271
Common Cause Trial Exhibit PX1402.....	Ex. 5272
Common Cause Trial Exhibit PX1403.....	Ex. 5287
Common Cause Trial Exhibit PX1404.....	Ex. 5288
Common Cause Trial Exhibit PX1405.....	Ex. 5302
Common Cause Trial Exhibit PX1406.....	Ex. 5303
Common Cause Trial Exhibit PX1407.....	Ex. 5305
Common Cause Trial Exhibit PX1408.....	Ex. 5306
Common Cause Trial Exhibit PX1409.....	Ex. 5455
Common Cause Trial Exhibit PX1410.....	Ex. 5473
Common Cause Trial Exhibit PX1411.....	Ex. 5474
Common Cause Trial Exhibit PX1412.....	Ex. 5541
Common Cause Trial Exhibit PX1413.....	Ex. 5549
Common Cause Trial Exhibit PX1415.....	Ex. 5551
Common Cause Trial Exhibit PX1416.....	Ex. 5552
Common Cause Trial Exhibit PX1417.....	Ex. 5565
Common Cause Trial Exhibit PX1418.....	Ex. 5566
Common Cause Trial Exhibit PX1419.....	Ex. 5642

Common Cause Trial Exhibit PX1420.....	Ex. 5644
Common Cause Trial Exhibit PX1421.....	Ex. 5720
Common Cause Trial Exhibit PX1422.....	Ex. 5721
Common Cause Trial Exhibit PX1423.....	Ex. 5831
Common Cause Trial Exhibit PX1424.....	Ex. 5832
Common Cause Trial Exhibit PX1425.....	Ex. 5833
Common Cause Trial Exhibit PX1426.....	Ex. 5834
Common Cause Trial Exhibit PX1427.....	Ex. 5834
Common Cause Trial Exhibit PX1428.....	Ex. 5849
Common Cause Trial Exhibit PX1429.....	Ex. 5863
Common Cause Trial Exhibit PX1430.....	Ex. 5864
Common Cause Trial Exhibit PX1431.....	Ex. 5865
Common Cause Trial Exhibit PX1432.....	Ex. 5867
Common Cause Trial Exhibit PX1433.....	Ex. 5870
Common Cause Trial Exhibit PX1434.....	Ex. 5871
Common Cause Trial Exhibit PX1435.....	Ex. 5873
Common Cause Trial Exhibit PX1436.....	Ex. 5875
Common Cause Trial Exhibit PX1437.....	Ex. 5877
Common Cause Trial Exhibit PX1438.....	Ex. 5878
Common Cause Trial Exhibit PX1439.....	Ex. 5879
Common Cause Trial Exhibit PX1440.....	Ex. 5880
Common Cause Trial Exhibit PX1441.....	Ex. 5896

Common Cause Trial Exhibit PX1442.....	Ex. 5897
Common Cause Trial Exhibit PX1443.....	Ex. 5898
Common Cause Trial Exhibit PX1444.....	Ex. 5899

VOLUME 5

Common Cause Trial Exhibit PX1445.....	Ex. 5978
Common Cause Trial Exhibit PX1446.....	Ex. 6057
Common Cause Trial Exhibit PX1447.....	Ex. 6058
Common Cause Trial Exhibit PX1448.....	Ex. 6087
Common Cause Trial Exhibit PX1458.....	Ex. 6091
Common Cause Trial Exhibit PX1459.....	Ex. 6092
Common Cause Trial Exhibit PX1460.....	Ex. 6093
Common Cause Trial Exhibit PX1461.....	Ex. 6116
Common Cause Trial Exhibit PX1462.....	Ex. 6148
Common Cause Trial Exhibit PX1463.....	Ex. 6205
Common Cause Trial Exhibit PX1464.....	Ex. 6209
Common Cause Trial Exhibit PX1465.....	Ex. 6226
Common Cause Trial Exhibit PX1467.....	Ex. 6227
Common Cause Trial Exhibit PX1468.....	Ex. 6289
Common Cause Trial Exhibit PX1469.....	Ex. 6311
Common Cause Trial Exhibit PX1470.....	Ex. 6313
Common Cause Trial Exhibit PX1471.....	Ex. 6321

Common Cause Trial Exhibit PX1472.....	Ex. 6391
Common Cause Trial Exhibit PX1473.....	Ex. 6405
Common Cause Trial Exhibit PX1474.....	Ex. 6406
Common Cause Trial Exhibit PX1475.....	Ex. 6407
Common Cause Trial Exhibit PX1476.....	Ex. 6408
Common Cause Trial Exhibit PX1477.....	Ex. 6409
Common Cause Trial Exhibit PX1478.....	Ex. 6410
Common Cause Trial Exhibit PX1479.....	Ex. 6411
Common Cause Trial Exhibit PX1480.....	Ex. 6412
Common Cause Trial Exhibit PX1481.....	Ex. 6422
Common Cause Trial Exhibit PX1482.....	Ex. 6425
Common Cause Trial Exhibit PX1483.....	Ex. 6444
Common Cause Trial Exhibit PX1484.....	Ex. 6473
Common Cause Trial Exhibit PX1485.....	Ex. 6579
Common Cause Trial Exhibit PX1486.....	Ex. 6581
Common Cause Trial Exhibit PX1487.....	Ex. 6680
Common Cause Trial Exhibit PX1488.....	Ex. 6681
Common Cause Trial Exhibit PX1489.....	Ex. 6682
Common Cause Trial Exhibit PX1490.....	Ex. 6683
Common Cause Trial Exhibit PX1491.....	Ex. 6684
Common Cause Trial Exhibit PX1492.....	Ex. 6685
Common Cause Trial Exhibit PX1493.....	Ex. 6686

Common Cause Trial Exhibit PX1494.....	Ex. 6687
Common Cause Trial Exhibit PX1495.....	Ex. 6688
Common Cause Trial Exhibit PX1496.....	Ex. 6689
Common Cause Trial Exhibit PX1497.....	Ex. 6690
Common Cause Trial Exhibit PX1498.....	Ex. 6691
Common Cause Trial Exhibit PX1499.....	Ex. 6692
Common Cause Trial Exhibit PX1500.....	Ex. 6693
Common Cause Trial Exhibit PX1501.....	Ex. 6694
Common Cause Trial Exhibit PX1502.....	Ex. 6695
Common Cause Trial Exhibit PX1503.....	Ex. 6696
Common Cause Trial Exhibit PX1504.....	Ex. 6697
Common Cause Trial Exhibit PX1505.....	Ex. 6698
Common Cause Trial Exhibit PX1506.....	Ex. 6699
Common Cause Trial Exhibit PX1507.....	Ex. 6700
Common Cause Trial Exhibit PX1508.....	Ex. 6701
Common Cause Trial Exhibit PX1509.....	Ex. 6702
Common Cause Trial Exhibit PX1510.....	Ex. 6703
Common Cause Trial Exhibit PX1511.....	Ex. 6704
Common Cause Trial Exhibit PX1512.....	Ex. 6705
Common Cause Trial Exhibit PX1513.....	Ex. 6706
Common Cause Trial Exhibit PX1514.....	Ex. 6707
Common Cause Trial Exhibit PX1515.....	Ex. 6708

Common Cause Trial Exhibit PX1516.....	Ex. 6709
Common Cause Trial Exhibit PX1517.....	Ex. 6710
Common Cause Trial Exhibit PX1518.....	Ex. 6711
Common Cause Trial Exhibit PX1519.....	Ex. 6712
Common Cause Trial Exhibit PX1520.....	Ex. 6713
Common Cause Trial Exhibit PX1521.....	Ex. 6714
Common Cause Trial Exhibit PX1522.....	Ex. 6715
Common Cause Trial Exhibit PX1523.....	Ex. 6716
Common Cause Trial Exhibit PX1524.....	Ex. 6717
Common Cause Trial Exhibit PX1525.....	Ex. 6718
Common Cause Trial Exhibit PX1526.....	Ex. 6719
Common Cause Trial Exhibit PX1527.....	Ex. 6720
Common Cause Trial Exhibit PX1528.....	Ex. 6721
Common Cause Trial Exhibit PX1529.....	Ex. 6722
Common Cause Trial Exhibit PX1530.....	Ex. 6723
Common Cause Trial Exhibit PX1531.....	Ex. 6724
Common Cause Trial Exhibit PX1532.....	Ex. 6728
Common Cause Trial Exhibit PX1533.....	Ex. 6729
Common Cause Trial Exhibit PX1534.....	Ex. 6730
Common Cause Trial Exhibit PX1535.....	Ex. 6731
Common Cause Trial Exhibit PX1536.....	Ex. 6732
Common Cause Trial Exhibit PX1537.....	Ex. 6733

Common Cause Trial Exhibit PX1538.....	Ex. 6734
Common Cause Trial Exhibit PX1539.....	Ex. 6735
Common Cause Trial Exhibit PX1540.....	Ex. 6736
Common Cause Trial Exhibit PX1541.....	Ex. 6737
Common Cause Trial Exhibit PX1542.....	Ex. 6738
Common Cause Trial Exhibit PX1543.....	Ex. 6739
Common Cause Trial Exhibit PX1544.....	Ex. 6740
Common Cause Trial Exhibit PX1545.....	Ex. 6741
Common Cause Trial Exhibit PX1546.....	Ex. 6742
Common Cause Trial Exhibit PX1547.....	Ex. 6743
Common Cause Trial Exhibit PX1548.....	Ex. 6744
Common Cause Trial Exhibit PX1549.....	Ex. 6745
Common Cause Trial Exhibit PX1550.....	Ex. 6746
Common Cause Trial Exhibit PX1551.....	Ex. 6747
Common Cause Trial Exhibit PX1552.....	Ex. 6748
Common Cause Trial Exhibit PX1553.....	Ex. 6749
Common Cause Trial Exhibit PX1554.....	Ex. 6750
Common Cause Trial Exhibit PX1555.....	Ex. 6751
Common Cause Trial Exhibit PX1556.....	Ex. 6752
Common Cause Trial Exhibit PX1557.....	Ex. 6753
Common Cause Trial Exhibit PX1558.....	Ex. 6754
Common Cause Trial Exhibit PX1559.....	Ex. 6755

Common Cause Trial Exhibit PX1561.....	Ex. 6756
Common Cause Trial Exhibit PX1562.....	Ex. 6840
Common Cause Trial Exhibit PX1563.....	Ex. 6841
Common Cause Trial Exhibit PX1564.....	Ex. 6842
Common Cause Trial Exhibit PX1565.....	Ex. 6844
Common Cause Trial Exhibit PX1566.....	Ex. 6846
Common Cause Trial Exhibit PX1567.....	Ex. 6849
Common Cause Trial Exhibit PX1568.....	Ex. 6853
Common Cause Trial Exhibit PX1569.....	Ex. 6854
Common Cause Trial Exhibit PX1570.....	Ex. 6862
Common Cause Trial Exhibit PX1571.....	Ex. 6865
Common Cause Trial Exhibit PX1572.....	Ex. 6866
Common Cause Trial Exhibit PX1573.....	Ex. 6867
Common Cause Trial Exhibit PX1574.....	Ex. 6868
Common Cause Trial Exhibit PX1575.....	Ex. 6869
Common Cause Trial Exhibit PX1576.....	Ex. 6870
Common Cause Trial Exhibit PX1577.....	Ex. 6871
Common Cause Trial Exhibit PX1578.....	Ex. 6872
Common Cause Trial Exhibit PX1579.....	Ex. 6873
Common Cause Trial Exhibit PX1580.....	Ex. 6874
Common Cause Trial Exhibit PX1581.....	Ex. 6875
Common Cause Trial Exhibit PX1582.....	Ex. 6877

Common Cause Trial Exhibit PX1583.....	Ex. 6885
Common Cause Trial Exhibit PX1585.....	Ex. 6886
Common Cause Trial Exhibit PX1586.....	Ex. 6887
Common Cause Trial Exhibit PX1587.....	Ex. 6888
Common Cause Trial Exhibit PX1589.....	Ex. 6889
Common Cause Trial Exhibit PX1590.....	Ex. 6890
Common Cause Trial Exhibit PX1591.....	Ex. 6891
Common Cause Trial Exhibit PX1592.....	Ex. 6892
Common Cause Trial Exhibit PX1593.....	Ex. 6893
Common Cause Trial Exhibit PX1594.....	Ex. 6894
Common Cause Trial Exhibit PX1595.....	Ex. 6895
Common Cause Trial Exhibit PX1596.....	Ex. 6896
Common Cause Trial Exhibit PX1597.....	Ex. 6897
Common Cause Trial Exhibit PX1598.....	Ex. 6898
Common Cause Trial Exhibit PX1599.....	Ex. 6899
Common Cause Trial Exhibit PX1600.....	Ex. 6900
Common Cause Trial Exhibit PX1601.....	Ex. 6901
Common Cause Trial Exhibit PX1602.....	Ex. 6902
Common Cause Trial Exhibit PX1603.....	Ex. 6903
Common Cause Trial Exhibit PX1604.....	Ex. 6904
Common Cause Trial Exhibit PX1605.....	Ex. 6905
Common Cause Trial Exhibit PX1606.....	Ex. 6906

Common Cause Trial Exhibit PX1607.....	Ex. 6907
Common Cause Trial Exhibit PX1608.....	Ex. 6908
Common Cause Trial Exhibit PX1609.....	Ex. 6909
Common Cause Trial Exhibit PX1610.....	Ex. 6910
Common Cause Trial Exhibit PX1611.....	Ex. 6911
Common Cause Trial Exhibit PX1612.....	Ex. 6912
Common Cause Trial Exhibit PX1613.....	Ex. 6913
Common Cause Trial Exhibit PX1614.....	Ex. 6914
Common Cause Trial Exhibit PX1615.....	Ex. 6915
Common Cause Trial Exhibit PX1616.....	Ex. 6916
Common Cause Trial Exhibit PX1617.....	Ex. 6917
Common Cause Trial Exhibit PX1618.....	Ex. 6921
Common Cause Trial Exhibit PX1619.....	Ex. 6935
Common Cause Trial Exhibit PX1620.....	Ex. 6941
Common Cause Trial Exhibit PX1621.....	Ex. 6942

VOLUME 5

Legislative Defendants' Trial Exhibit LDTX1	Ex. 6943
Legislative Defendants' Trial Exhibit LDTX2	Ex. 6956
Legislative Defendants' Trial Exhibit LDTX3	Ex. 6957
Legislative Defendants' Trial Exhibit LDTX4	Ex. 7041
Legislative Defendants' Trial Exhibit LDTX5	Ex. 7051

Legislative Defendants' Trial Exhibit LDTX6	Ex. 7065
Legislative Defendants' Trial Exhibit LDTX7	Ex. 7066
Legislative Defendants' Trial Exhibit LDTX8	Ex. 7137
Legislative Defendants' Trial Exhibit LDTX9	Ex. 7142
Legislative Defendants' Trial Exhibit LDTX10	Ex. 7150
Legislative Defendants' Trial Exhibit LDTX11	Ex. 7160
Legislative Defendants' Trial Exhibit LDTX12	Ex. 7176
Legislative Defendants' Trial Exhibit LDTX13	Ex. 7177
Legislative Defendants' Trial Exhibit LDTX14	Ex. 7241
Legislative Defendants' Trial Exhibit LDTX15	Ex. 7244
Legislative Defendants' Trial Exhibit LDTX16	Ex. 7246
Legislative Defendants' Trial Exhibit LDTX17	Ex. 7250
Legislative Defendants' Trial Exhibit LDTX18	Ex. 7251
Legislative Defendants' Trial Exhibit LDTX19	Ex. 7301
Legislative Defendants' Trial Exhibit LDTX20	Ex. 7307
Legislative Defendants' Trial Exhibit LDTX21	Ex. 7308
Legislative Defendants' Trial Exhibit LDTX22	Ex. 7355
Legislative Defendants' Trial Exhibit LDTX23	Ex. 7356
Legislative Defendants' Trial Exhibit LDTX24	Ex. 7398
Legislative Defendants' Trial Exhibit LDTX25	Ex. 7399
Legislative Defendants' Trial Exhibit LDTX26	Ex. 7400
Legislative Defendants' Trial Exhibit LDTX27	Ex. 7401

Legislative Defendants' Trial Exhibit LDTX28	Ex. 7475
Legislative Defendants' Trial Exhibit LDTX29	Ex. 7588
Legislative Defendants' Trial Exhibit LDTX30	Ex. 7589
Legislative Defendants' Trial Exhibit LDTX31	Ex. 7590
Legislative Defendants' Trial Exhibit LDTX32	Ex. 7591
Legislative Defendants' Trial Exhibit LDTX33	Ex. 7592
Legislative Defendants' Trial Exhibit LDTX34	Ex. 7603
Legislative Defendants' Trial Exhibit LDTX35	Ex. 7605
Legislative Defendants' Trial Exhibit LDTX36	Ex. 7611
Legislative Defendants' Trial Exhibit LDTX37	Ex. 7641
Legislative Defendants' Trial Exhibit LDTX38	Ex. 7643
Legislative Defendants' Trial Exhibit LDTX39	Ex. 7644
Legislative Defendants' Trial Exhibit LDTX40	Ex. 7667
Legislative Defendants' Trial Exhibit LDTX41	Ex. 7708
Legislative Defendants' Trial Exhibit LDTX42	Ex. 7718
Legislative Defendants' Trial Exhibit LDTX43	Ex. 7756
Legislative Defendants' Trial Exhibit LDTX44	Ex. 7757
Legislative Defendants' Trial Exhibit LDTX45	Ex. 7767
Legislative Defendants' Trial Exhibit LDTX46	Ex. 7793
Legislative Defendants' Trial Exhibit LDTX47	Ex. 7800
Legislative Defendants' Trial Exhibit LDTX48	Ex. 7832
Legislative Defendants' Trial Exhibit LDTX49	Ex. 7833

Legislative Defendants' Trial Exhibit LDTX50	Ex. 7842
Legislative Defendants' Trial Exhibit LDTX51	Ex. 7850
Legislative Defendants' Trial Exhibit LDTX52	Ex. 7858
Legislative Defendants' Trial Exhibit LDTX53	Ex. 7890
Legislative Defendants' Trial Exhibit LDTX54	Ex. 7960
Legislative Defendants' Trial Exhibit LDTX55	Ex. 7961
Legislative Defendants' Trial Exhibit LDTX56	Ex. 7977
Legislative Defendants' Trial Exhibit LDTX57	Ex. 7986
Legislative Defendants' Trial Exhibit LDTX58	Ex. 7996
Legislative Defendants' Trial Exhibit LDTX59	Ex. 8019
Legislative Defendants' Trial Exhibit LDTX60	Ex. 8020
Legislative Defendants' Trial Exhibit LDTX61	Ex. 8036
Legislative Defendants' Trial Exhibit LDTX62	Ex. 8045
Legislative Defendants' Trial Exhibit LDTX63	Ex. 8055
Legislative Defendants' Trial Exhibit LDTX64	Ex. 8078
Legislative Defendants' Trial Exhibit LDTX65	Ex. 8079
Legislative Defendants' Trial Exhibit LDTX66	Ex. 8085
Legislative Defendants' Trial Exhibit LDTX67	Ex. 8088
Legislative Defendants' Trial Exhibit LDTX68	Ex. 8095
Legislative Defendants' Trial Exhibit LDTX69	Ex. 8115
Legislative Defendants' Trial Exhibit LDTX70	Ex. 8116
Legislative Defendants' Trial Exhibit LDTX71	Ex. 8127

Legislative Defendants' Trial Exhibit LDTX72	Ex. 8129
Legislative Defendants' Trial Exhibit LDTX73	Ex. 8137
Legislative Defendants' Trial Exhibit LDTX74	Ex. 8164
Legislative Defendants' Trial Exhibit LDTX75	Ex. 8228
Legislative Defendants' Trial Exhibit LDTX76	Ex. 8229
Legislative Defendants' Trial Exhibit LDTX77	Ex. 8342
Legislative Defendants' Trial Exhibit LDTX78	Ex. 8343
Legislative Defendants' Trial Exhibit LDTX79	Ex. 8488
Legislative Defendants' Trial Exhibit LDTX80	Ex. 8489
Legislative Defendants' Trial Exhibit LDTX81	Ex. 8648
Legislative Defendants' Trial Exhibit LDTX82	Ex. 8649
Legislative Defendants' Trial Exhibit LDTX83	Ex. 8701
Legislative Defendants' Trial Exhibit LDTX84	Ex. 8702
Legislative Defendants' Trial Exhibit LDTX85	Ex. 8812
Legislative Defendants' Trial Exhibit LDTX89	Ex. 8813
Legislative Defendants' Trial Exhibit LDTX90	Ex. 8919
Legislative Defendants' Trial Exhibit LDTX94	Ex. 9169
Legislative Defendants' Trial Exhibit LDTX95	Ex. 9173
Legislative Defendants' Trial Exhibit LDTX96	Ex. 9176
Legislative Defendants' Trial Exhibit LDTX97	Ex. 9185
Legislative Defendants' Trial Exhibit LDTX98	Ex. 9204
Legislative Defendants' Trial Exhibit LDTX99	Ex. 9206

Legislative Defendants' Trial Exhibit LDTX100	Ex. 9208
Legislative Defendants' Trial Exhibit LDTX101	Ex. 9210
Legislative Defendants' Trial Exhibit LDTX102	Ex. 9212
Legislative Defendants' Trial Exhibit LDTX103	Ex. 9214
Legislative Defendants' Trial Exhibit LDTX104	Ex. 9216
Legislative Defendants' Trial Exhibit LDTX105	Ex. 9218
Legislative Defendants' Trial Exhibit LDTX106	Ex. 9220
Legislative Defendants' Trial Exhibit LDTX107	Ex. 9236
Legislative Defendants' Trial Exhibit LDTX108	Ex. 9514
Legislative Defendants' Trial Exhibit LDTX109	Ex. 9583
Legislative Defendants' Trial Exhibit LDTX110	Ex. 9650
Legislative Defendants' Trial Exhibit LDTX111	Ex. 9703
Legislative Defendants' Trial Exhibit LDTX112	Ex. 9726
Legislative Defendants' Trial Exhibit LDTX113	Ex. 9728
Legislative Defendants' Trial Exhibit LDTX114	Ex. 9729
Legislative Defendants' Trial Exhibit LDTX115	Ex. 9731
Legislative Defendants' Trial Exhibit LDTX116	Ex. 9732
Legislative Defendants' Trial Exhibit LDTX117	Ex. 9733
Legislative Defendants' Trial Exhibit LDTX118	Ex. 9734
Legislative Defendants' Trial Exhibit LDTX119	Ex. 9735
Legislative Defendants' Trial Exhibit LDTX120	Ex. 9736
Legislative Defendants' Trial Exhibit LDTX121	Ex. 9737

Legislative Defendants' Trial Exhibit LDTX122	Ex. 9738
Legislative Defendants' Trial Exhibit LDTX123	Ex. 9739
Legislative Defendants' Trial Exhibit LDTX124	Ex. 9740
Legislative Defendants' Trial Exhibit LDTX125	Ex. 9742

VOLUME 6

Legislative Defendants' Trial Exhibit LDTX126	Ex. 9829
Legislative Defendants' Trial Exhibit LDTX127	Ex. 9928
Legislative Defendants' Trial Exhibit LDTX130	Ex. 9976
Legislative Defendants' Trial Exhibit LDTX131	Ex. 9978
Legislative Defendants' Trial Exhibit LDTX132	Ex. 9980
Legislative Defendants' Trial Exhibit LDTX133	Ex. 9982
Legislative Defendants' Trial Exhibit LDTX134	Ex. 9983
Legislative Defendants' Trial Exhibit LDTX135	Ex. 9984
Legislative Defendants' Trial Exhibit LDTX136	Ex. 9985
Legislative Defendants' Trial Exhibit LDTX137	Ex. 9986
Legislative Defendants' Trial Exhibit LDTX138	Ex. 9987
Legislative Defendants' Trial Exhibit LDTX139 ...	Ex. 10005
Legislative Defendants' Trial Exhibit LDTX140 ...	Ex. 10013
Legislative Defendants' Trial Exhibit LDTX141 ...	Ex. 10016
Legislative Defendants' Trial Exhibit LDTX142 ...	Ex. 10019
Legislative Defendants' Trial Exhibit LDTX143 ...	Ex. 10020

Legislative Defendants' Trial Exhibit LDTX144 ... Ex.	10021
Legislative Defendants' Trial Exhibit LDTX145 ... Ex.	10022
Legislative Defendants' Trial Exhibit LDTX146 ... Ex.	10023
Legislative Defendants' Trial Exhibit LDTX147 ... Ex.	10024
Legislative Defendants' Trial Exhibit LDTX148 ... Ex.	10025
Legislative Defendants' Trial Exhibit LDTX149 ... Ex.	10026
Legislative Defendants' Trial Exhibit LDTX150 ... Ex.	10027
Legislative Defendants' Trial Exhibit LDTX151 ... Ex.	10057
Legislative Defendants' Trial Exhibit LDTX152 ... Ex.	10071
Legislative Defendants' Trial Exhibit LDTX153 ... Ex.	10147
Legislative Defendants' Trial Exhibit LDTX154 ... Ex.	10242
Legislative Defendants' Trial Exhibit LDTX156 ... Ex.	10244
Legislative Defendants' Trial Exhibit LDTX157 ... Ex.	10255
Legislative Defendants' Trial Exhibit LDTX158 ... Ex.	10278
Legislative Defendants' Trial Exhibit LDTX159 ... Ex.	10313
Legislative Defendants' Trial Exhibit LDTX160 ... Ex.	10332
Legislative Defendants' Trial Exhibit LDTX163 ... Ex.	10367
Legislative Defendants' Trial Exhibit LDTX164 ... Ex.	10645
Legislative Defendants' Trial Exhibit LDTX165 ... Ex.	10659
Legislative Defendants' Trial Exhibit LDTX166 ... Ex.	10678
Legislative Defendants' Trial Exhibit LDTX167 ... Ex.	10731
Legislative Defendants' Trial Exhibit LDTX168 ... Ex.	10750

Legislative Defendants' Trial Exhibit LDTX169 ... Ex.	10770
Legislative Defendants' Trial Exhibit LDTX170 ... Ex.	10778
Legislative Defendants' Trial Exhibit LDTX171 ... Ex.	10782
Legislative Defendants' Trial Exhibit LDTX172 ... Ex.	10783
Legislative Defendants' Trial Exhibit LDTX173 ... Ex.	10852
Legislative Defendants' Trial Exhibit LDTX174 ... Ex.	10889
Legislative Defendants' Trial Exhibit LDTX176 ... Ex.	11020
Legislative Defendants' Trial Exhibit LDTX179 ... Ex.	11023
Legislative Defendants' Trial Exhibit LDTX180 ... Ex.	11046
Legislative Defendants' Trial Exhibit LDTX181 ... Ex.	11053
Legislative Defendants' Trial Exhibit LDTX182 ... Ex.	11112
Legislative Defendants' Trial Exhibit LDTX183 ... Ex.	11126
Legislative Defendants' Trial Exhibit LDTX184 ... Ex.	11210
Legislative Defendants' Trial Exhibit LDTX185 ... Ex.	11212
Legislative Defendants' Trial Exhibit LDTX186 ... Ex.	11213
Legislative Defendants' Trial Exhibit LDTX187 ... Ex.	11214
Legislative Defendants' Trial Exhibit LDTX188 ... Ex.	11218
Legislative Defendants' Trial Exhibit LDTX189 ... Ex.	11230
Legislative Defendants' Trial Exhibit LDTX190 ... Ex.	11234
Legislative Defendants' Trial Exhibit LDTX191 ... Ex.	11269
Legislative Defendants' Trial Exhibit LDTX192 ... Ex.	11270
Legislative Defendants' Trial Exhibit LDTX195 ... Ex.	11274

Legislative Defendants' Trial Exhibit LDTX196 ...	Ex. 11380
Legislative Defendants' Trial Exhibit LDTX197 ...	Ex. 11382
Legislative Defendants' Trial Exhibit LDTX198 ...	Ex. 11466
Legislative Defendants' Trial Exhibit LDTX199 ...	Ex. 11468
Legislative Defendants' Trial Exhibit LDTX200 ...	Ex. 11487
Legislative Defendants' Trial Exhibit LDTX201 ...	Ex. 11554
Legislative Defendants' Trial Exhibit LDTX202 ...	Ex. 11555
Legislative Defendants' Trial Exhibit LDTX203 ...	Ex. 11556
Legislative Defendants' Trial Exhibit LDTX204 ...	Ex. 11557
Legislative Defendants' Trial Exhibit LDTX205 ...	Ex. 11558
Legislative Defendants' Trial Exhibit LDTX206 ...	Ex. 11571
Joint Stipulation of Facts	Ex. 11606

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 015426

NORTH CAROLINA LEAGUE OF CONSER-
VATION VOTERS, INC., et al.,

REBECCA HARPER, et al.,

COMMON CAUSE,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in his offi-
cial capacity as Chair of the House Standing Com-
mittee on Redistricting, et al.

Defendants.

**EXPERT REPORT OF
JAMES L. LELOUDIS II**

NCLCV v. Hall

21 CVS 15426

LDTX126

Exhibit #

Leloudis 1

12/29/2021 - JNC

exhibitsticker.com

Race and Voting Rights in North Carolina, 1860-2021

TABLE OF CONTENTS

I. Summary of Opinions.....	3
II. Background and Qualifications.....	4
III. Materials Reviewed	5
IV. Scope.....	5
V. Introduction – Democracy, Racial Equality, and Voting Rights	5
VI. War, Emancipation, and Reconstruction	7
VII. Fusion Politics and a New Campaign for White Supremacy	12
VIII. Jim Crow	21
IX. Black Advance and White Reaction in the Forgotten 1950s	31
X. Civil Rights at Last	44
XI. Judicial Intervention and a More Inclusive Democracy	52
XII. Retrenchment	59
XIII. Conclusion	79
Bibliography	80
Appendix – Curriculum Vitae.....	96

I. Summary of Opinions

My name is James L. Leloudis II. I have taught history at the University of North Carolina at Chapel Hill for thirty-one years, with a focus on North Carolina and the American South. I have published extensively on the history of the state and region, and my scholarship has won awards from the nation's leading professional associations in my field.

I was retained by the Plaintiffs in this case to assess whether there is a history of racial discrimination in North Carolina, specifically with respect to the regulation of elections and legislative redistricting. Based on my forty years of researching, writing, and teaching in this field, and having reviewed published works by historians of race and politics in the American South, newspapers from the time period covered by this declaration, the public laws of North Carolina, archival sources for individuals and institutions, and reports from various federal and state agencies, it is my opinion that:

- North Carolina has a long and cyclical history of struggle over minority voting rights and political participation, from the time of Reconstruction to the present day.
- When minority rights have been constrained, North Carolina's state government has been decidedly unresponsive to minority concerns and interests related to social and economic policy. That lack of responsiveness to Blacks and, in recent years, a rapidly growing population of Hispanics, has perpetuated minority disadvantages in employment and education, further hindering the ability of minority populations to participate fully and freely in the political process.¹
- Over the last century and a half, North Carolina lawmakers have employed a variety of measures to limit the rights of racial and ethnic minorities to register, to vote, and to participate in the democratic process. These measures have included vigilante violence, a literacy test and poll tax, and a host of other regulations regarding the preparation of ballots, procedures for challenging electors' right to register and to vote, and election monitoring by partisan poll watchers.
- During the late 1950s and 1960s, lawmakers acted to limit the political participation of newly enfranchised Black voters by switching from ward to at-large representation in county and municipal governments, increasing the number of multi-member districts in the state legislature, introducing numbered-seat plans for legislative elections, and outlawing single-shot voting. After the federal courts began to enforce the Voting Rights Act of 1965 and limited those practices, extreme partisan gerrymandering and racial vote dilution became the tactics of choice for limiting minority voting rights and political participation.
- Actions by the North Carolina legislature in the current redistricting cycle fit the pattern of conservative backlash to minority gains. With a rising minority electorate, lawmakers have created district maps that they claim are colorblind; but in fact, the maps reproduce

¹ The terms 'Hispanic' and 'Latino' are often used interchangeably to describe immigrants from Mexico, Cuba, and Central and South America. I will use 'Hispanic' throughout this report because that is the term most often employed by the U.S. Census Bureau, the North Carolina State Board of Elections, and other government agencies and researchers to characterize voters who have ties to those regions.

familiar forms of racial discrimination. The legislature is acting with no fear of repercussion in part because this is the first redistricting cycle without the preclearance protections of the Voting Rights Act of 1965.

- In the context of North Carolina’s political history, race and politics overlap, to the extent that partisan gerrymandering many times acts as a cover for racial discrimination in redistricting.

Each of these opinions is explained and supported in detail below.

II. Background and Qualifications

I am employed as Professor of History at the University of North Carolina at Chapel Hill. I received a B.A., with highest honors, from the University of North Carolina at Chapel Hill (1977), an M.A. from Northwestern University (1979), and a Ph.D. from the University of North Carolina at Chapel Hill (1989). My primary training was in the history of the United States, with specialization in the history of race, politics, labor, and reform in the nineteenth- and twentieth-century American South. For the past thirty-one years I have taught undergraduate and graduate courses in my area of specialization. I have published four books, nine articles, and numerous book reviews. I have also made more than fifty presentations to academic and lay audiences.

My scholarship has won a number of prestigious awards, including the Louis Pelzer Prize for the best essay by a graduate student (1982, Organization for American Historians), the Philip Taft Labor History Award for the best book on the history of labor (1988, New York State School of Industrial and Labor Relations, Cornell University), the Merle Curti Award for the best book on American social history (1988, Organization of American Historians), the Albert J. Beveridge Award for the best book on the history of the United States, Latin America, or Canada (1988, American Historical Association), the Mayflower Cup for the best non-fiction work on North Carolina (1996, North Carolina Literary and Historical Association), and the North Caroliniana Society Award for the best work on North Carolina history (2010).

In 1982, as a graduate student in history at the University of North Carolina at Chapel Hill, I conducted research that became part of the expert testimony provided by Professor Harry Watson in *Gingles v. Edmisten*, 590 F. Supp. 345 (1984).² In 2014-2016, I provided expert testimony for the plaintiffs in *North Carolina State Conference of the NAACP v. McCrory*, 182 F. Supp. 3d 320 (M.D.N.C. 2016), and *North Carolina State Conference of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016). In 2017, I was retained as an expert witness for the plaintiffs in *Hall v. Jones County Board of Commissioners*, 4:17-cv-00018 (E.D.N.C. July 5, 2017), but the case was settled before I submitted a report. I recently served as an expert witness for the plaintiffs in *Holmes v. Moore*, 270 N.C. App. 7 (Wake Cnty. Sup. Ct. 2019), and I am currently an expert witness for the plaintiffs in *North Carolina State Conference of the NAACP v. Cooper*, 1:18-cv-01034 (M.D.N.C. Aug. 17, 2021).

I produced this report under contract with the Southern Coalition for Social Justice and Hogan Lovells, representing Common Cause. My billing rate is \$300/hour, with total payment not

² *Gingles v. Edmisten*, 590 F. Supp. 345 (E.D.N.C. 1984).

to exceed \$20,000, unless approved by counsel. Payment is not contingent on reaching specific conclusions as a result of my research, or on the outcome of my findings.

A detailed record of my professional qualifications and publications is set forth in the curriculum vitae appended to this report, which I prepared and know to be accurate.

III. Materials Reviewed

I have conducted qualitative research on the history of race, voting rights, voter suppression, and redistricting in North Carolina, from the end of the Civil War to the present. Sources that I have consulted include published works by historians of race and politics in the American South, newspapers from the time period covered by this declaration, the public laws of North Carolina, archival sources for individuals and institutions, court cases, and reports from various federal and state agencies. All of the sources relied upon for this report are footnoted and fully cited herein, and also listed in my bibliography.

IV. Scope

This report examines the historical context for recent attempts to limit minority citizens' voting rights and ability to elect candidates of their choice. It details more than a century and a half of fierce conflict between efforts to expand access to the ballot box for all citizens, especially Blacks, and campaigns to impose restrictions on the franchise and minority participation in democratic governance. The report begins with the Civil War and Reconstruction era and concludes with today's battles over the regulation of elections and both legislative and municipal redistricting.

V. Introduction – Democracy, Racial Equality, and the Rights of Citizenship

Today, Americans are sharply divided over questions of voting rights and minority political participation. To understand how we came to this impasse, we must look back to 1865 and the end of America's Civil War. The Union had been preserved and the Confederacy was in ashes, but the sacrifice of nearly three quarters of a million lives had not decided the republic's future. Would there be a "new birth of freedom," as Abraham Lincoln had imagined in his Gettysburg Address, or would the nation be reconstituted as a "white man's government," the outcome preferred by his successor, Andrew Johnson? Between 1865 and 1870, self-styled "radicals" in Lincoln's Republican Party answered that question with three constitutional amendments that historians have described as America's "Second Founding."³

The Thirteenth Amendment (1865) abolished slavery and guaranteed the liberty of four million Black men, women, and children who had been enslaved in the South. The Fourteenth (1868) granted them citizenship by birthright and established the principle of "equal protection of the laws." And the Fifteenth (1870) forbade the states from denying or abridging male citizens' right to vote "on account of race, color, or previous condition of servitude."

These constitutional guarantees tied the fate of American democracy to the citizenship rights of a newly emancipated Black minority and their descendants. For one hundred and fifty

³ Carmichael, *Lincoln's Gettysburg Address*, 72, and Foner, *Second Founding*. Johnson spoke often of a "white man's government"; for the example used here, see Speech on the Restoration of State Government, January 21, 1864, in Graf and Haskins, eds., *Papers of Andrew Johnson*, vol. 6, 577-78.

years, the exercise of those rights and the connection between racial justice and democratic governance have been the centermost issues in American politics. This has been particularly true for the right to vote.

In North Carolina, battles over the political rights of citizenship have played out through cycles of emancipatory politics and conservative retrenchment. In a pattern repeated multiple times, Blacks and their allies have formed political movements to end racial exploitation and claim their rights as equal citizens. They have done so not only to advance their own interests but to promote participatory democracy more generally and to make government responsive to the needs of all its people. Invariably, these efforts have met resistance from conservative lawmakers who erected safeguards – or what advocates of enfranchisement called barriers – around the ballot box. Conservatives have been remarkably creative in that work. When one restriction was struck down in the courts or through protest and political mobilization, they quickly invented another. Sometimes, they spoke in overtly racial terms and implemented reforms through violent means. At other times, they cast franchise restrictions in the more euphemistic language of fraud and corruption. Consistently, they presented strict regulation of the right to vote as a means of ensuring "good order" and "good government."

Some pundits have suggested that the fight over ballots and democratic governance represents little more than competition between Democrats and Republicans to reshape the electorate and gain partisan advantage. No doubt the contest has been intensely partisan, but the ideological realignment of the Democratic and Republican parties reminds us that something far more significant has been at stake. In the decades immediately after the Civil War, Conservatives called themselves Democrats, campaigned for limited social provision, and took the vote from Black men, while Republicans identified as social progressives, championed an expansive and generous state, and fought for equality at the ballot box and in the halls of government. Beginning in the mid twentieth century, these positions flipped. Grassroots activists and national leaders reshaped the Democratic Party to support the advancement of civil rights, while the Republican Party became overwhelmingly white, sought to limit federal involvement in state and local affairs, and adopted a restrictive stance toward citizenship and its attendant rights.

Through all these changes, one fact has remained constant. Discrimination on the basis of color has been white conservatives' primary means of securing both political advantage over minority citizens and their progressive white allies. That was glaringly obvious in 1900, when Democrats amended North Carolina's constitution in order to disenfranchise Black men. It is also evident today in Republicans' attempts to restrict minority citizens' voting rights and in their use of racially discriminatory redistricting practices and partisan gerrymandering to consolidate control over state government and public policy. This politics of race threatens the fundamental principles of our democracy. When racial equality has been denied, and when the consideration of race has been used for partisan gain and the exclusion of minority electors from the democratic polity, the result has been a society in which vast numbers of citizens – not only racial minorities – have had their right to fair and effective representation compromised.

Understood in this historical context, today's conflicts over minority political rights are reminders that we live in a time every bit as consequential as the flush of reform that followed the Civil War. Then, as now, democracy was imperiled by divisive racial appeals, violent expressions of white supremacy, and efforts to roll back newly won citizenship. In such a moment, history has clarifying power.

VI. War, Emancipation, and Reconstruction

A. Civil War to the Black Code

On the eve of the Civil War, North Carolina's government was an oligarchy, not a democracy. The state constitution gave political advantage to a slaveholding elite concentrated in the eastern counties of the coastal plain. Seats in the state Senate were apportioned among fifty districts defined by the value of the taxes that residents paid into state coffers; in the House of Representatives, apportionment was governed by the "federal ratio," which counted slaves as three-fifths of a person. These provisions, together with property requirements for election to high state office, effectively removed a large majority of middling and poor whites from governance of the state and their local communities. Free Black men with property had been entitled to vote under the state constitution of 1776, but that right was rescinded in 1835 by a constitutional amendment. This was the first time in the state's history that the franchise was restricted on the basis of race. Political leaders framed Black disenfranchisement as a necessary response to Nat Turner's rebellion in 1831 and the founding of the American Anti-Slavery Society in 1833. They saw it as protection against the threat of slave insurrections encouraged by white abolitionists and their perceived agents, free Black men exercising the rights of citizenship.⁴

By 1860 more than 85 percent of lawmakers in the North Carolina General Assembly were slaveholders, a higher percentage than in any other southern state. Wealth was closely held by this elite, who constituted roughly seven percent of the state's population of one million and resided primarily in the east. These men also maintained a firm grip on political power. Indeed, the principles of oligarchy were written into the state's constitution. At the local level, voters elected only two county officials: a sheriff and a clerk of court. The power to govern rested in the hands of justices of the peace who were nominated by members of the state House of Representatives and commissioned for life terms by the governor.⁵

North Carolina's antebellum oligarchs did not rule with unchallenged authority. In the 1850s, they faced political revolt by white yeoman farmers in the central Piedmont and the western mountain region who called for removal of property requirements for the right to vote for state senators and demanded an *ad valorem* tax on slaveholders' human property – more than three hundred and thirty thousand Black men, women, and children. Dissenters won the first contest by popular referendum on free suffrage in 1856, and they prevailed in the second when delegates to the state secession convention gave ground on taxation for fear that in war with the North, ordinary whites "would not lift a finger to protect rich men's negroes."⁶

Most of North Carolina remained behind Confederate lines until the final days of the Civil War, and for that reason the state bore a Herculean share of hardship and deprivation. By 1863, North Carolina troops were deserting by the thousands. Many did so with support from the Order of the Heroes of America, an underground network of Unionists and Quaker pacifists. Food riots broke out in the state's largest towns, and in the 1864 gubernatorial election, William Woods Holden, a self-made newspaper publisher, ran on a peace platform, arguing that a negotiated return

⁴ Escott, *Many Excellent People*, 3-31, and Morris, "Panic and Reprisal," 52.

⁵ On antebellum North Carolina's economic and political structure, see Escott, *Many Excellent People*, chapt. 1. The figure on slaveholders in the state legislature is from p. 15.

⁶ *Ibid.*, 28-30, and 34.

to the Union offered North Carolina's only chance to "save human life" and "prevent the impoverishment and ruin of our people." Holden lost to incumbent governor Zebulon B. Vance by 58,070 to 14,491 votes, but his candidacy exposed a deep rift between the state's wealthy rulers and a significant minority of whites – twenty percent of the electorate – who had "tired of the rich man's war & poor man's fight."⁷

As defeat grew imminent, Calvin H. Wiley, a distinguished educator and publicist, warned of the insurrection that collapse of the Confederacy and the end of slavery would unleash. "The negroes [and] the meanest class of white people would constitute a majority," he warned, and those "who were once socially & politically degraded" would make common cause and rise up in rebellion. To forestall this political realignment, self-styled Conservatives took advantage of President Andrew Johnson's desire for a quick reconstruction of the South by acting decisively to retain political power and dominion over Black labor through legislative action.⁸

In the spring of 1866, Conservatives in the General Assembly passed an Act Concerning Negroes and Persons of Color, known informally as the Black Code. The act sought to keep Blacks subjugated and to "fix their status permanently" by attaching to them the same "burthen and disabilities" imposed on free persons of color by antebellum law.⁹

Under the Black Code, freedmen could not vote, carry weapons without a license, migrate into the state, return to the state after more than ninety days' absence, or give testimony against a white person in a court of law, except by consent of the white defendant. The law also gave sheriffs broad authority to prosecute freedmen for vagrancy, a crime punishable by hiring out to "service and labor."¹⁰

B. A New State Constitution and Expansion of the Franchise

The Republican majority in the U.S. Congress watched developments in North Carolina and elsewhere in the South with growing concern, particularly for the rights of freedmen. Thaddeus Stevens, congressman from Pennsylvania, warned North Carolina Conservatives that they would "have no peace until a negro is free as a white man . . . and is treated as a white man!" To that end, Congress approved the Fourteenth Amendment to the federal Constitution in June 1866 and tendered it for ratification by the states. The amendment gave citizenship to freedmen and struck directly at the Black Code by guaranteeing all citizens equal protection under the law and forbidding the states to deprive any citizen of life, liberty, or property without due process.¹¹

In North Carolina, as in all other southern states except Tennessee, Conservative lawmakers stood firm. They refused to ratify an amendment that, in their view, turned "the slave, master, and the master, slave." Congress answered that defiance by asserting its authority once more, this time through passage of the Military Reconstruction Act of 1867. The act ordered the continued military occupation of the South, instructed army commanders to organize conventions that would

⁷ Escott, *Many Excellent People*, 44 and 49, and Raper, *William W. Holden*, 51. On internal dissent during the Civil War, see also Durrill, *Uncivil War*.

⁸ Escott, *Many Excellent People*, 89-90.

⁹ Ibid., 130, and *Public Laws of North Carolina, 1865-66*, chapt. 40. For North Carolina law governing slaves and free Blacks before the Civil War, see *Revised Code of North Carolina, 1854*, chapt. 107. See also Browning, "North Carolina Black Code."

¹⁰ *Public Laws of North Carolina, 1865-66*, chapt. 40.

¹¹ Raper, *William W. Holden*, 91.

rewrite the southern states' constitutions, and granted all adult male citizens – "of whatever race, or color, or previous condition" – the right to vote for convention delegates.¹²

This extension of a limited franchise to Black men radically rearranged the political landscape in North Carolina. It was now possible that an alliance between freedmen and dissenting whites could constitute a political majority. With that end in view, opponents of Conservative rule gathered in Raleigh in March 1867 to establish a biracial state Republican Party. William Holden, the Confederate peace candidate who had served briefly as North Carolina's provisional governor after the South's surrender, stood at the party's head and directed efforts to build a statewide organization using networks established during wartime by the Heroes of America and by the Union League in its campaigns to mobilize freedmen.

When voters went to the polls to elect delegates to the constitutional convention, leaders of the old elite were stunned: Republicans won 107 of the convention's 120 seats. Of that majority, fifteen were Black, including religious and political leader James W. Hood, who had presided over the first political convention of Blacks in North Carolina in late 1865. At that gathering, 117 delegates, most of them former slaves, met in Raleigh to petition white leaders for "adequate compensation for our labor . . . education for our children . . . [and abolition of] all the oppressive laws which make unjust discriminations on account of race or color."¹³

During the winter of 1867-68, delegates to the constitutional convention crafted a document that defined a thoroughly democratic polity. The proposed constitution guaranteed universal manhood suffrage, removed all property qualifications for election to high state office, and at the county level put local government in the hands of elected commissioners rather than appointed justices of the peace. North Carolina would no longer be "a republic erected on race and property." The constitution of 1868 also expanded the role of the state in advancing the welfare of its citizens by levying a capitation tax to fund education and "support of the poor," mandating for the first time in North Carolina history a state system of free public schools, and establishing a state board of public charities to make "beneficent provision for the poor, the unfortunate and orphan."¹⁴

Black delegates to the convention knew that the success of these reforms would depend on safeguarding broad access to the franchise and appealed for the forceful defense of voting rights. The convention passed an ordinance to criminalize efforts to intimidate "any qualified elector of this State . . . by violence or bribery, or by threats of violence or injury to his person or property."¹⁵

In May 1868, voters ratified the constitution, elected William Holden governor, and gave the biracial Republican Party six of North Carolina's seven Congressional seats and control of more than two-thirds of the seats in the state legislature. The scale of the Republicans' victory reflected the fact that in North Carolina the percentage of whites who crossed the color line and made common cause with former bondsmen was larger than in any other southern state.¹⁶

¹² Escott, *Many Excellent People*, 135, and *Statutes at Large, Treaties, and Proclamations*, 429. Tennessee had been readmitted to the Union in 1866.

¹³ Escott, *Many Excellent People*, 125 and 142; Bernstein, "Participation of Negro Delegates in the Constitutional Convention of 1868," 391; and Hamilton, *Reconstruction in North Carolina*, 240-46.

¹⁴ *Constitution of the State of North Carolina, 1868*, Article V, sec. 2; Article VI, Sec. 1; Article VII, Sec. 1; and Article XI, sec. 7; and Orth, "North Carolina Constitutional History," 1779.

¹⁵ *Constitution of North Carolina, 1868*, Ordinances, chapt. XXXVI.

¹⁶ Raper, *William W. Holden*, 101, and Foner, *Reconstruction*, 332.

That alliance and the democratic society it envisioned were startling, even by today's standards. In 1869, twenty Black political leaders from North Carolina traveled to Washington, D.C. to attend the Colored National Labor Convention, where they joined nearly two hundred other delegates from points across the South and throughout the nation. James H. Harris, a Black lawmaker and one of the founders of the North Carolina Republican Party, was elected president of the convention. Over the next five days, the delegates drafted a manifesto for a future built upon racial cooperation, labor solidarity, and respect for the rights of women and immigrants. The document called for unions organized "without regard to color"; extended a "welcome hand to the free immigration of labor of all nationalities"; and implored the states to fund "free school system[s] that know no distinction . . . on account of race, color, sex, creed or previous condition." These things, the manifesto proclaimed, would make the "whole people of this land the wealthiest and happiest on the face of the globe."¹⁷

C. Klan Violence and "Redemption"

Historian Paul Escott writes that North Carolina's Republican Party "offered a new and vibrant democracy. It seemed inspired with a mission: to open up North Carolina's . . . politics and social system." But as he observes, the party's Conservative rivals were determined to make race, not democracy, the "central question." They described Republicans as a "mongrel mob" spawned by "negro suffrage and social disorder," and they warned non-elite whites of the loss of racial privilege. "IT IS IN THE POOR MAN'S HOUSE," the editor of the *Wilmington Journal* railed, "THAT THE NEGRO WILL ENFORCE HIS EQUALITY."¹⁸

Such provocations struck deep chords of sentiment in a society that had been organized around racial division for more than two hundred years. But in the new order, words alone could not loosen the Republicans' hold on power. To strike the crippling blow, Conservatives turned to the Ku Klux Klan and vigilante violence. The Klan was first organized in Tennessee in 1868 and subsequently spread across the South. In North Carolina, its leader was one of the Conservatives' own: William L. Saunders, a former Confederate colonel and later a trustee of the state university and secretary of state.

The Klan's masked nightriders committed "every degree of atrocity; burning houses, whipping men and women, beating with clubs, shooting, cutting, and other methods of injuring and insult." In Graham, the seat of Alamance County, they murdered Wyatt Outlaw, a Black town commissioner and constable, and hung his body from a tree in the public square; and in Caswell County, Klansmen lured state senator John W. Stephens, a white Republican, into the basement of the county courthouse, where they beat and stabbed him to death.¹⁹

Violence occurred in all parts of the state, but as the murders of Outlaw and Stephens attest, backlash against Black political power was especially fierce in the central Piedmont, where the Klan aimed to intimidate not only Black voters, but also the large number of dissenting whites who had crossed the race line. As one Klan leader explained, he and his compatriots aimed not to

¹⁷ *Proceedings of the Colored National Labor Convention*, 4 and 11-12.

¹⁸ Escott, *Many Excellent People*, 145-48 and 151.

¹⁹ Raper, *William W. Holden*, 160.

restore "a white man's government only, but – mark the phrase – an *intelligent* white man's government."²⁰

On July 8, 1870, Governor Holden declared Alamance and Caswell Counties to be in open insurrection and ordered the state militia to suppress the Klan and arrest its leaders. That move quelled the worst violence but gave Holden's Conservative opponents the issue they needed to win back control of the General Assembly in the fall election. In 1871, Conservatives successfully impeached and removed Holden from office on charges of unlawfully suspending the prisoners' right of habeas corpus.²¹

From there, the democratic experiment of Reconstruction rapidly unwound. White northerners, weary of a decade of struggle with the South, had little will to continue a states' rights battle with their neighbors. Slavery had been abolished and secession, punished. That was enough for most whites, who found it perfectly consistent to hate the institution of slavery and to despise the slave with equal passion. For a majority, racial equality had never been a part of the Civil War's purpose. The last federal troops left North Carolina in 1877, a year after Conservatives – now calling themselves Democrats – elected Zebulon B. Vance Governor, a post that he had held for two terms during the Civil War. Across the state, Democrats celebrated "redemption" from what they had long described as the "unwise . . . doctrine of universal equality."²²

In an effort to secure their victory, white Democrats abolished elected county government, returned authority to appointed justices of the peace, and limited appointed offices to whites only. But continued Black political participation at the state level sustained a competitive two-party system. White Democrats never polled more than 54 percent of the gubernatorial vote, and between 1877 and 1900, forty-three Black lawmakers served in the state House of Representatives, eleven served in the state Senate, and four served in the U.S. House of Representatives.²³

D. New Forms of Economic Subjugation

Economic change swept through rural North Carolina in the decades after Reconstruction as an emerging merchant class pressed freedmen and white yeoman farmers into commercial production. The result was the notorious system of sharecropping that turned once-independent whites into debtors and locked Blacks in virtual peonage. Each spring, sharecroppers took out loans in the form of the seeds, tools, and supplies they needed in order to plant the year's crop. To ensure repayment – often at interest rates as high as 50 percent – merchants demanded that their clients grow cotton or tobacco, which could be sold readily for cash. As farmers produced more of these cash crops, prices fell and rural families spiraled downward into debt. Whites who owned their land sometimes managed to escape this trap, but Blacks – the vast majority of whom were landless and had to pay rent to landlords as well as interest to merchants – had no recourse. Black sharecroppers often ended the agricultural year with no profit and were unable to accumulate wealth. This process of immiseration repeated itself from generation to generation and produced enduring poverty. In eastern North Carolina, where sharecropping had dominated the agricultural economy,

²⁰ Hamilton, ed., *Papers of Randolph Abbott Shotwell*, vol. 2, 376.

²¹ Ibid., chaps. 8-9.

²² Escott, *Many Excellent People*, 147.

²³ Crow, "Cracking the Solid South," 335, and Escott, *Many Excellent People*, 181. On North Carolina's Black congressmen, see E. Anderson, *Race and Politics in North Carolina, 1872-1901*.

the effects could still be seen a century later, when Blacks' per capita income in the region was as low as 22 percent of that of whites.²⁴

Desperation and resentment over a new economic order that rewarded manipulators of credit more than cultivators of the land led farmers into revolt. Whites joined the Southern Farmers Alliance, first organized in Texas and then spread throughout the South by means of local chapters, and Blacks affiliated with a parallel organization, the Colored Farmers Alliance. In 1892, these groups sought redress through the political process. Blacks remained true to the Republican Party, while whites, calling themselves Populists, bolted from the Democratic Party – controlled by the state's economic elite – to the new national People's Party. The results were disastrous for the Populists. In the governor's race, the Democratic candidate won 48.3 percent of the vote, while the Republican candidate received 33.8 percent and the Populist candidate trailed with 17.04 percent. These numbers contained a lesson that was obvious to voters who were less than a generation removed from the biracial politics of Reconstruction. Divided, the dissidents were all but certain to lose; united, they could challenge Democratic power.²⁵

VII. Fusion Politics and a New Campaign for White Supremacy

A. Biracial Alliance, Electoral Reform, and Investment in Social Provision

In 1894, white Populists and Black Republicans in North Carolina forged a political partnership under the banner of "Fusion" and ran a historic joint slate of candidates. The logic of that move was clear and compelling. As one Populist explained, "We can join with others who agree with us and win a great victory." This sentiment also appealed to skilled artisans and factory laborers, Black and white, who during the 1880s had rallied to the Knights of Labor and embraced the organization's call for interracial cooperation and class solidarity. On Election Day, Fusion candidates won 116 of the 170 seats in the North Carolina legislature. On the local level, in 1894 and 1896, they also elected more than one thousand Black officials, including county commissioners, deputy sheriffs, school committeemen, and magistrates.²⁶

A commitment to fair play and democracy animated the Fusion legislature. Lawmakers capped interest rates at 6 percent, a godsend for cash-strapped farmers who relied on credit to survive; shifted the weight of taxation from individuals to corporations; and restored elected local government, a postwar reform that Democrats had reversed after their return to power in the 1870s. In addition, the legislature made new investments in public services that Democrats had starved for resources, including the state penitentiary, state schools for deaf and blind children, a state-supported home for Black orphans, and state mental asylums.²⁷

Most important, Fusion legislators also revised state election law with the aim of guaranteeing full and fair access to the franchise:

²⁴ Petty, *Standing Their Ground*, and Goldfield, *Still Fighting the Civil War*, 277-78.

²⁵ Beckel, *Radical Reform*, 135-77, and North Carolina Governor, 1896, <<http://bit.ly/32oHPk>>, September 5, 2019.

²⁶ On local elections, see Escott, *Many Excellent People*, 247, and Gershenhorn, "Rise and Fall of Fusion Politics in North Carolina," 4.

²⁷ Kousser, *Shaping of Southern Politics*, 186, and *Public Laws and Resolutions of the State of North Carolina, Session of 1895*, chaps. 69, 73, 116, 135, 174, 183, 219, 275, 348.

- The revised law required that the clerk of the superior court in every county lay out compact precincts "so as to provide, as near as may be, one separate place of voting for every three hundred and fifty electors." The clerks were also instructed to publish the details of precinct boundaries and polling places in local newspapers and to post that information in public places. In a rural state in which population was widely dispersed, these provisions ensured that neither travel nor lack of public notice would be an impediment to voting. Legislators revisited the law in 1897 to provide additional protection for the opportunity as well as the right to cast a ballot. They stipulated that every elector was "entitled," without penalty, "to absent himself from service or employment" for sufficient time to register and to vote.²⁸
- To safeguard impartiality in voter registration and the supervision of elections, the law gave clerks of court – who were elected officials, and therefore accountable to voters – the authority to appoint in every precinct one registrar and one election judge from "each political party of the state." Prior to this time, that responsibility had belonged to county officers who owed their appointment and their loyalty to the majority party in the legislature.²⁹
- The law also criminalized various forms of physical and economic intimidation. It specified that "no regimental, battalion or company muster shall be called or directed on election day, nor shall armed men assemble on the day of election." In addition, any person who attempted "by force and violence" to "break up or stay any election" was guilty of a misdemeanor, punishable by imprisonment and a fine of up to one hundred dollars. Similar penalties applied to "any person who shall discharge from employment, withdraw patronage from, or otherwise injure, threaten, oppress, or attempt to intimidate, any qualified voter."³⁰
- The law sought to limit frivolous and obstructive challenges to voter eligibility and the legality of ballots cast by presuming the truthfulness of citizens' declarations. Challenges were allowed only on a specified day prior to an election, at which time registration books were opened for public review, and challengers were required to present proof that an elector had withheld or provided false information at the time of registration. Otherwise, the law treated "entry of the name, age, residence, and date of registration of any person by the registrar, upon the registration book of a precinct, [as] presumptive evidence of the regularity of such registration, the truth of the facts stated, and the right of such person to register and to vote at such precinct."³¹
- The law accommodated illiterate voters – 23 percent of whites and 60 percent of Blacks – by authorizing political parties to print ballots on colored paper and to mark them with party insignia, an old practice that Democrats had abolished. In this period, before the introduction of official, non-partisan ballots and secret voting, electors received ballots from the party, or parties, they favored, marked through the names of any candidates they did not support, and handed their ballots to an election judge for deposit in boxes labeled with the office or group of offices for which they were voting. The use of color coding and party

²⁸ *Public Laws and Resolutions, Session of 1895*, chap. 159, sec. 5, and *Public Laws and Resolutions, Session of 1897*, chap. 185, sec. 72.

²⁹ *Public Laws and Resolutions, Session of 1895*, chap. 159, sec. 7.

³⁰ *Ibid.*, chap. 159, secs. 38, 39, and 41.

³¹ *Ibid.*, chap. 159, secs. 10-12 and 14.

insignia helped illiterate voters correctly identify and cast the ballot of the party they favored. To protect voters from fraudulent handling of their ballots, the law also specified that "any ballot found in the wrong box shall be presumed to have been deposited there by mistake of the officers of election, and unless such presumption shall be rebutted, the ballot shall be counted." This was important, because there could be as many as six boxes at each polling place, and apart from their labels, they all looked alike.³²

- Finally, the law required public disclosure of campaign financing. Every candidate had to provide, within ten days after an election, "an itemized statement, showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person in aid of his election." Those reports also were to "give the names of the various persons who received the moneys, the specific nature of each item, and the purpose for which it was expended or contributed."³³

These changes produced momentous results in the 1896 election. Republican registration overall increased by 25 percent, and turnout among registered Black voters rose from 60 to nearly 90 percent. Fusionists won more than three-fourths of the seats in the legislature and elected a white Republican, Daniel L. Russell Jr., as governor. Fusion insurgencies arose in other southern states, but only in North Carolina did a biracial alliance take control of both the legislative and executive branches of government.³⁴

Fusion lawmakers used their political strength to redress two decades of Democrats' underinvestment in education. This was a particularly important issue for Black Republicans, whose predecessors had led the campaign to include a mandate for public schools in the 1868 state constitution and whose constituents were profoundly disadvantaged in their day-to-day interactions with landlords, merchants, and employers by an inability to read and do basic arithmetic. In an Act to Encourage Local Taxation for Public Schools, lawmakers instructed county commissioners to hold elections in every school district under their supervision on the question of "levying a special district tax" for public education. Districts that voted in favor of taxation were entitled to apply for matching funds from the state. To pressure those that refused, legislators ordered an election every two years until a special tax was approved.³⁵

In separate legislation, Black lawmakers used their influence in the Fusion alliance to ensure equitable provision for students in their communities. A revised school law abolished separate white and Black committees appointed at the township level to manage schools for each race and replaced them with consolidated committees made up of five appointees, no more than three of whom could come from the same political party. The law charged the new committees with managing the schools in their districts as a single enterprise. They were to appropriate funds on a strict per capita basis and to apportion "school money . . . so as to give each school in their district, white

³² *Public Laws and Resolutions, Session of 1895*, chapt. 159, secs. 19 and 20; Trelease, "Fusion Legislatures of 1895 and 1897," 282; and Beeby, *Revolt of the Tar Heels*, 40. On illiteracy, see *Report of Population of the United States at the Eleventh Census: 1890*, part 2, xxxv.

³³ *Public Laws and Resolutions, Session of 1895*, chapt. 159, sec. 72.

³⁴ Escott, *Many Excellent People*, 245-47; Beckel, *Radical Reform*, 179-80; and Kousser, *Shaping of Southern Politics*, 182 and 187.

³⁵ *Public Laws and Resolutions, Session of 1897*, chapt. 421.

and colored, the same length of school term." Districts were also required to limit enrollments to no more than 65 students per school, so as to ensure a rough measure of equity in school facilities.³⁶

The election and education reforms enacted in 1895 and 1897 affirmed the values that Black and white reformers had written into the state constitution in 1868. That document, the core of which remains in force today, opened by invoking the Declaration of Independence and connecting the ideals of the American republic to the economic and political struggles set in motion by Confederate defeat and the abolition of slavery. Italics highlight language added by the framers of 1868: "We do declare . . . that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, *the enjoyment of the fruits of their own labor*, and the pursuit of happiness. . . . That all political power is vested in, and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted *solely for the good of the whole*."³⁷ Fusion lawmakers in North Carolina, historian Morgan Kousser has observed, created "the most democratic" political system "in the late nineteenth-century South."³⁸

B. Resurgent White Supremacy and the Wilmington Coup

As they approached the election of 1898, Democrats once again made white supremacy their rallying cry and vigilante violence their most potent political weapon. Responsibility for orchestrating the party's return to power fell to former congressman Furnifold M. Simmons. Simmons lived in eastern North Carolina, in the Second Congressional District, which was known as the "Black Second" because of its large and politically active Black population. Counties in the district sent more than fifty Black representatives to the General Assembly in Raleigh and elected all four of the state's 19th-century Black congressmen, including Henry P. Cheatham, who had deprived Simmons of his seat in the 1888 election. Simmons and other Democratic leaders dodged the economic and class issues that held the Fusion coalition together and appealed instead to the specter of "negro domination."³⁹

Democratic newspapers took the lead in whipping up race hatred. None was more influential than the *Raleigh News and Observer*, published by Josephus Daniels. Day after day, in the weeks leading up to the election, Daniels ran political cartoons on the front page of the paper to illustrate the evils unleashed by Black political participation. The cartoons depicted Black men as overlords and sexual predators who were intent on emasculating white men, turning them into supplicants and ravaging their wives and daughters. Across scores of images, the *News and Observer's* message was clear: in an inversion of the racial order, Blacks had lifted themselves by pressing white men down.

³⁶ Ibid., chapt. 108.

³⁷ *Constitution of the State of North Carolina, 1868*, Article I, secs. 1-2.

³⁸ Kousser, *Shaping of Southern Politics*, 183.

³⁹ Escott, *Many Excellent People*, 253-58, and Korstad and Leloudis, *To Right These Wrongs*, 206. On the Black Second, see E. Anderson, *Race and Politics in North Carolina, 1872-190*, and Justesen, *George Henry White*.



The New Slavery.

"The New Slavery,"

Raleigh News and Observer, October 15, 1898.

The News and Observer.

VOL. XLV. NO. 17.

RALEIGH, N. C., TUESDAY MORNING, SEPTEMBER 27, 1898.

PRICE FIVE CENTS.

LEADS ALL NORTH CAROLINA DAILIES IN NEWS AND CIRCULATION.

GETS DOWN TO WORK

The Commission to Investigate the War Department.

FIRST FORMAL SESSION

PROCEEDINGS LIMITED TO OUTLINING A GENERAL POLICY.

THE MEETING WAS STRICTLY SECRET

Letters of Inquiry will be Addressed to War Department Officials, Army Officers and all who Know Anything of Facts Complain of.

Washington, Sept. 26.—The commission selected by the President to investigate the conduct of the War Department held its first formal session to-day with all the members present.

Today's meeting was strictly secret, and was confined to a session of two hours duration in the forenoon. The proceedings were limited to the outlining of a general policy and the formation of letters of inquiry which will be made public to-morrow.

The letters which have been decided upon are to be addressed to the Secretary of War, the Quartermaster General, the Quarries General, the Surgeon General and the Chief of the Ordnance Department of the Army. They will consist in the main of inquiries intended to bring out all the facts that

employed as mail messenger, to carry the mail from the postoffice to the mail train, from which it is caught by the postal clerk.

On the day the robbery occurred, Alexander Smith, Jr., carried the mail from the postoffice, he opened the pouch, took therefrom a registered letter containing \$20, tore it open sufficiently to extract \$5, after which he replaced it in the pouch and hung the pouch on the mail crane, from which it was caught by the postal clerk, D. L. Gray, who noticed the condition of the pouch and registered letter.

After procuring the money, Alexander evidently began preparing for war, with the Spaniards, Americans, or other parties, as he purchased three pistols. He soon encountered war, in which his pistols were of no avail, for his father having obtained some information as to his having money, whipped him thoroughly, until he admitted how he obtained the money and in doing so implicated Charles Douglas, a neighbor of his.

Alexander's father performed his duty nobly, and instead of endeavoring to hide, or excuse his son's crime, he carried him before the United States Commissioner and surrendered him to the law.

On the examination it was developed that Charles Douglas was not implicated and had only shared in the profits to the extent of a nickel and some candy, hence he was discharged, while Alexander Smith was held for trial at Wilmington and gave bond for his appearance.

MAY SEIZE INSURGENT FLEET.

The Philippines Flying an Unrecognized Flag, Liable to Seizure as Pirates.

Manila, Sept. 26.—When the United States auxiliary cruiser McCulloch captured the insurgent steamer Abkey, formerly the Pacific, sixty miles south of Manila, the Abkey, it is believed, having landed seven thousand rifles, the insurgent embargo followed the American vessel into Cavite and now the Americans contemplate taking possession



The Vampire That Hovers Over North Carolina.

OUR SICK SOLDIERS

by upland and his speech was telling in its effect.

Mr. W. A. Ditt next addressed the assembly. He spoke briefly of what freedom and Republicanism have done for North

REVISION DECIDED ON TELEGRAPHIC FLASHES.

Manzanillo will be evacuated by October 7.

"The Vampire that Hovers Over North Carolina,"

Raleigh News and Observer, September 27, 1898.

Democrats wielded racial appeals as a wrecking ball, much as they had done during Reconstruction. Some white Populists buckled. They gave in to the deeply entrenched ways that race shaped political and social perception and began arguing that they, not Democrats, were the most ardent defenders of white supremacy. Even so, the political battle would not be won by words alone.

In the closing days of the 1898 campaign, leaders of the Democratic Party turned once more to violence. They organized local White Government Unions and encouraged the party faithful to don the paramilitary uniform known as the "red shirt," a symbol of the blood sacrifice of the Confederacy and the late-nineteenth-century equivalent of the hooded robes worn by Klansmen in an earlier era. Democrats engaged in open intimidation of voters at registration and polling places across the state. Former congressman Alfred M. Waddell called white men to war. "You are Anglo-Saxons," he exclaimed. "You are armed and prepared, and you will do your duty. Be ready at a moment's notice. Go to the polls tomorrow, and if you find the negro out voting, tell him to leave the polls, and if he refuses, kill him. Shoot him down in his tracks." The effect was terrifying. In Winston, a Republican newspaper reported that "there were crowds of men who gathered around the polls in each ward and . . . boldly drove a large percent of the colored Republican voters and a good many white voters away from the polls."⁴⁰



Armed Red Shirts in Laurinburg and their uniform.
Courtesy of the North Carolina State Archives and
the North Carolina Museum of History.

Democrats' determination to defeat their challengers at any cost was revealed most starkly in the majority-Black coastal city of Wilmington. Revisions to the city charter made by the Fusion legislatures of 1895 and 1897 had undone Democratic gerrymandering and produced a Republican majority – including three Blacks – on the board of aldermen. Democrats were enraged by that

⁴⁰ "The North Carolina Race Conflict," *Outlook* 60 (November 19, 1898), 708, and Korstad, *Civil Rights Unionism*, 53.

development and the fact that they would not be able to challenge local Republican rule at the polls until the next municipal election in 1899.⁴¹

On November 9, the day after the 1898 election, Democratic leaders drew up a declaration of independence that called for the restoration of white rule in Wilmington. They acted on belief "that the Constitution of the United States contemplated a government to be carried on by an enlightened people; [belief] that its framers did not anticipate the enfranchisement of an ignorant population of African origin, and [belief] that those men of the State of North Carolina, who joined in forming the Union, did not contemplate for their descendants a subjection to an inferior race." "The negro [has] antagonized our interest in every way, and especially by his ballot," the *Wilmington Morning Star* exclaimed. "We will no longer be ruled, and will never again be ruled, by men of African origin."⁴²

The next day, armed white men under the command of Alfred Waddell staged the only municipal coup d'état in the nation's history. They marauded through Wilmington's Black district, set ablaze the print shop of the city's only Black newspaper, murdered as many as thirty Black citizens in the streets, and drove the sitting board of alderman from office in order to make room for a new, self-appointed city government with Waddell at its head.



A souvenir postcard produced by a local photographer documented destruction of Love and Charity Hall, which housed the *Daily Record*, Wilmington's Black newspaper. Courtesy of the New Hanover County Public Library, Robert M. Fales Collection.

⁴¹ For a detailed account of events in Wilmington, see *1898 Wilmington Race Riot Report*, 1898 Wilmington Race Riot Commission, May 31, 2006, <<http://bit.ly/2HOWsgJ>>, September 5, 2019. The report was commissioned by the state legislature in 2000. In 2007, lawmakers expressed "'profound regret that violence, intimidation and force' were used to overthrow an elected government, force people from their homes and ruin lives." See "Senate Apologizes for Wilmington Race Riot," *Raleigh News and Observer*, August 2, 2007.

⁴² *Raleigh News and Observer*, November 10, 1898; *Wilmington Morning Star*, November 10, 1898; and *Wilmington Messenger*, November 10, 1898.

Democrats won the 1898 election statewide by a narrow margin. They claimed only 52.8 percent of the vote, but that was enough to oust most Fusionists from the legislature. The victors moved immediately to "rid themselves . . . of the rule of Negroes and the lower classes of whites."⁴³

C. The 1899 Act to Regulate Elections and Black Disenfranchisement

In the 1899 legislative session, Democrats drafted an amendment to the state constitution that aimed to end biracial politics once and for all by stripping Black men of the most fundamental privilege of citizenship: the right to vote. The Fifteenth Amendment to the federal Constitution, adopted during Reconstruction, forbade the states from denying the ballot to citizens on the basis of race. North Carolina Democrats, like their counterparts elsewhere in the South, circumvented that prohibition by adopting a literacy test.

In order to vote, citizens first had to demonstrate to local election officials that they could "read and write any section of the Constitution in the English language." That gave Democratic registrars wide latitude to exclude Black men from the polls. Democrats also included a grandfather clause in the amendment that exempted from the literacy test adult males who had been eligible to vote or were lineal descendants of men who had been eligible to vote on or before January 1, 1867. That was a magic date, because it preceded the limited right to vote given to Black men under the Military Reconstruction Act, passed in March of that year. The literacy test was thus designed to achieve the very thing the federal Fifteenth Amendment expressly outlawed – voter exclusion based on race.⁴⁴

Male citizens could also be denied access to the franchise if they failed to pay the capitation tax (poll tax) levied in accordance with Article V, Section 1, of the 1868 State Constitution.⁴⁵ This link between payment of the capitation tax and the right to vote was a new impediment put in place by the disenfranchisement amendment. The amendment required that electors pay the tax before the first day of May, prior to the election in which they intended to vote. At that time of year, before the fall harvest, Black sharecroppers were unlikely to have cash on hand for such a payment.

Democrats rewrote state election law to boost the odds that the amendment would win approval. In the 1899 Act to Regulate Elections, they repealed reforms made by the Fusion legislatures of 1895 and 1897, and they put in place new provisions that were crafted to deliver "a good Democratic majority."⁴⁶

- With the aim of purging as many Fusion voters as possible, lawmakers ordered an "entirely new registration" in advance of the next election. In that process, registrars could, at their discretion, require an applicant to "prove his identity or age and residence by the testimony of at least two electors under oath." The law also gave "any by stander" the right to challenge a registrant's truthfulness and force a lengthy examination.⁴⁷
- In a reversal of provisions made in the 1895 election law, information recorded in a registration book no longer stood as presumptive evidence of an individual's right to

⁴³ Kousser, *Shaping of Southern Politics*, 191, and Escott, *Many Excellent People*, 258.

⁴⁴ *Laws and Resolutions, 1900*, chapt. 2.

⁴⁵ Ibid.

⁴⁶ Kousser, *Shaping of Southern Politics*, 190, and *Public Laws and Resolutions, Session of 1899*, chapt. 16.

⁴⁷ *Public Laws and Resolutions, Session of 1899*, chapt. 507, secs. 11 and 18.

vote. On polling day, "any elector [could] challenge the vote of any person" on suspicion of fraud. In such cases, election officials were to question the suspect voter and compel him to swear an oath of truthfulness. But even that might not be proof enough. The law stipulated that after an oath was sworn, "the registrar and judges may, nevertheless, refuse to permit such a person to vote."⁴⁸

- The law loosened safeguards against partisanship in the management of elections. Lawmakers took the authority to appoint local election officials from the county clerks of superior court, who were directly accountable to voters, and gave it to a seven-member state board of elections that was appointed by the Democratic majority in the legislature. That board's power was expansive. For instance, it had the authority to remove county election officials from office "for any satisfactory cause."⁴⁹
- The law also put an end to practices that accommodated illiterate voters. All ballots were now to be "printed upon white paper, without ornament, symbol, or device." And if a voter or election official placed a ballot in the wrong box (there were six), it was declared void and was discarded.⁵⁰



White supremacy souvenir badge, 1898.
Courtesy of the North Carolina Gallery, Wilson Library, University of North Carolina at Chapel Hill.

⁴⁸ Ibid., chapt. 507, secs. 11, 21, and 22.

⁴⁹ Ibid., chapt. 507, secs. 4-5 and 8-9.

⁵⁰ Ibid., chapt. 507, secs. 27 and 29.

With these new rules in place, Democrats approached the 1900 election confident of victory. Democratic gubernatorial candidate Charles B. Aycock made disenfranchisement the centerpiece of his campaign. On the stump, he offered the white electorate a new "era of good feeling" in exchange for racial loyalty. Aycock argued that the presence of Blacks in politics was the source of bitterness among whites, and that only their removal would heal the white body politic. "We must disenfranchise the negro," he explained to white voters. "Then we shall have . . . peace everywhere. . . . We shall forget the asperities of past years and . . . go forward into the twentieth century a united people."⁵¹

To whites who were unconvinced and Blacks who were determined to resist, Aycock issued veiled threats. "There are three ways in which we may rule," he told a white audience in eastern North Carolina. "We have ruled by force, we can rule by fraud, but we want to rule by law." To reinforce the point, bands of armed Red Shirts again paraded through towns and cities in the Piedmont and the east, cheered Aycock at campaign rallies, and loitered around polling places on Election Day. The beleaguered Populist and Republican opposition could not withstand that Democratic onslaught. With a turnout of 75 percent of the electors allowed to register under the revised election law of 1899, Aycock and disenfranchisement won by a 59 to 41 percent margin.⁵²

Democrats cast that result as a victory of white over Black, but in truth what they feared most and worked hardest to defeat was the interracial coalition that emerged from the calamity of the Civil War and reappeared in the form of Fusion. In a moment of candor, the *Charlotte Daily Observer* admitted as much. It characterized the 1900 campaign as "the struggle of the white people to rid themselves of the danger of the rule of Negroes and the lower classes of whites." The fight in 1900 was not only to establish white supremacy but also to settle the question of which white men would rule supreme.⁵³

When the legislature convened in 1901, Democrats secured their victory by passing a law to implement the white-supremacy amendment to the state constitution. The legislation stipulated that in order to register to vote, male citizens would be required to demonstrate their ability to read and write "*to the satisfaction*" (emphasis added) of a county registrar. In effect, that provision gave local election officials limitless authority to decide who would pass a literacy test and be granted – or denied – the right to vote.⁵⁴

VIII. Jim Crow

A. Racial Segregation and Economic Exploitation

The Democrats' triumph in 1900 cleared the way for a new order characterized by one-party government, segregation, and cheap labor. With the removal of Black men from politics, North Carolina's Republican Party became little more than an expression of regional differences among whites that set the western mountain region, the party's surviving stronghold, against the central Piedmont and eastern Coastal Plain.

⁵¹ Connor and Poe, eds., *Life and Speeches of Charles Brantley Aycock*, 82 and 218-19.

⁵² "Aycock at Snow Hill," *Raleigh Morning Post*, March 1, 1900; Prather, "Red Shirt Movement," 181–83; and Kousser, *Shaping of Southern Politics*, 193.

⁵³ Untitled item, *Charlotte Daily Observer*, June 6, 1900, and Woodward, *Origins of the New South*, 328.

⁵⁴ *Public Laws, Session of 1901*, chapt. 89.

Leaders of the Democratic Party controlled the selection of candidates through a tightly managed state convention. That arrangement, combined with the fact that no Republican had a realistic chance of winning election to a statewide office, convinced most electors that there was little reason to cast a ballot. Only 50 percent of the newly constrained pool of eligible voters turned out for the 1904 gubernatorial election, and by 1912 the number had declined to less than 30 percent.⁵⁵

Having regained control of the machinery of government, Democrats began implementing public policies that secured what one scholar has termed their "reactionary revolution." Black subjugation was at the head of their agenda. Over time, they developed an elaborate regime of law and custom that they called Jim Crow, a name taken from the Blackface characters in nineteenth-century minstrel shows. Most Americans – certainly most white Americans – think of Jim Crow as an expression of prejudice and discrimination. But it was much more than that: Jim Crow was a system of power and plunder that concentrated wealth and opportunity in the hands of the few and mobilized racial animosity in defense of that accumulation.⁵⁶

Lawmakers passed North Carolina's first Jim Crow law in 1899, during the same session in which they crafted the disenfranchisement amendment to the state constitution. The law required separate seating for Blacks and whites on trains and steamboats. The aim of that and other such regulations – including the segregation of streetcars in 1907, legislation in 1921 that made miscegenation a felony, and a host of local ordinances that segregated drinking fountains, toilets, and cemeteries – was to mark Blacks as a people apart and make it psychologically difficult for whites to imagine interracial cooperation. Segregation also divided most forms of civic space – courthouses, neighborhoods, and public squares – that might otherwise have been sites for interaction across the color line.⁵⁷

In Charlotte, soon to be North Carolina's largest city and the hub of its new textile economy, neighborhoods in 1870 had been surprisingly undifferentiated. As historian Thomas Hanchett has noted, on any given street "business owners and hired hands, manual laborers and white-collared clerks . . . Black people and white people all lived side by side." By 1910, that heterogeneity had been thoroughly "sorted" along lines of race and class. In communities large and small across the state, this process played out a thousand times over. White supremacy denied Blacks access to economic and political power and erected a nearly insurmountable wall between Blacks and poor whites who had risen in the mid 1890s to challenge Democrats' rule by asserting their shared grievances and claim to the franchise.⁵⁸

Hardening racial segregation relegated the majority of Black North Carolinians to the countryside and created, in effect, a bound agricultural labor force. In the 1910s, Clarence Poe, editor of the *Progressive Farmer*, led a movement to perfect that arrangement by proposing "territorial segregation" in rural areas and an amendment to the state constitution that would have allowed white communities to prohibit the sale of land to Blacks. He modeled the idea on policies implemented in the new Union of South Africa that laid the foundation for the system of apartheid established in 1948.

⁵⁵ Escott, *Many Excellent People*, 261, and Kousser, *Shaping of Southern Politics*, 195.

⁵⁶ Kousser, *Shaping of Southern Politics*, 261. The account that follows is adapted from Korstad and Leloudis, *To Right These Wrongs*, 16-18, and Korstad, *Civil Rights Unionism*, 54-57.

⁵⁷ *Public Laws and Resolutions, Session of 1899*, chap. 384, and Paschal, *Jim Crow in North Carolina*.

⁵⁸ Hanchett, *Sorting Out the New South City*, 187.

Poe believed that his reforms would lock Blacks into permanent status as tenants and sharecroppers and would make way for a "great rural civilization" to flourish among whites. He understood that the scheme might run afoul of the Fourteenth Amendment but brushed that concern aside. "If our people make up their minds that segregation is a good and necessary thing," Poe argued, "they will find a way to put it into effect – just as they did in the case of Negro disenfranchisement despite an iron-bound Amendment specifically designed to prevent it." Poe's proposal ultimately failed in the state legislature, but it had broad backing among small-scale white farmers. It also revealed how tightly Poe and North Carolina were connected to a global movement to assert white dominion over peoples of color.⁵⁹

Blacks who lived in cities and small towns had opportunities that were only modestly better than those available in rural areas. Most Black women worked in white households as maids, cooks, and laundresses. In Durham and Winston, both tobacco manufacturing centers, and in tobacco market towns in the eastern part of the state, Black women and men labored in stemmeries where they processed the leaf before it was made into cigarettes and chewing plugs. The work was dirty and undesirable – the kind of labor that whites expected Blacks to perform.⁶⁰

Jim Crow held most Black North Carolinians' earnings to near-subsistence levels. That, in turn, depressed the market value of all labor and dragged white wages downward. In textiles – North Carolina's leading industry – men, women, and children worked for some of the lowest wages in the country. Prior to the implementation of a national minimum wage in the 1930s, they earned on average 40 percent less than workers in comparable jobs in the North. Even so, textile manufacturers often boasted that they had built their mills to save poor whites from destitution. That, they said, was also their reason for restricting textile employment, with few exceptions, to whites only. The message to white laborers was clear: mill owners would make up for slim pay envelopes by safeguarding what W. E. B. Du Bois called the "psychological wages" of whiteness.⁶¹

Such insistence on maintaining the color line denied Black North Carolinians something they had prized since the time of Emancipation: quality education for their children. In the 1880s, the state spent roughly equal amounts per capita on white and Black students in the public schools, but by 1920 spending on white students outpaced that for Blacks by a margin of three-to-one. The state spent ten times as much on white school buildings as it did on Black schools, and Black teachers made only half of the \$252 a year paid to whites. The results were predictable: in 1920, 24.5 percent of Blacks over the age of ten were illiterate, as compared to 8.2 percent of whites. Racial disadvantage was also persistent.⁶²

Added to all of this, Black North Carolinians were plagued by "sickness, misery, and death." In 1940, the annual mortality rate for Blacks was 11.6 per thousand, compared to 7.6 per

⁵⁹ Herbin-Triant, "Southern Segregation South African-Style," 171 and 186.

⁶⁰ See Sharpless, *Cooking in Other Women's Kitchens*, and Korstad, *Civil Rights Unionism*.

⁶¹ Hall, Leloudis, Korstad, Murphy, Jones, and Daly, *Like a Family*, 80; Williamson, *Crucible of Race*, 430-32; and Du Bois, *Black Reconstruction*, 700.

⁶² Thuesen, *Greater Than Equal*, 31, 86, and 268 n. 48.

thousand for whites. Blacks were one-and-a-half times more likely than whites to die from tuberculosis and malaria, and Black infant mortality exceeded that for whites by the same margin.⁶³

B. World War I and the Great Migration

A casual observer of the Jim Crow South could have been forgiven for concluding that white supremacy's victory was complete, its hold of the region unassailable. Josephus Daniels, one of the regime's architects, suggested as much shortly after the 1900 election. "When Governor Aycock was elected," Daniels explained to a friend, "I said to him that I was very glad that we had settled the Negro question for all times." Aycock replied, "Joe, you are badly mistaken. . . . Every generation will have the problem on their hands, and they will have to settle it for themselves." The governor was more prescient than he might have imagined. Even at the height of Jim Crow's power, Black Americans refused to surrender their claim on equal citizenship and a fair share of social resources and economic opportunities. Over half a century – through two world wars and a global economic crisis – they clawed their way back into politics. Progress was slow and small gains often met fierce white resistance, but by the late 1950s Blacks had built a new freedom movement and prepared the way for a second Reconstruction.⁶⁴

World War I put the first chinks in Jim Crow's armor. When fighting broke out in Europe in 1914, it cut off the supply of European immigrant laborers on which the factories of the Midwest and Northeast relied. Industrial recruiters ventured southward to entice sharecroppers off the land. By 1919, nearly 440,000 Blacks had left the South in what came to be called the Great Migration. They made new homes in Baltimore, Philadelphia, New York, Pittsburgh, Chicago, and Detroit. Another 708,000 migrants followed during the 1920s. In the absence of poll taxes and literacy tests, these refugees gained access to the ballot box and influence in city politics. They also created large enclaves from which a vibrant urban Black culture emerged. Literature, art, and music gave voice to the "New Negro" – a figure dignified and defiant, determined to hold the nation accountable to its democratic promise.⁶⁵

C. The Great Depression, a New Deal, and Good-Bye to the Party of Lincoln

During the 1930s, newly enfranchised Black voters reshaped national politics by abandoning the party of Lincoln in favor of Franklin D. Roosevelt and his New Deal. Many were at first wary of Roosevelt, a Democrat whose party stood for white supremacy in the South. But Blacks were especially hard hit by the Great Depression, and Roosevelt's New Deal delivered much-needed relief. The largest federal jobs programs employed Blacks in proportion to their representation in the general population and, with mixed results, attempted to prohibit discrimination in job placement and wages. Black appointees in New Deal agencies also served President Roosevelt as a shadow cabinet, and First Lady Eleanor Roosevelt publicly supported the NAACP's civil rights agenda. America remained a Jim Crow nation, but at no time since Reconstruction had the federal

⁶³ Carlton and Coclanis, *Confronting Southern Poverty*, 33, 42, 54-55, and 59; Larkins, *Negro Population of North Carolina*, 29; and Shin, "Black-White Differentials in Infant Mortality in the South, 1940-1970," 17. The infant mortality rate for Blacks was 76.6 per 1,000 live births, compared to 50.3 per 1,000 live births for whites.

⁶⁴ Josephus Daniels to John T. Graves, December 21, 1942, cited in Ward, *Defending White Democracy*, 2.

⁶⁵ Estimates of the scale of the Great Migration vary. The figures cited here are from Gregory, "Second Great Migration," 21. On the New Negro, see Whalan, *The Great War and the Culture of the New Negro*.

government held out such hope for redressing racial injustice. In his 1936 bid for re-election, Roosevelt won 71 percent of the Black vote in a landslide victory over Republican challenger Alf Landon.⁶⁶

The effects were felt in North Carolina. In 1932, newspaperman Louis E. Austin helped to organize a political conference in Durham that attracted more than five hundred Black business, civic, and religious leaders from across the state. Austin was editor of the city's *Carolina Times*, a paper widely regarded as an exemplar of "new Negro journalism." Like others at the conference, he believed that southern Blacks needed a new strategy for advancing civil rights. Since Emancipation, Blacks had cast their lot with the Republican Party, but Republican leaders largely abandoned them in the early twentieth century. In North Carolina, the party was controlled by men who rejected its biracial heritage, and at the national level, Republican president Herbert Hoover showed little concern for Blacks' disproportionate suffering in the Great Depression. The times seemed to call for a radical change of direction, one that would challenge white supremacy at its root by mounting a political assault from within the Democratic Party.⁶⁷

That is what participants in the Durham conference had in mind when they made plans for a statewide voter registration drive. Their aim was "to become a factor in the party that has the power" by adding Black voters to the registration rolls as Democrats, not Republicans. Success came slowly, but by the mid-1930s upwards of forty thousand Black men and women had managed to pass the state's literacy test and affiliate themselves with the Democratic Party. In Durham, these new voters elected Louis Austin and Black theater owner Frederick K. Watkins as justices of the peace on the Democratic ticket. The *Pittsburgh Courier*, one of the nation's leading Black newspapers, pronounced that win "the beginning of the 'New Deal' in the South."⁶⁸

Incremental Black gains and the temerity of men like Austin angered the keepers of white rule. When Blacks registered as Democrats in Raleigh, Josephus Daniels used the *News and Observer* to warn that they were part of a plot "to destroy the great victory" won in 1900 under his leadership and that of Charles Aycock. "The Democratic Party in North Carolina is a white man's party," he exclaimed. "It came through blood and fire in allegiance to that principle." At his urging, election officials in Raleigh attempted to disqualify every Black registrant – Democrat and Republican alike – but Black citizens sued and won a court order to have the names of two hundred and ten restored to the voter rolls. They also taunted white Democrats. "Why," they wondered, "is it a crime for the Negro to seek to vote the triumphant ticket of the major party of the section in which he lives?"⁶⁹

Josiah Bailey, U.S. Senator from North Carolina, shared Daniels' fear of Black claims on the rights of citizenship. In 1937, shortly after President Roosevelt's election to a second term, he threatened a Congressional revolt against the New Deal. Bailey recruited southern Democrats and a number of Republicans to endorse a Conservative Manifesto, which, had it been implemented, would have given local officials control over federal jobs programs for the unemployed. That was

⁶⁶ Election data are from Ladd Jr., with Hadley, *Transformations of the American Party System*, 59.

⁶⁷ "North Carolinians Hold State-wide Political Confab," *Pittsburgh Courier*, April 12, 1932, and "Durham, Thriving Southern Metropolis of 17,000 Negro Inhabitants," *Norfolk Journal and Guide*, April 16, 1932.

⁶⁸ "Carolina Whites Horrified as Negro Democrats Vote," *Atlanta Daily World*, June 6, 1932, and "Elect Magistrates on Democratic Ticket in North Carolina," *Pittsburgh Courier*, November 24, 1934.

⁶⁹ "Dagger at the Heart," *Raleigh News and Observer*, May 25, 1932; "More Talk About Negro Situation," *Raleigh News and Observer*, June 1, 1932; and Gershenhorn, *Louis Austin*, 49.

key to maintaining the Black-white wage differential and Jim Crow's promise to ordinary whites that Blacks would always be beneath them. The manifesto affirmed the value of small government; called for reduced taxation of private and corporate wealth; and insisted on the primacy of "states' rights, home rule, [and] local self-government." On the Senate floor and in private exchanges, Bailey criticized President Roosevelt for pandering to the "Negro vote," caricatured the New Deal as "a gift enterprise [conducted] at the expense of those who work and earn and save," and warned that he and his allies were prepared to defend white supremacy, whatever the cost. "Keep your nose out of the South's business," he advised Roosevelt, or "be assured that a [new] white man's party [will] arise" to claim the region's loyalty.⁷⁰

That threat was more than empty bluster. From the outset, southern Democrats had worked to blunt the New Deal. In North Carolina, Democratic officials backed tobacco manufacturers who resisted the National Recovery Administration's efforts to raise wages for Black workers. They also managed the Agricultural Adjustment Administration's price support programs in ways that allowed white landlords to dismiss thousands of Black tenants and keep government crop subsidies for themselves. At the national level, southern Democrats led the effort to exclude agricultural and domestic workers – the vast majority of whom were Black – from the old-age pensions established by the Social Security Act of 1935 and the minimum-wage protection afforded by the Fair Labor Standards Act of 1938.⁷¹

University of North Carolina sociologist Guy Johnson recognized in all of this "a tendency to perpetuate . . . existing inequalities." Blacks had made important gains, but they still lacked the means "to command" an adequate wage and a "decent share of the services and benefits of government." The consequences were tragic – for Blacks, most obviously, and for poor whites in ways that Jim Crow obscured. Johnson urged politicians to confront these truths, surrender white rule, and substitute "fairness and justice" for a "policy of repression." Doing so would make possible "better homes, better health, better living, cultural development, and human adequacy for both races." White southerners had "all to gain and nothing to lose," Johnson declared. "Self-interest, simple justice, and common-sense demand that [they] give the Negro a new deal." That was not going to happen in North Carolina, at least not without a fight.⁷²

D. World War II and Civil Rights Unionism

World War II lifted the nation out of economic depression and further eroded white southerners' capacity to hold the line on civil rights. Millions more Blacks left the land. Some moved along familiar paths to work in northern war industries; others found employment in southern cities or on the sprawling military bases that were scattered across the region. They expanded their influence in Democratic Party politics, swelled the national ranks of the NAACP from fifty thousand to four hundred and fifty thousand members, and through the militant unions of the Congress of Industrial Organizations (CIO) gained new bargaining power on the factory floor. The federal

⁷⁰ Moore, "Senator Josiah W. Bailey and the 'Conservative Manifesto' of 1937"; Patterson, "Failure of Party Realignment in the South," 603; Bailey to Peter Gerry, October 19, 1937, Senatorial Series, General Correspondence, Bailey Papers; "Roosevelt 'Purge' Rapped by Bailey," *Atlanta Constitution*, September 11, 1938; and Dunn, *Roosevelt's Purge*, 237.

⁷¹ Katznelson, *Fear Itself*, chapt. 5.

⁷² Johnson, "Does the South Owe the Negro a New Deal?"

government, concerned that racial tensions not impede the war effort, acted to limit employment discrimination and to restrain white violence.⁷³

All of this played into what civil rights activists came to call a Double V strategy that encouraged Black mobilization – in the military and on the home front – to defeat the twin evils of fascism and white supremacy. The potential for making change at home was apparent even before a formal declaration of war. In early 1941, A. Philip Randolph, president of the Brotherhood of Sleeping Car Porters, proposed a march on Washington to pressure President Roosevelt to desegregate the military and guarantee equal employment opportunities in war industries. Noting the strength of grassroots support for the march, some observers predicted that more than one hundred thousand people would participate. In June, months before the Japanese attack on Pearl Harbor, Roosevelt handed the organizers a partial victory. He issued Executive Order 8802, which prohibited racial discrimination in federal job training programs and defense industry employment. With that, Randolph canceled the march.⁷⁴

This positioning of the federal government as a civil rights ally gave courage to the nearly eight thousand Black women and men who labored in the R.J. Reynolds tobacco factories in Winston-Salem. In 1943, they began organizing with assistance from the CIO's Food, Tobacco, and Allied Workers union (FTA). Under ordinary circumstances, Reynolds would have easily crushed the effort, but the war years were anything but ordinary.

When workers staged a sit-down strike, the federal Mediation and Conciliation Service intervened to negotiate a temporary settlement. Months later, the National Labor Relations Board – a New Deal agency established in 1935 by the Wagner Act – set the ground rules for a fair election in which Black workers and a significant minority of whites voted to establish a union local. Despite that result, Reynolds managers refused to sign a contract until forced by the National War Labor Board to pay higher wages and improve working conditions. Stemmerly worker Ruby Jones said of that victory, "It was just like being reconstructed."⁷⁵

Jones and others understood that winning in the workplace was but one step toward equal citizenship. Dethroning Jim Crow required that they also organize politically. "If you are going to defeat these people," union leader Robert Black explained, "not only do you do it across the negotiating table in the R.J. Reynolds Building, but you go to city hall, you elect people down there that's going to be favorable and sympathetic and represent the best interest of the working class." To that end, the union sponsored citizenship and literacy classes and launched a city-wide voter registration drive. Those efforts paid off in 1947, when Black voters elected Reverend Kenneth R. Williams to the Winston-Salem board of aldermen. He was the first Black politician in the South to defeat a white opponent at the state or local level since the Fusion era of the 1890s.⁷⁶

The unionists in Winston-Salem and ten thousand members of a sister FTA local in eastern North Carolina's tobacco warehouses and stemmeries were in the vanguard of a statewide campaign for more inclusive politics. They provided local support for the Progressive Party, formed in 1947 by breakaway Democrats to back the presidential candidacy of Henry A. Wallace.

⁷³ On the growth of the NAACP and the CIO, see Dalfiume, "'Forgotten Years' of the Negro Revolution," 99-100, and Zieger, *The CIO*.

⁷⁴ Jones, *March on Washington*, chapt. 1.

⁷⁵ Korstad, *Civil Rights Unionism*, 202.

⁷⁶ *Ibid.*, 251-52.

Wallace had served in Franklin Roosevelt's New Deal administration as vice president, secretary of agriculture, and secretary of commerce. He established a reputation as a full-throated critic of Jim Crow and, during the early years of the Cold War, opposed hardline anticommunism as a threat to democratic values at home and abroad. In 1948, Wallace challenged Roosevelt's successor, Harry S. Truman, with demands for peaceful cooperation with the Soviet Union and an immediate end to racial segregation.⁷⁷

In North Carolina, the Progressive Party nominated a slate of candidates that represented an extraordinary commitment to equal citizenship. Of the nineteen nominees, five were white women, including journalist and civil rights activist Mary Watkins Price, who was the first woman to run for governor in the state. Black candidates included Reverend William T. Brown from Maxton, who opposed former governor J. Melville Broughton for a seat in the U.S. Senate; Robert E. Brown, also from Maxton, who sought election in the Eighth Congressional District; Robert Latham, an FTA organizer in Rocky Mount, who ran in the Second Congressional District; Durham civil rights lawyer Conrad O. Pearson, who stood for state attorney general; Gertrude Green, a tobacco worker from Kinston, and Randolph Blackwell, a student at the Agricultural and Technical College of North Carolina in Greensboro (now North Carolina Agricultural and Technical State University), who sought election to the state house of representatives; and Leila B. Michael, a teacher and NAACP leader from Buncombe County, who vied for a place on her local board of education. These men and women ran on a platform that demanded repeal of North Carolina's anti-union labor laws and regressive sales tax, "civil rights for all people, improved schools, higher teacher pay, [and] increased aid to needy people." These priorities were not so different from those of Reconstruction-era Republicans and the Fusion politicians of the 1890s.⁷⁸

When Wallace stumped the state for the Progressive ticket in August 1948, bands of white hecklers, sometimes numbering in the thousands and waving Confederate flags, followed his entourage from town to town and pelted them with eggs and tomatoes. Shouts of "nigger lover" filled the air and were echoed in more genteel terms by the state's newspapers. The editors of the *Charlotte Observer* suggested that Wallace and his compatriots had brought the trouble upon themselves by announcing in advance that the candidate "would speak to none but unsegregated audiences."⁷⁹

Wallace gave his detractors no quarter. In a 1947 speech, he had declared that "Jim Crow in America has simply got to go." His reasoning echoed a long tradition of dissent within the South: "The cancerous disease of race hate, which bears so heavily upon Negro citizens . . . at the same time drags the masses of southern white citizens into the common quagmire of poverty and ignorance and political servitude . . . Jim Crow divides white and Negro for the profit of the few. It is a very profitable system indeed."

⁷⁷ On Wallace's life and career, see Culver and Hyde, *American Dreamer*.

⁷⁸ "Wallace Party Names Picks for N.C. Posts," *Norfolk Journal and Guide*, September 4, 1948, and Report of the Nominating Committee, Progressive Party of North Carolina, box 2, folder 13, Scales Papers. On Blackwell, see Chafe, *Civilities and Civil Rights*, 27-28. For more on the Progressive Party and the Wallace campaign in North Carolina, see Uesugi, "Gender, Race, and the Cold War."

⁷⁹ Devine, *Henry Wallace's 1948 Presidential Campaign*, p. 245, and "Deplorable Disorders," *Charlotte Observer*, September 1, 1948.



Henry A. Wallace campaign poster. Courtesy of Georgia State University Library Digital Collections, M. H. Ross Papers.

The price exacted by Jim Crow was measured not just in dollars, but in lives as well. Wallace made that point with a "single grim fact": "a Negro child born this day has a life expectancy ten years less than that of a white child born a few miles away." "Those ten years," he explained, "are what we are fighting for. I say that those who stand in the way of the health, education, housing, and social security programs which would erase that gap commit murder. I say that those who perpetuate Jim Crow are criminals. I pledge you that I shall fight them with everything I have." Wallace understood the fury his words would provoke. "Every uttered truth," he observed, "produces a tremor in those who live by lies."⁸⁰

Wallace's prospects, and those of the Progressive Party in North Carolina, were hamstrung from the start. He faced the problem that has plagued every third-party candidate in American politics: a concern among potential supporters that to cast a ballot for him was to waste a vote. His strong stand against racism and opposition to Cold War anticommunism also meant that he drew most of his support from the Left, including the Communist Party USA, which endorsed his candidacy. On Election Day, Wallace and his North Carolina running mates garnered only a fraction of the vote. But the issues they raised were far from settled. That became evident two years later in the Democratic primary election for the U.S. Senate.

⁸⁰ Wallace, "Ten Extra Years," <<http://bit.ly/31hRDVR>>, November 29, 2020.

E. The Senate Campaign of 1950 and Reassertion of White Rule

The story of the 1950 election began a year before, when Senator J. Melville Broughton died in office. Governor W. Kerr Scott appointed University of North Carolina president Frank Porter Graham to fill the post until the next general election. Graham's liberal views were well known. He was an outspoken supporter of labor unions; he had served as a member of the White House advisory council that helped establish Social Security in 1935; he chaired Roosevelt's Advisory Committee on Economic Conditions in the South, which documented widespread poverty in the region; and in 1938 he was founding president of the Southern Conference for Human Welfare, an interracial organization devoted "equal and exact justice to all" (a phrase borrowed from President Thomas Jefferson's 1801 inaugural address).⁸¹

In the 1950 Democratic primary, Graham faced a field of challengers that included Willis Smith, a respected Raleigh attorney and former president of the American Bar Association. On the first ballot, Graham defeated Smith and the other candidates by winning a plurality, but not a majority, of votes. As runner-up, Smith was entitled to call for a runoff, but he hesitated. He was unsure that he could raise the necessary money or that he had the stamina for another contest. Then, on June 5, just days before the deadline for Smith's decision, the U.S. Supreme Court handed down rulings that affirmed Black students' right to equal access to publicly funded graduate education and banned segregation on railroads. The court's actions galvanized Smith's supporters. On the afternoon of June 6, Jesse Helms, a young news director for WRAL Radio in Raleigh, made arrangements to air at fifteen-minute intervals a plea for Smith backers to rally at his home and urge him to demand a runoff. The crowd that gathered on Smith's lawn was persuasive. The next morning, Smith called for a second primary.⁸²

The political battle that followed was the rawest since the white supremacy campaigns of 1898 and 1900. Smith's backers brought race front and center. They focused particularly on Frank Graham's service in 1946–47 on President Harry Truman's Committee on Civil Rights, which issued the first federal report on race relations and laid the groundwork for Truman's desegregation of the military a year later. The report, titled *To Secure These Rights*, a phrase taken from the Declaration of Independence, called unequivocally for "the elimination of segregation, based on race, color, creed, or national origin, from American life."⁸³

The Smith campaign directed its harshest criticism at the committee's recommendation that Truman establish a permanent Fair Employment Practices Committee to monitor and eliminate racial discrimination in the workplace. Frank Graham – who preferred moral suasion over government intervention as an instrument of social change – had dissented from that part of the committee report, but Smith and his lieutenants paid no mind. In campaign press releases, they warned that Graham supported reforms that would allow Blacks to steal white jobs. Handbills distributed in rural communities and white working-class neighborhoods raised the alarm even more shrilly. "White People Wake Up Before It's Too Late," one exclaimed. "Frank Graham Favors Mingling of the Races."⁸⁴

⁸¹ Pleasants and Burns, *Frank Porter Graham and the 1950 Senate Race*, 5–30, and Ashby, *Frank Porter Graham*, 77, 144–45, 151–59.

⁸² Pleasants and Burns, *Frank Porter Graham and the 1950 Senate Race*, 196–201.

⁸³ President's Committee on Civil Rights, *To Secure These Rights*, 166.

⁸⁴ Pleasants and Burns, *Frank Porter Graham*, 140 and 223.

WHITE PEOPLE WAKE UP

BEFORE IT'S TOO LATE

YOU MAY NOT HAVE ANOTHER CHANCE

DO YOU WANT?

- Negroes working beside you, your wife and daughters in your mills, and factories?
- Negroes eating beside you in all public eating places?
- Negroes riding beside you, your wife and your daughters in buses, cabs and trains?
- Negroes sleeping in the same hotels and rooming houses?
- Negroes teaching and disciplining your children in school?
- Negroes sitting with you and your family at all public meetings?
- Negroes going to white schools and white children going to Negro schools?
- Negroes to occupy the same hospital rooms with you and your wife and daughters?
- Negroes as your foremen and overseers in the mills?
- Negroes using your toilet facilities?

Northern political labor leaders have recently ordered that all doors be opened to Negroes on union property. This will lead to whites and Negroes working and living together in the South as they do in the North. Do you want that?

FRANK GRAHAM FAVORS MINGLING OF THE RACES

HE ADMITS THAT HE FAVORS MIXING NEGROES AND WHITES — HE SAYS SO IN THE REPORT HE SIGNED. (For Proof of This, Read Page 167, Civil Rights Report.)

DO YOU FAVOR THIS — WANT SOME MORE OF IT?

IF YOU DO, VOTE FOR FRANK GRAHAM

BUT IF YOU DON'T

VOTE FOR AND HELP ELECT


WILLIS SMITH for SENATOR

HE WILL UPHOLD THE TRADITIONS OF THE SOUTH

KNOW THE TRUTH COMMITTEE

Will You Go— BACK TO THIS?

With WILLIS SMITH



15¢ an HOUR!

12 HOURS a DAY!

CHILDREN WORKING in the MILLS!

The picture above is photograph of Spinning Room Workers of a North Carolina Mill. The picture was made some years BEFORE the coming of Franklin D. Roosevelt and the New Deal for Textile Workers.

It's a picture some of you will remember . . . of working for 10c, 15c, and 20c an hour . . . working 12 hours a day, 66 to 72 hours a week . . . children of 10 and 12 going to work in the Mill 'cause there wasn't enough food to eat, nor enough clothes to wear and keep warm . . . kids with rickets because there was no money for milk . . . you, some of you remember . . .

But things are better now . . . BETTER because men like FRANKLIN D. ROOSEVELT and FRANK GRAHAM fought for Federal Laws to give YOU a BETTER LIFE . . . Laws to give you HIGHER WAGES, SHORTER HOURS, BETTER WORKING CONDITIONS, UNEMPLOYMENT INSURANCE, BETTER SCHOOLS for YOUR CHILDREN, BETTER HOUSES, and OLD-AGE PENSIONS . . .

But the Willis Smith Crowd says that these things for which ROOSEVELT and GRAHAM fought are Bad . . . the Smith Crowd says that these laws which have brought you a better life are the tools of the "Welfare State" and these laws are the "Roads to Socialism" . . . THEY want to WIPE OUT the NEW DEAL of ROOSEVELT and GRAHAM!

The Smith Crowd would like to take you back to the days of the picture above . . . 15c an HOUR for a 12-HOUR DAY and a 66-HOUR WORK WEEK is SMITH'S IDEA of "SOUTHERN DEMOCRACY!"

WHY? It's a matter of Simple Arithmetic:

WILLIS SMITH is a COTTON MILL OWNER. The LESS WAGES SMITH HAS to PAY his WORKERS, the MORE PROFIT MILL-OWNER SMITH MAKES!

X FRANK P. GRAHAM

PROVEN FRIEND of the WORKING PEOPLE

Cotton Mill Workers Are Organized, Unemployed
217 Anderson St., Durham, N. C.
(SEE REVERSE SIDE)

Smith and Graham campaign handbills. Courtesy of the Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill, Daniel Augustus Powell Papers.

These attacks were powerful in the simplicity of their message: Graham posed a threat to white privilege and the racial division of labor from which it was derived. Graham's campaign countered by warning white working people that Smith would roll back the hard-won economic gains of the New Deal, but on Election Day race trumped class. Smith won the second primary by more than nineteen thousand votes. He traveled to Washington to take his Senate seat in 1951 and carried Jesse Helms with him as a member of his staff. Twenty-two years later, Helms returned as a Republican Senator and leader of the conservative movement that came to be known as the New Right.

IX. Black Advance and White Reaction in the Forgotten 1950s

A. Challenging Jim Crow at the Ballot Box

In the aftermath of the election, Graham's supporters were distraught. "I weep for the people of North Carolina," one woman wrote, "because they [were] swayed by prejudices [and] lies." But Black newspaper editor Louis Austin found cause for hope, even as he mourned Graham's defeat. He reminded readers of the *Carolina Times* that more than two hundred and sixty thousand voters – the vast majority of them white – had cast their ballots for Graham, and in doing so had refused to bow to "race hatred." Despite obvious similarities, Graham's loss was not a calamity on the same scale as the defeat of Fusion half a century before. Appeals to justice and decency had loosened Jim Crow's grasp and created new room for Blacks to maneuver. Austin urged his readers

to seize that opportunity, to light a "torch of freedom" that would "send bright rays into the dark corners of [a] benighted State."⁸⁵

Leaders and ordinary folk in Black communities across North Carolina took up that challenge. In 1951, a "rush" of thirteen Black candidates stood for election in eleven cities, from Rocky Mount in the east to Winston-Salem in the central Piedmont. Three of them won seats on their municipal councils.⁸⁶ Two years later, twenty-four Black candidates ran in nineteen cities, and six bested their white opponents.⁸⁷

The victories in 1953 were, in many respects, predictable. With one exception, they occurred in Piedmont cities with substantial Black populations and active Black civic organizations. In Winston-Salem, unionized tobacco workers had spurred voter registration and created a political movement that continued to elect a Black candidate to the city's board of aldermen. Black business leaders in Durham had similar success. Under the auspices of their Committee on Negro Affairs, they had been registering voters and sponsoring candidates for the better part of two decades. In 1953, they broke through with the election of Rencher N. Harris, a real estate appraiser, to the city council. Harris also had the backing of a short-lived interracial alliance of progressive whites and unionized textile and tobacco workers.⁸⁸

More surprising, and ultimately more threatening to white rule, was the fact that seven Black candidates had the courage to seek office in eastern North Carolina, where Jim Crow was most deeply entrenched, and that in Wilson, a small tobacco market town located in that section of the state, George K. Butterfield Sr. won election to the board of commissioners. Through the end of the decade, this spread of civil rights activism beyond the cities of the Piedmont tested white politicians' ability to deflect Black claims on equal citizenship.

The story of George Butterfield's political career in Wilson epitomized the contest between white men in power and their Black challengers in the east. Butterfield was a dentist and a veteran of World War I, born in Bermuda and educated at Meharry Dental College in Nashville, Tennessee. He moved to Wilson in 1928 and quickly established himself as a leader in the city's Black community. George K. Butterfield Jr., who currently represents North Carolina's First Congressional District, remembers that his father "was always a thorn in the side of the white establishment." In the 1940s, the elder Butterfield and his brother-in-law, Fred Davis Jr., directed a number of voter registration drives. They recruited brave volunteers and "sat up the night with them" to

⁸⁵ Ibid., 247-48, and "Victorious in Defeat," *Carolina Times*, July 1, 1950.

⁸⁶ Dr. William Hampton won a seat on the Greensboro city council, Reverend William R. Crawford won a run-off and replaced Kenneth Williams on the Winston-Salem board of aldermen, and Dr. W. P. Devane was re-elected to the Fayetteville city council. Later in 1951, Hampton and Crawford were the first Black city officials to attend meetings of the North Carolina League of Municipalities. See "Rush of Negro Candidates for City Posts in N. Carolina," *Atlanta Daily World*, May 8, 1951; "Two Win City Council Seats in No. Carolina," *Atlanta Daily World*, May 17, 1951; and "First Negro to N.C. League of Municipalities," *Atlanta Daily World*, November 10, 1951.

⁸⁷ "Negro Candidates Seek Offices in Twenty North Carolina Cities," *Chicago Defender*, May 2, 1953. Despite the title, only nineteen cities are listed in this article. For clarification of the number of city council candidates in Concord, see "Candidates Win Three North Carolina Races," *Atlanta Daily World*, May 7, 1953, and "Primary Vote at Concord Slated Tuesday," *Charlotte Observer*, April 13, 1953. For the successful candidates, see "They Scored," *Chicago Defender*, May 23, 1953. William Crawford and William Hampton won re-election in Winston-Salem and Greensboro, respectively; Rencher N. Harris claimed a seat on the Durham city council; Hubert J. Robinson was elected to the Chapel Hill town council; Nathaniel Barber took a seat on the city council in Gastonia; and Dr. George K. Butterfield Sr. was elected to the city council in Wilson.

⁸⁸ Gershenhorn, *Louis Austin*, 114, and "They Scored," *Chicago Defender*, May 23, 1953.

memorize and "rehearse the Constitution." When those aspiring voters took the literacy test, "some would pass and some would not," because the outcome was "just the whim of the registrar." Progress was slow, but over time, the effort paid off. By 1953, more than five hundred of Wilson's Black citizens had qualified to vote.⁸⁹

That figure was large enough to convince Butterfield to stand for election as a town commissioner representing Wilson's third ward. Although Blacks constituted a majority in the ward, whites outnumbered them among registered voters. Butterfield's supporters overcame that disadvantage by turning out at a much higher rate than their white neighbors. When ballots were counted, Butterfield and his opponent each received three hundred and eighty-two votes. As stipulated in Wilson's town charter, election officials decided the winner by drawing lots. A blind-folded child pulled Butterfield's name from a hat.⁹⁰

Butterfield used his political office to press for improved municipal services in Wilson's Black neighborhoods, additional funds for Black schools, and the desegregation of recreational facilities, including the town's minor-league baseball stadium. After he won re-election in 1955, Wilson's white commissioners moved to be rid of him. Shortly before the 1957 election, they approved a surprise resolution to change from a ward system to an at-large form of municipal government in which a full slate of commissioners would be elected in a single, multi-candidate contest. Under that arrangement, a Black candidate would face not one but many white opponents.⁹¹

The state legislature quickly approved the change and added a provision to Wilson's charter that prohibited single-shot, or as it was sometimes called, bullet voting. That was the practice of marking a ballot for only one candidate in at-large, multi-candidate contests in which the top vote getters won election to a set number of open seats. In simple mathematical terms, single-shot voting offered Black voters – always a minority – their best chance at electing representatives from their communities. The new prohibition undercut that prospect by requiring that election officials discard single-shot ballots.⁹²

These changes in Wilson's town government denied Butterfield a third term. In the 1957 election, he placed eighth in a field of sixteen candidates who vied for six seats on the town commission. Four years later, Reverend Talmadge A. Watkins, Butterfield's pastor and political ally, ran for a place on the town commission and, after losing, challenged the anti-single-shot rule in a lawsuit. North Carolina's Supreme Court ultimately decided the case, *Watkins v. City of Wilson*, in favor of the defendants. The justices wrote: "It is an established principle that to entitle a private individual to invoke the judicial power to determine the validity of executive or legislative action he must show that he has sustained, or is immediately in danger of sustaining, a direct injury as the result of that action and it is not sufficient that he has merely a general interest common to all members of the public." Watkins did not meet that standard, because "even if credited with all

⁸⁹ McKinney, *Greater Freedom*, 21-22 and 54, and Butterfield interview, <<http://bit.ly/2RMrziw>>, November 29, 2020.

⁹⁰ McKinney, *Greater Freedom*, 58-59, and Butterfield interview, <<http://bit.ly/2RMrziw>>, November 29, 2020.

⁹¹ McKinney, *Greater Freedom*, 91-96, and Butterfield interview, <<http://bit.ly/2RMrziw>>, November 29, 2020.

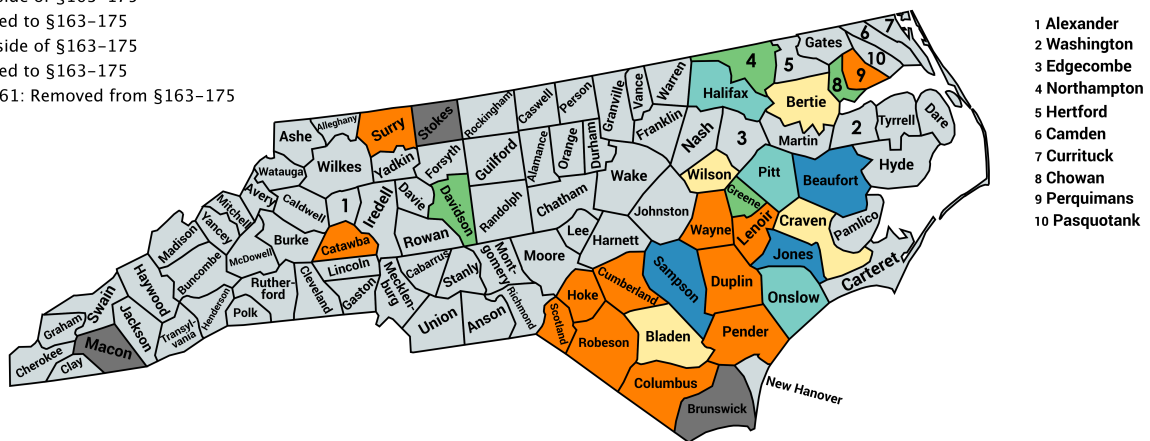
⁹² *Session Laws and Resolutions, State of North Carolina, Extra Session of 1956, and Regular Session, 1957*, chapt. 13.

rejected ballots, he would not have enough votes to change the [election] result." In 1962, the U.S. Supreme Court declined to review the case on appeal.⁹³

Watkin's defeat in court validated the work of white politicians who had been busy restructuring local governments across eastern North Carolina. Between 1955 and 1961, the state legislature approved a flurry of new laws that mandated at-large voting in a shifting mix of elections for county boards of commissioners and town councils in twenty-three eastern counties. In each of those places, lawmakers also prohibited single-shot voting. As a reporter for the *News and Observer* later noted, the purpose of these measures was "to slow the growth of Black political power."⁹⁴

1955, 1957, 1959 & 1961 Anti-Single-Shot Counties & Municipalities

- 1955: Added to §163-175
- 1957: Outside of §163-175
- 1957: Added to §163-175
- 1959: Outside of §163-175
- 1959: Added to §163-175
- 1959 & 1961: Removed from §163-175



Anti-single shot counties and municipalities, 1955-1961. The western counties were places where Republicans exerted some influence in local government.

With no sense of irony, white politicians defended these measures as protection against the corrupting influence of "bloc" interests, particularly those defined by race. That was a well-worn rationale. For instance, a group of Willis Smith's supporters had charged in 1950 that "bloc voting by any group is a menace to democracy." In an advertisement published in the *News and Observer*, they turned to Charles Aycock – one of the original architects of white supremacy – as their authority on the matter. Looking back on his election as governor in 1900, Aycock had justified his party's use of political violence by pointing to heavily Black counties in the east, where, he claimed, "120,000 Negro votes cast as the vote of one man" threatened the "security of life, liberty, and property."⁹⁵

⁹³ McKinney, *Greater Freedom*, 96 and 139-44; Butterfield interview, < <http://bit.ly/2RMrziw> >, November 29, 2020; *Watkins v. City of Wilson*, 121 S.E.2d 861 (N.C. 1961); and *Watkins v. Wilson*, 370 U.S. 46 (1962).

⁹⁴ "Failure of Singleshoot Ban May Strengthen Black Vote," *Raleigh News and Observer*, January 17, 1972.

⁹⁵ *Raleigh News and Observer*, June 20, 1950.

(Political Advertisement)

Bloc Voting By ANY Group Is A MENACE to DEMOCRACY

Governor Charles B. Aycock said in his Inaugural Address, January, 1901:

"When we came to power (1898), we desired merely the security of life, liberty and prosperity. We had seen all these menaced by 120,000 Negro votes cast as the vote of one man."

Here is what happened on May 27th, 1950—

BLOC VOTING BY NEGROES IN NORTH CAROLINA: (OFFICIAL RETURNS)			
	Precinct	GRAHAM	SMITH
RALEIGH	No. 10	493	9
	No. 16	518	18
DURHAM	Hillside	1514	7
	Pearson School	1187	8
GREENSBORO	No. 5	1231	12
CHARLOTTE	No. 2	512	11
		5455	65

THESE ARE RETURNS FROM ONLY SIX NEGRO PRECINCTS

WILLIS SMITH Represents ALL The People

Galliard Committee for Willis Smith
John B. Foster, Chairman

Willis Smith campaign advertisement, Raleigh
News and Observer, June 20, 1950.

The hypocrisy of such historical claims infuriated *Carolina Times* editor Louis Austin. He noted that since the end of slavery, Blacks had found the "biggest 'bloc' of . . . all . . . arrayed against them." It included "leaders of the Ku Klux Klan," politicians who "continuously fanned the flames of race hatred," and the "mass of white voters" who elected them. Together, these enemies of democracy barred Blacks from political office and denied them both "equal education [and] equal employment opportunities." Such actions left Blacks no alternative but to vote their group interests, or as Austin put it, to "look principally to [their] own tents for whatever advancements" might be made.⁹⁶

B. Challenging Jim Crow in Court

The guardians of white rule were shrewd adversaries who displayed their resourcefulness not only at polling places but also in courts of law. That was perhaps nowhere more apparent than in the adjudication of a series of lawsuits brought by James R. Walker Jr., a young Black attorney from eastern North Carolina. Walker grew up in Hertford County, located in the historic Second Congressional District, where Black political strength had been concentrated in the decades after

⁹⁶ "The 'Negro Bloc' and the 'Single Shot,'" *Carolina Times*, May 22, 1965.

Emancipation. His parents, James and Ethel, were teachers who instilled in their son a determination to "fight social injustice." After serving in the U.S. Army during World War II, the younger Walker set out to become a civil rights lawyer.⁹⁷

In 1949, Walker applied for admission to the school of law at the University of North Carolina in Chapel Hill but was rejected on account of his race. With no other option, he enrolled at the North Carolina College for Negroes (now North Carolina Central University), where state lawmakers had established a separate and decidedly unequal law school to protect the white university from desegregation. But within a year, the U.S. Supreme Court changed the game. The court ruled in a Texas case, *Sweatt v. Painter*, that racially segregated programs of graduate and professional education were acceptable only if they exhibited "substantive equality." On the basis of that judgment, Walker and four other Black plaintiffs – Harvey Beech, James Lassiter, J. Kenneth Lee, and Floyd McKissick – sued in federal court and won admission to the law school in Chapel Hill. They began their studies during the summer of 1951. Lee and Walker took their degrees a year later and became the University of North Carolina's first Black graduates.⁹⁸

In 1955, Black community leaders in Halifax County persuaded Walker to return to eastern North Carolina and join their struggle for political rights. When he opened his law office in Weldon, he was the only Black attorney in a six-county area where sharecropping still bound Black families to the land and racial violence was a fearsome fact of life. Walker was unafraid. "I was an Army man," he remembered. "Had been to the front. . . . I wasn't scared of nothing."⁹⁹

Walker drew financial and professional support from a small community of Black lawyers in North Carolina's Piedmont cities. He also built a loose network of Black preachers, teachers, businessmen, and club women from twenty-five eastern counties. He called the group the Eastern Council on Community Affairs. Its members gathered news of voter infringement, mobilized to confront hostile white election officials, and helped Walker identify plaintiffs who were prepared to challenge Jim Crow in court.¹⁰⁰

Walker began filing lawsuits in 1956. In one of his first cases, he sued on his own behalf to challenge the prohibition of single-shot voting in an at-large election for seats on the Halifax County Board of Education. Officials had discarded his ballot because he cast a single vote for the one Black candidate rather than comply with instructions to choose seven of eight contenders.

The case eventually made its way to the North Carolina Supreme Court, where Walker ran afoul of state lawmakers' efforts to stall school desegregation. In 1955, quick on the heels of the U.S. Supreme Court's *Brown* decision, they extended their influence over policy at the local level by making seats on county school boards appointed rather than elected positions. Under the new arrangement, political parties continued to hold primary elections, but the results were no longer binding. County boards of elections reported the winners to the State Superintendent of Public Instruction, who in turn sent their names to the legislature in the form of nominations. Lawmakers then appointed school board members as they saw fit. By time the high court heard Walker's appeal, lawmakers had already exercised their authority to appoint members of the Halifax County

⁹⁷ Wertheimer, *Law and Society in the South*, 131-32.

⁹⁸ Ibid., chapt. 7, and Nixon, "Integration of UNC-Chapel Hill – Law School First." The following account of Walker's career and legal challenges to Jim Crow election law draws broadly on Wertheimer (above) and Barksdale, "Indigenous Civil Rights Movement."

⁹⁹ Wertheimer, *Law and Society in the South*, 142 and 150.

¹⁰⁰ Ibid., 146 and 148.

Board of Education. In light of that fact, the court ruled that "questions raised by plaintiff are now moot" and dismissed Walker's case.¹⁰¹

While litigating his personal complaint in Halifax County, Walker filed another lawsuit on behalf of Louise Lassiter, a resident of nearby Northampton County who had been denied the right to register after failing to prove that she was literate. At the time, registrars enjoyed broad authority to administer literacy tests in whatever form they imagined. They often framed the tests as civics exams that reached well beyond a simple assessment of an applicant's ability to read and write. Observers documented a "bewildering variety" of questions. Can you "name the signers of the Declaration of Independence?" a registrar might ask. "What is habeas corpus?" "If the NAACP attacked the U.S. government, on which side would you fight?" "Explain how a person [can] be imprisoned for debt in North Carolina, who created the world, and what 'create' mean[s]." Louise Lassiter failed her test because she mispronounced words from the state constitution, including the term 'indictment.'¹⁰²

Lassiter's case set off alarm bells in Raleigh, where state officials worried that she might prevail in federal court. Her complaint coincided with passage of the Civil Rights Act of 1957, the first national legislation of its kind since Reconstruction. That law established the U.S. Civil Rights Commission to investigate allegations of voter suppression and authorized the Department of Justice to institute civil action against any person who interfered with the right of another "to vote or to vote as he may choose."¹⁰³

Just days before Lassiter's case was scheduled to be heard in U.S. district court, legislators revised state election law to make the literacy test less arbitrary. They struck the requirement that literacy be proven "to the satisfaction" of registrars and created an appeal process for citizens who failed the test – though complaints would be heard only if filed "by 5:00 p.m. on the day following denial." These changes were enough to satisfy the federal court, which declined to proceed with Lassiter's case until she had petitioned for a local remedy.¹⁰⁴

Soon after the court's decision, Lassiter made another attempt to register. But this time, at Walker's instruction, she refused examination on grounds that the literacy test violated her right to vote. That focused Lassiter's legal complaint on the constitutionality of the test itself rather than the method of its administration. When the case reached the North Carolina Supreme Court, lawyers for the Northampton County Board of Elections argued in circles. They denied that the literacy test was discriminatory on account of race and then defended it as a political necessity adopted to correct the "outrages perpetrated upon the people of this State during the Tragic Era of Reconstruction," when the ballot was "placed in the hands of illiterate people" – that is, former slaves – "supported by the armed might of the Federal Government." Convinced by such reasoning, the

¹⁰¹ Eure, *Public School Laws of North Carolina*, 13-14; *Session Laws and Resolutions, State of North Carolina, Extra Session of 1956, and Regular Session, 1957*, chapt. 137; and *Walker v. Moss*, 97 S. E.2d 836 (N.C. 1957).

¹⁰² North Carolina Advisory Committee to the United States Commission on Civil Rights, *Equal Protection of the Laws in North Carolina*, 28 and 33, and Wertheimer, *Law and Society*, 141 and 151.

¹⁰³ Public Law 85-315: An Act to Provide Means of Further Securing and Protecting the Civil Rights of Persons Within the Jurisdiction of the United States, 637, <<http://bit.ly/2UGEvGA>>, September 5, 2019, and Winquist, "Civil Rights: Legislation: The Civil Rights Act of 1957."

¹⁰⁴ *Session Laws and Resolutions, State of North Carolina, Extra Session of 1956, and Regular Session, 1957*, chapt. 287, and *Lassiter v. Taylor*, 152 F. Supp. 295 (E.D.N.C. 1957).

court rejected Lassiter's constitutional claims. It found no evidence of "discrimination in favor, or against any [person] by reason of race, creed, or color."¹⁰⁵

On appeal in 1959, the U.S. Supreme Court unanimously affirmed that ruling. Writing for the court, Justice William O. Douglas acknowledged that when arbitrary authority was vested in registrars, a literacy requirement could "make racial discrimination easy." But he found no evidence of that intent in North Carolina's election law as amended in 1957. He instead read literacy tests as an expression of the state's desire "to raise the standards for people of all races who cast the ballot." Ignoring the effects of a century of school discrimination in the South and the core reasoning of the 1954 *Brown* decision, Douglas insisted that "literacy and illiteracy are neutral on race, creed, color, and sex, as reports around the world show."¹⁰⁶

Black certainly had no natural inclination to illiteracy, but the connection between illiteracy and race as a social category and lived experience was undeniable. Had Justice Douglas examined conditions in Northampton County, that harsh reality would have been readily apparent. In 1950, Black adults in the county had completed, on average, 5 years of schooling. That compared to 5.6 years for Black adults and 8.6 years for white adults statewide. These figures meant that a considerable portion of voting-age Blacks, in Northampton County and across the state, had completed fewer than the three years of education that demographers assumed was required to develop basic literacy skills. Jim Crow's shadow remained long and deep.¹⁰⁷

In 1960, Walker returned to court with a new client. Having failed to win a judgment that the literacy test was unconstitutional per se, he revisited the question of how it was administered. His client, Bertie County resident Nancy Bazemore, had been denied by a registrar who required that she write down passages from the state constitution as he read them aloud. Bazemore failed because of spelling errors. When the case reached the State Supreme Court, the justices ruled in Bazemore's favor and issued guidelines that sharply limited registrars' discretion in determining the form and content of the literacy test. They instructed those officials to evaluate "nothing more" than applicants' ability to "utter aloud" a section of the state constitution and to write it out "in a reasonably legible hand." Furthermore, the test was to be based on a printed copy of the constitution – not dictation – and there were to be no penalties for "the occasional misspelling and mispronouncing of more difficult words."¹⁰⁸

The *Bazemore* decision represented what many observers came to view as the North Carolina way in managing Black demands for equal rights. It rejected naked discrimination and insisted on "fair and impartial" enforcement of the law, but also left room for sorting citizens into racial categories. Across North Carolina, most whites registered and voted without a literacy test. They "took it for granted" that they were entitled to do so because of the color of their skin. In Nancy Bazemore's home county, one registrar was forthright. When asked if any whites had failed the literacy test, he replied, "No. I mean I didn't have any to try it." Though the State Supreme

¹⁰⁵ "Defendant Appellee's Brief," *Lassiter v. Northampton Board of Elections*, Supreme Court of North Carolina, fall term 1957, no. 172, Sixth District, quoted in Wertheimer, *Law and Society in the South*, 155, and *Lassiter v. Northampton County Board of Elections*, 102 S.E.2d 853 (N.C. 1958).

¹⁰⁶ *Lassiter v. Northampton County Board of Elections*, 360 U.S. 45 (1959).

¹⁰⁷ North Carolina Advisory Committee to the United States Commission on Civil Rights, *Equal Protection of the Laws in North Carolina*, 144, and Collins and Margo, "Historical Perspectives on Racial Differences in Schooling," <<http://bit.ly/2UMbN7e>>, September 5, 2019, 4.

¹⁰⁸ *Bazemore v. Bertie County Board of Elections*, 119 S.E.2d 637 (N.C. 1961).

Court did not address this issue directly, it validated the underlying assumption by ruling that there was no legal requirement that every registrant be examined. "It would be unrealistic to say that the test *must* be administered to all applicants," the justices wrote. "The statute only requires that the applicant *have* the ability" to read and write (emphasis in original). "If the registrar in good faith knows that [the] applicant has the requisite ability, no test is necessary."¹⁰⁹

This reading of state election law suggested that registrars still possessed the authority to group citizens into two classes: whites who were assumed to be literate and Blacks who had to prove it. The law did not require that the literacy test be administered to all citizens on an equal basis, but only that it "be administered, where uncertainty of ability exists, to all alike." That was a notably pernicious doctrine in a white man's society long habituated to the idea that Blacks, by their very nature, lacked the intellectual and moral capacity to function as citizens.¹¹⁰

North Carolina's response to Black demands for political rights was adaptive, not reactionary. It stood apart from what became known as "massive resistance" elsewhere in the South. As one contemporary observed, it was a "subtle strategy" for preventing "the Black vote from being effective." White political leaders were willing to tolerate the registration of a limited number of Black voters and even the occasional election of a Black officeholder, but they conceded nothing on the foundational principles of Jim Crow: Black inferiority and second-class citizenship. This was their way of maintaining what Charles Aycock had called "good order" and of warding off federal intervention, an existential threat since the days of slavery.¹¹¹

C. Challenging Jim Crow at School

A willingness to concede change at the margins shaped not only the battle over the ballot box but also the racial contest at the schoolhouse door. In the early 1930s, Black educators, organized through the North Carolina Teachers Association (NCTA), collaborated with the NAACP in a campaign to equalize Black and white teachers' pay. They were emboldened by the New Deal's support for organized labor and the minimum wage standards set by the National Recovery Administration. In October 1933, more than 2500 teachers filled the streets in Raleigh to press their demands. Weeks later, their representatives issued a bold indictment of Jim Crow:

We are disenfranchised and told to acquire learning and fitness for citizenship. We undertake the preparation in our inadequate, wretchedly equipped schools. Our children drag through the mud while others ride in busses, we pass the courses required by the state and in most places when we present ourselves for registration, we are denied that right and lose our votes. Our teachers, disadvantaged by disenfranchisement, by lack of the means to prepare themselves, nevertheless do meet the high and exacting standards of the best white institutions of the country, and then armed with the state's highest certificate go into the employment of a commonwealth which reduces their wages to the level of janitors and hod carriers.

¹⁰⁹ Ibid.; Wertheimer, *Law and Society*, 161; and North Carolina Advisory Committee to the U.S. Commission on Civil Rights, "Voting and Voter Registration in North Carolina, 1960," 22.

¹¹⁰ *Bazemore v. Bertie County Board of Elections*, 119 S.E.2d 637 (N.C. 1961).

¹¹¹ Towe, "Barriers to Black Political Participation in North Carolina," 11-12.

The NCTA urged its members to register to vote and to "unite their forces at the polls." "We are informed that it is best for us if we stay out of politics," the Black educators declared, but "we have stayed out and this is what we have."¹¹²

That effort at political mobilization produced one of the South's earliest lawsuits to challenge the constitutionality of the literacy test. In 1934, two Iredell County teachers, T. E. Allison and Robert W. Dockery, appeared before a white registrar who instructed them to read and write passages from the state constitution. When they were done, he declared his judgment: "You do not satisfy me." Allison and Dockery subsequently sued the registrar and the county and state boards of election.¹¹³

The North Carolina Supreme Court heard their case on appeal in 1936 and ruled for the defendants. Associate Justice R. Heriot Clarkson – a Confederate veteran and leader of the white supremacy campaigns of 1898 and 1900 – wrote for the court. He affirmed the constitutionality of the literacy test and said of the plaintiffs, they "just do not like the law of their State." Clarkson closed with a history lesson: "It would not be amiss to say that [the] constitutional amendment providing for an educational test . . . brought light out of darkness as to education for all the people of the State. Religious, educational, and material uplift went forward by leaps and bounds. . . . The rich and poor, the white and colored, alike have an equal opportunity for an elementary and high school education."¹¹⁴

Given the difficulties of voter registration, the NCTA had limited ability to bring direct pressure to bear on state and local politicians, but its continued agitation of the salary equalization issue, the ongoing involvement of the NAACP, and a growing number of lawsuits filed elsewhere across the South convinced the state legislature in 1939 to allocate \$250,000 to raise Black teachers' pay. Still, the average Black teacher earned only three-quarters of what the average white teacher was paid.¹¹⁵

The U.S. Court of Appeals for the Fourth Circuit put southern lawmakers on notice in 1940, when it ruled in a Norfolk, Virginia case that racial disparities in teacher pay violated the equal protection clause of the Fourteenth Amendment. A three-judge panel affirmed Black teachers' "civil right . . . to pursue their profession without being subjected to discriminatory legislation on account of race or color." America's entry into World War II then provided the final impetus to close the gap. In 1942, James W. Seabrook, president of both the NCTA and Fayetteville State Teachers College, appealed to white politicians' sense of fair play and their not-so-secret fears for Black loyalty in the war effort. He urged them to "give the Negro confidence that the principles of democracy for which he is being called upon to fight in the four corners of the earth will be applied to him here at home." Two years later, the General Assembly appropriated funds to equalize Black and white teachers' salaries.¹¹⁶

¹¹² Thuesen, *Greater Than Equal*, 142-48.

¹¹³ *Ibid.*, 147.

¹¹⁴ *Allison v. Sharp*, 184 S.E. 27 (N.C. 1936). On Justice Clarkson, see *Prominent People of North Carolina*, 16-17. In 1896, Clarkson organized one of the state's first "White Supremacy" clubs. Governor Charles Aycock rewarded his political loyalty with an appointment as solicitor of the state's Twelfth Judicial District.

¹¹⁵ Thuesen, *Greater Than Equal*, 152.

¹¹⁶ *Alston v. School Board of City of Norfolk*, 112 F.2d 992 (4th Cir. 1940); Douglas, *Reading, Writing, and Race*, 20; and Thuesen, *Greater Than Equal*, 153-55.

During the war years, Black educators' demand for equal pay expanded into a call for equal facilities. Children led the way. In October 1946, more than four hundred students, organized in a local NAACP Youth Council, filled the streets in Lumberton, a small town in southeastern North Carolina. They carried placards that cheered the triumph of democracy in World War II and set that achievement against the wretched condition of Black schools: "inadequate and unhealthy . . . overcrowded . . . and dilapidated." "D-Day," and "V for Victory," the signs exclaimed. "How Can I Learn When I'm Cold?" "It Rains on Me." "Down with Our Schools."¹¹⁷

Protests spread across eastern and central North Carolina, accompanied by lawsuits that challenged the constitutionality of unequal school funding. In 1950, plaintiffs in Durham won a breakthrough case in the U.S. District Court for the Middle District of North Carolina. Judge Johnson Jay Hayes ruled that city school officials had a legal obligation to provide "negro school children substantially equal facilities to those furnished white children." He found no "excuse or justification" for failing to meet that standard and ordered an end to discriminatory school spending.¹¹⁸

Anyone who read Judge Hayes's ruling closely would have spotted a single sentence that was even more prescient in its implications. "The burdens inherent in segregation," he wrote, "must be met by the state which maintains them." Had Hayes pronounced a death sentence for Jim Crow? In 1951, a group of fifty-five Black parents filed suit in Pamlico County to test that question. They demanded that their children be assigned to white schools unless adequate Black facilities were provided. As historian Sarah Thuesen noted, this was "the first lawsuit filed in the federal courts from North Carolina – and only the second in the South – to raise the possibility of integration." The plaintiffs dropped their complaint when county officials agreed to build a new Black high school, but they had made their point. As the editor of the *Kinston Free Press* noted, "If we want to keep segregation, we must bend over backward to see that facilities are equal."¹¹⁹

To that end, state leaders put a \$50 million school bond on the ballot in late 1953, as the U.S. Supreme Court prepared to hear final arguments in *Brown v. Board*. One observer noted that many white voters supported the measure in hope that it "might tend to influence" a judgment favorable to the white South. They could not have been more mistaken. On May 17, 1954, the Court ruled that "in the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. Therefore, we hold that . . . segregation is a denial of the equal protection of the laws." In the aftermath of that decision, state and local officials scrambled once more to invent means of defending the substance, if not the letter, of Jim Crow statutes.¹²⁰

D. *Brown v. Board* and the Pearsall Committees

Two gubernatorial advisory committees, popularly known by the name of their chairman, wealthy eastern landowner and Democratic power-broker Thomas J. Pearsall, set the course for opposition to *Brown*. They worked from the principle "that members of each race prefer to associate with other members of their race *and that they will do so naturally unless they are prodded and inflamed and controlled by outside pressure*." (emphasis in the original).¹²¹ To that end, the

¹¹⁷ Thuesen, *Greater Than Equal*, 169-70.

¹¹⁸ *Blue v. Durham Public School District*, 95 F. Supp. 441 (M.D.N.C. 1951).

¹¹⁹ Thuesen, *Greater Than Equal*, 191.

¹²⁰ *Ibid.*, 200, and *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

¹²¹ Leloudis and Korstad, *Fragile Democracy*, 63.

committees proposed "the building of a new school system on a new foundation – a foundation of no racial segregation by law, but assignment according to natural racial preferences and the administrative determination of what is best for the child."¹²²

The first Pearsall committee recommended that the state cede authority over school assignments to local districts. That proposal informed the Pupil Assignment Act of 1955, passed in the same legislative session as the prohibition of single-shot voting. Lawmakers removed references to race from state school assignment policy and gave parents "freedom of choice" in selecting the schools their children would attend. But there was a catch. The law required that Black parents petition individually to have their children assigned to white schools. Doing so demanded great courage. Parents faced the prospect of retribution by angry employers and landlords, and they had to accept the risk that their children might stand alone to face white resistance. The law also gave local school boards broad discretionary authority in ruling on parents' requests. They could reject an application if they believed that it did not serve a child's "best interests," or that it would compromise "proper administration," "proper instruction," or "health and safety" in a target school.¹²³

A year later, the second Pearsall committee proposed an amendment to the state constitution that would authorize the legislature to provide private school vouchers for "any child assigned against the wishes of his parents to a school in which the races are mixed." Local school boards would also be permitted to call for public referenda to close schools in case of "enforced mixing of the races." The committee presented the amendment as a balm for racial conflict stirred up by outsiders, most notably the NAACP and the federal courts. They looked forward to a day "when sanity returns," and to re-establishment of "the harmonious relations which the races have enjoyed in North Carolina for more than fifty years" – that is, from the time of white redemption and Black disenfranchisement. In September 1956, voters approved the amendment by a margin of more than four to one. Though no schools were ever closed and only one private school voucher was issued, the amendment effectively undermined any notion that desegregation might be achieved more quickly.¹²⁴

These policies won North Carolina praise as a "moderate" southern state but produced one of the lowest desegregation rates in the region. At the beginning of the 1958-59 school year, only ten of the state's roughly 322,000 Black students were enrolled in formerly white schools. That result impressed officials in Little Rock, Arkansas, where in 1957 white resistance to desegregation had prompted President Dwight Eisenhower to use federal troops to restore order. They complimented their North Carolina colleagues: "You . . . have devised one of the cleverest techniques of perpetuating segregation that we have seen. . . . If we could be half as successful as you have been, we could keep this thing to a minimum for the next fifty years."¹²⁵

The Little Rock admirer put his finger on a lesson that is as true today as it was in the 1950s. White supremacy, often violent and inflexible, can also be subtle and adaptive. A tobacco

¹²² *Report of the North Carolina Advisory Committee on Education, April 5, 1956*, 7 and 9, <<http://bit.ly/2LTNQXw>>, September 5, 2019.

¹²³ *Session Laws and Resolutions, 1955*, chapt. 366, 310.

¹²⁴ *Report of the North Carolina Advisory Committee on Education, April 6, 1956*, 8-10; Wettach, "North Carolina School Legislation, 1956," 7; and Batchelor, *Race and Education in North Carolina*, 108-9. The U.S. District Court for the Western District of North Carolina struck down the voucher plan in 1966. See Batchelor, 110.

¹²⁵ Batchelor, *Race and Education in North Carolina*, 73, and Chafe, *Civilities and Civil Rights*, 97 and 106.

worker from eastern North Carolina said it best: "My experience . . . is that if you beat the white man at one trick, he will try another."¹²⁶

E. Stalled Revolution

When most Americans think about the history of civil rights, they tend to view the past through a rearview mirror. They see a series of struggles that led inevitably to the demise of Jim Crow in the mid-1960s. But for an observer on the ground at the beginning of that decade, the future seemed far less certain. The U.S. Supreme Court had effectively embraced the North Carolina way. In *Lassiter v. Northampton County Board of Elections*, the court affirmed the constitutionality of the literacy test, and in *Brown II*, its ruling on the enforcement of school desegregation, the court embraced the go-slow approach proposed in an amicus curiae brief filed by North Carolina's attorney general.

North Carolina State Assistant Attorney General I. Beverly Lake Sr. drafted the brief and presented it along with oral arguments in April 1955. He urged the court to "allow the greatest possible latitude to . . . District Judges in drafting final [desegregation] decrees." It stood to reason, he explained, that "only a court conversant with local conditions and granted wide discretion [could] tailor [a] decree to fit the local variations." Lake also offered a dire warning against any "attempt to compel the intermixture of the races." Such action would result in "violent opposition" and place the public schools in "grave danger of destruction." In its ruling in *Brown II*, the high Court heeded Lake's advice. The Justices left it to lower courts to determine the pace and process of desegregation, guided by "their proximity to local conditions" and understanding of the need for "practical flexibility in shaping remedies." That was the essence of *Brown II*'s vague directive that desegregation proceed "with all deliberate speed."¹²⁷

Congress was even less inclined to effect sweeping change, thanks in significant measure to the outsized influence wielded by southern lawmakers. In the decades after Black disenfranchisement, national leaders ignored Section 2 of the Fourteenth Amendment, which requires a reduction in representation for states that deny voting rights on the basis of race. Political scientist Richard Valelly estimates that had Section 2 been enforced, the Jim Crow South would have lost as many as twenty-five seats in the U.S. House of Representatives between 1903 and 1953. But the disenfranchisers never paid that penalty; instead, they expanded their influence in national politics. "That itself," Valelly writes, "was a major if silent constitutional change, a tacit, extraconstitutional [revision] of the Fourteenth Amendment."¹²⁸

The denial of Black voting rights and the systematic suppression of two-party politics in the South also limited dissent and ensured that Democratic incumbents in Congress would be re-elected term after term. Over time, southern politicians accrued seniority and gained control of key committees in both the House of Representatives and the Senate. Their power was obvious in contests over civil rights issues, but much of it was otherwise out of view. As the chairmen of committees charged with administrative oversight, they permitted unchecked racial discrimination by government agencies, from the Federal Housing Administration's use of red lining to enforce

¹²⁶ Korstad, *Civil Rights Unionism*, 384.

¹²⁷ Brief of Harry McMullen, Attorney General of North Carolina, Amicus Curiae, 3 and 6, <<http://bit.ly/36PHJfd>>, November 29, 2020, and *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

¹²⁸ Valelly, *Two Reconstructions*, 146-47.

racial segregation in America's cities and suburbs to the Veterans Administration's biased allocation of resources under the G.I. Bill and the U.S. Department of Agriculture's denial of subsidized loans and other resources to Black farmers. Examples abound. In every instance, willful neglect helped to entrench Jim Crow not only in the life of the South, but in that of the nation as well.¹²⁹

X. Civil Rights at Last

A. Sit-Ins and Direct Action

By the late 1950s, most white southerners understood that the world they had built over the last half century would not last forever, but they were determined to preserve it as long as they could. They had reason to be confident and optimistic. The *Brown* decision had not integrated public schools, Martin Luther King Jr.'s Montgomery movement had accomplished little more than the desegregation of city buses, and despite increases in voter registration, Black political power was still negligible. On top of that, most whites outside the South were content with the racial status quo.

Then a civil insurrection broke out. The uprising drew strength from Black moral anger and frustration with white recalcitrance, and it was given form and direction by years of preparation and social learning in Black communities across the South. Clear in hindsight, but less so at the time, the signal event took place on February 1, 1960, when four students at the Agricultural and Technical College of North Carolina – Ezell Blair Jr., David Richmond, Franklin McCain, and Joseph McNeil – demanded service at a Woolworth's lunch counter in Greensboro. Sit-ins quickly spread across the state and throughout the South. Two months later, college students, Black and white, gathered at Shaw University in Raleigh – North Carolina's oldest Black institution of higher learning – to organize the Student Nonviolent Coordinating Committee (SNCC).¹³⁰

Inspired by North Carolina native and Shaw graduate Ella Baker, SNCC embraced a grass-roots strategy for mobilizing ordinary citizens as leaders in the struggle for civil rights. Volunteers from every corner of the nation fanned out across the South to register voters, to build alternative schools for Black children, and to press for the desegregation of public facilities. Other civil rights organizations – including King's Southern Christian Leadership Conference, the Congress on Racial Equality (CORE), and the NAACP – adopted similar strategies of direct action. What these groups set in motion was a second Reconstruction in which Black people reached up not to receive but to seize their freedom.¹³¹

In the years between 1960 and 1965, Black protests forced issues of race and democracy to the center of national attention. As in the first Reconstruction, whites responded with state-sanctioned and extra-legal violence, which were not always distinguishable. The stories that filled columns of newsprint and the images that flooded television screens have become iconic: the fire-bombing and brutal beating of Freedom Riders; the assassination of Medgar Evers; the death of four little girls in the Klan bombing of the Sixteenth Street Baptist Church in Birmingham; the exhumation of the bodies of James Chaney, Andrew Goodman, and Michael Schwerner, CORE organizers murdered by Klansmen and law officers in Neshoba County, Mississippi; and the police attack on protestors attempting to cross Selma's Edmund Pettis Bridge. These and other outrages

¹²⁹ Ibid. See also Katznelson, *When Affirmative Action Was White*, and Daniel, *Dispossession*.

¹³⁰ Chafe, *Civilities and Civil Rights*, 98-141.

¹³¹ Hogan, *Many Minds One Heart*.

ultimately swayed public opinion and shamed majorities in Congress to pass the landmark Civil Rights Act of 1964 and the Voting Rights Act of 1965.

B. A Second Emancipation


Each state has its own history of dealing with the moral and civic crisis brought on by the mass mobilization for democratic rights and equal citizenship. Though it had the largest Klan organization in the South, North Carolina did not experience the widespread violence that beset the Deep South. In large part, that was because of a critical gubernatorial election in 1960, won by moderate Democrat Terry Sanford. Throughout his administration, Sanford, a protégé of Frank Graham, preached a message of opportunity for all and used the police power of the state to surveil and restrain the Klan.¹³²

Sanford won the Democratic gubernatorial nomination in a bitter primary contest with former Assistant Attorney General I. Beverly Lake Sr., a respected jurist who had taught law at Wake Forest College and was widely admired for his defense of Jim Crow. After his appearance before the U.S. Supreme Court in *Brown II*, Lake had proposed an amendment to the state constitution that would have made desegregation a moot issue by removing the Reconstruction-era mandate for publicly funded schools. In his campaign for governor, Lake assured supporters that "The PRINCIPLES for which we fight are ETERNAL!"¹³³

IF YOU REALLY KNOW ...

Dr. BEVERLY LAKE

YOU'LL VOTE FOR HIM ON MAY 28



**This Is The Man
North Carolina
Needs As Her
Governor**

He Is "The Man Who Lets You Know
Where HE Stands"

AGRICULTURE BASIC TO ECONOMY

Dr. Lake supports the work of our Federal, State and Local agricultural leaders.

"I shall seek the advice of farm organizations and the Department of Agriculture."

"The problem of the small farmer is the most crucial issue facing North Carolina agriculture and we must work to help the small farmer because he is the backbone of our economy."

I. BEVERLY LAKE

BALANCED BUDGET NECESSARY—

Dr. Lake favors a balanced State budget; he is opposed to deficit State spending; and is strongly against raising our already burdensome taxes for desirable but non-essential improvements.

Dr. Lake proposes a "Policy of spending for current operating expenses no more than can be produced by fair tax laws not unduly burdensome".

SCHOOL INTEGRATION OPPOSED—

Dr. Lake is opposed to the mixing of white and Negro children in the schools in North Carolina.

"The mixing of our two great races in the classroom and then in the home is not inevitable and is not to be tolerated."

**COURT AND HIGHWAY
CHANGES NEEDED—**

Dr. Lake favors certain reforms in our court system directed toward a uniform, more efficient and less costly system of justice for our people.

"Dr. Lake favors election of all judges, Prosecutors and Justice of Peace, by the people and is against proposals which would eliminate this plan."

"I favor a highway commission of fourteen members, one appointed from each of the 14 engineering divisions."

Political Adv Paid for by Perquimans Lake For Governor Committee

"The PRINCIPLES
for which we fight
are ETERNAL!"
I. Beverly Lake

"The mixing of our two great races in the classroom and then in the home is not inevitable and is not to be tolerated."

I. Beverly Lake campaign ad, *Perquimans Weekly*, May 27, 1960, and campaign card. Courtesy of the North Carolina Collection, Wilson Library, University of North Carolina at Chapel Hill.

¹³² Covington, *Terry Sanford*, 342-43. Klan membership in North Carolina exceeded that of Alabama and Mississippi combined. See Cunningham, *Klansville, U.S.A.*

¹³³ "N.C. Bar Association Award Carries Legacy of Explicit Racism," *Raleigh News and Observer*, June 28, 2016.

Sanford was a different breed of politician. He belonged to the generation who had fought in World War II and had seen horrifying reflections of American racism in German concentration camps and in the concepts of common blood and ethnic nationalism that shaped Japan's imperial project in Asia. Veterans like Sanford came home full of confidence in their ability to make the world a better place, and they were convinced that the South had to change – as a matter of what was just and right, and as an economic imperative if the region was to lift itself out of the misery that had long defined it as the most impoverished section of the nation.¹³⁴

When Lake challenged his allegiance to Jim Crow, Sanford refused to be race baited. He pivoted to the "bright look of the future" and invited voters to join him in building for a "New Day" in North Carolina. That required improving public schools, not excising them from the state constitution. "We are going to continue to go forward," Sanford declared, "to give our children a better chance, to build a better state through better schools." That appeal was persuasive and reassuring. Sanford bested Lake and went on to win the general election.¹³⁵

Soon after taking office, Sanford embarked on a tour of schools across the state. When he visited students – particularly at Black schools – he began to question his faith in education as a corrective for the damage wrought by Jim Crow. "I had a sickening feeling," he later recalled, "that I was talking about opportunities that I knew, and I feared [the children] knew, didn't exist, no matter how hard they might work in school." The "improvement of schools wasn't enough," he concluded. "Not nearly enough."¹³⁶

By his own account, the governor was learning hard lessons – from school-aged children and from their older siblings who filled the streets with urgent demands for equal rights. He began to comprehend the connections between poverty and racial injustice that tobacco workers in Winston-Salem had exposed in the 1940s, that the biracial Fusion alliance had grasped during the 1890s, and that Black and white Republicans had identified as a central concern of Reconstruction. "We must move forward as one people or we will not move forward at all," Sanford told Black college students in Greensboro. "We cannot move forward as whites or Negroes . . . We can only move forward as North Carolinians."¹³⁷

Sanford's words were a direct refutation of the foundational principle of Jim Crow, which Charles Aycock had explained in 1901 to an audience at the Negro State Fair in Raleigh. "It is absolutely necessary that each race should remain distinct," he said, "and have a society of its own. . . . The law which separates you from the white people of the State . . . always has been and always will be inexorable."¹³⁸

In the winter of 1962-63, as the nation marked the centenary of Abraham Lincoln's Emancipation Proclamation, Sanford shared a "bold dream for the future." He startled white educators at a meeting in Dallas, Texas when he declared, "We need our own . . . emancipation proclamation which will set us free to grow and build, set us free . . . from hate, from demagoguery." Back home, he urged members of the North Carolina Press Association to join him in a campaign to make good on the unfulfilled promise of freedom and equality. "We can do this," Sanford declared.

¹³⁴ See Covington, *Terry Sanford*, chapt. 5.

¹³⁵ Drescher, *Triumph of Good Will*, 67, 171, and 175.

¹³⁶ Manuscript containing notes for an abandoned book on Terry Sanford's term as governor, subseries 3.1, box 174, Records and Papers of Terry Sanford.

¹³⁷ "Fraternity's Award Goes to Sanford," *Greensboro Daily News*, April 28, 1963.

¹³⁸ "A Message to the Negro," in Connor and Poe, eds., *Life and Speeches of Charles Brantley Aycock*, 249-50.

"We should do this. We will do it because we are concerned with the problems and the welfare of our neighbors. We will do it because our economy cannot afford to have so many people fully and partially unproductive. We will do it because it is honest and fair for us to give all men and women their best chance in life."¹³⁹

As he spoke to the journalists, and through them the citizens of North Carolina, Sanford must have been mindful of another southern governor who had been in the headlines just days before. In his inaugural address, delivered from the steps of the state capitol in Montgomery, Alabama, George C. Wallace exclaimed, "Segregation now, segregation tomorrow, segregation forever."¹⁴⁰

C. Lifting the Economic Burden of Jim Crow

Six months later, Sanford called on his friends in the press once again, this time to publicize the launch the North Carolina Fund, a non-governmental organization that would use private resources – from the Ford Foundation and North Carolina's own Z. Smith Reynolds and Mary Reynolds Babcock Foundations – to attack the state's "poverty-segregation complex." That plan was audacious. Nearly 40 percent of North Carolinians lived below the poverty line, and in eastern counties where slavery and later sharecropping dominated the economy, Black poverty was so deep and pervasive that outsiders referred to the region as "North Carolina's 'little Mississippi.'" As the Fund took on this challenge, it became a model for the national war on poverty, which President Lyndon Johnson and Congress launched with the Economic Opportunity Act of 1964, the establishment of Medicare and Medicaid in 1965, and the expansion of multiple programs that sought to educate, feed, clothe, and house the poor. In subsequent years, the Fund was an important conduit for millions of dollars in federal aid that flowed into North Carolina.¹⁴¹

From the beginning, the Fund modeled a future built on equal citizenship. Its staff and board of directors were remarkable for the number of women and Blacks who served in leadership roles, and its headquarters was located in Durham's Black business district, an intentional sign of the organization's guiding principles. The Fund also adopted the direct-action techniques of the civil rights movement. Its community partners led boycotts of businesses that refused to hire Black workers, staged rent strikes to demand that landlords repair sub-standard housing, registered voters, and taught poor people how to pressure politicians and government officials for a fair share of social provision: more and better public housing; job training; paved streets, clean water, and sewer lines for neighborhoods that had been denied those services on account of race; and low-interest mortgages and community development grants from the U.S. Department of Agriculture and other federal agencies.¹⁴²

¹³⁹ Address to the Commission on Secondary Schools of the Southern Association of Colleges and Schools, Dallas, Texas, November 28, 1962, in Mitchell, ed., *Messages, Addresses, and Public Papers of Terry Sanford*, 302; "Observations for a Second Century," subseries 3.1, box 174, Records and Papers of Terry Sanford; and film of Sanford's address to the North Carolina Press Association, series 6.2, VT3531/1a, Terry Sanford Papers.

¹⁴⁰ On Wallace's gubernatorial inauguration, see Carter, *Politics of Rage*, 104-9.

¹⁴¹ Untitled document on the Choanoke Area Development Association, series 4.11, folder 4825, North Carolina Fund Papers, and John Salter to Jim Dombrowski, April 28, 1964, folder 22, Gray (Salter) Papers. On conditions of poverty in North Carolina and the North Carolina Fund's relationship to the national war on poverty, see Korstad and Leloudis, *To Right These Wrongs*, 57-59, and 115-19.

¹⁴² For a detailed account of the North Carolina Fund's antipoverty work, see Korstad and Leloudis, *To Right These Wrongs*, chaps. 3-5.

Through these efforts, the Fund attempted to create an interracial movement of the poor, but it had only limited success. By time the organization closed its doors in 1968, national politics had begun to take a sharp conservative turn. For many whites, civil rights victories amplified Jim Crow dogma, which insisted that Blacks could advance only at white expense.

Fund staff often pointed to the resurgence of the Ku Klux Klan in North Carolina as evidence of that tragic worldview. For more than half a century, Jim Crow had all but quashed the possibility of interracial cooperation and one-party government had denied poor and working-class whites a say in politics. Similarly, fierce antiunionism, defended by lawmakers and employers as a means of protecting white jobs, left working-class whites without a collective voice. Throughout the 20th century, North Carolina was one of the least unionized states in the nation and ranked near the bottom for manufacturing wages. These circumstances, in ways that echoed the past, made it easy for firebrands to channel economic grievances into racial animosity.¹⁴³

D. Rise of a New Republican Party

The North Carolina Fund – and more particularly, the challenge it posed to the economic and political structures of Jim Crow – became the social irritant around which a new conservative movement took shape. Republican Congressman James C. Gardner, who represented eastern North Carolina's Fourth District, pointed the way. His election in 1966 marked the beginning of a party realignment that over the next two decades profoundly altered the state's political landscape.

In the summer of 1967, Gardner launched a public assault on the North Carolina Fund. He charged that it had become "a political action machine" and called for an investigation of its "meddling in the affairs of local communities." Gardner also played on racial fears that dated back to the era of Reconstruction and the white supremacy politics of the late 1890s. In a press release, he shared reports from eastern North Carolina that Fund staff were promoting "'revolutionary . . . attitudes'" by speaking openly of the need for a "coalition . . . between poor whites and Negroes to give political power to the disadvantaged."¹⁴⁴

A subsequent audit by federal authorities cleared the Fund of any wrongdoing, but Gardner had achieved his purpose. He positioned himself on the national stage as a leading critic of social welfare programs, and he made the war on poverty and its connections to Black political participation a wedge issue that could draw disaffected white Democrats into an insurgent Republican movement.

Republican Party elders in North Carolina recognized the promise of Gardner's leadership and the shrewdness of his strategy. They had named him party chairman a year before his congressional bid. Sim A. DeLapp, the party's general counsel and himself a former chairman, wrote to encourage Gardner. "From the standpoint of voter sentiment," he advised, "we are in the best shape that we have ever been [in] during my lifetime. People are permanently angry at the so-called Democratic Party. . . . They are mad because [Lyndon] Johnson has become the President of the negro race and of all the left wingers." I. Beverly Lake Sr., who was now a Justice on the North Carolina Supreme Court, expressed the depth of white anger. "The apostles of appeasement . . .

¹⁴³ See Salter, "The Economically Deprived Southern White," box 2, folder 7, Gray (Salter) Papers. David Cunningham makes a similar argument in *Klansville, U.S.A.*

¹⁴⁴ Gardner press release, July 25, 1967, series 1.2.2, folder 318, North Carolina Fund Records. For more on Gardner's criticisms of the Fund, see Korstad and Leloudis, *To Right These Wrongs*, 290-306.

must be removed from positions of public trust," he advised Gardner. "We must clean up the whole foul mess and fumigate the premises."¹⁴⁵

In 1968, Republican presidential candidate Richard Nixon tapped this racial animosity to flip the once solidly Democratic South. He secured an endorsement from Strom Thurmond, U.S. Senator from South Carolina, who had led the 1948 Dixiecrat revolt in defense of states' rights and had left the Democratic Party in 1964 to become a Republican. Nixon also cast his campaign in racially coded language. He offered himself as a spokesman for the "great majority of Americans, the forgotten Americans, the non-shouters, the non-demonstrators" who played by the rules, worked hard, saved, and paid their taxes. This strategy won Nixon the keys to the White House and marked the beginning of the Republican Party's new reliance on the white South as a base of support.¹⁴⁶

Four years later, Nixon made a clean sweep of the region by winning the states that third-party segregationist candidate George Wallace carried in 1968: Alabama, Arkansas, Georgia, Louisiana, and Mississippi. This was the "white uprising" predicted by one of Congressman Gardner's constituents. Like her, most of the white voters who turned out for Nixon in North Carolina were still registered as Democrats, but they elected James E. Holshouser Jr. governor – the first Republican to win the office since Fusion candidate Daniel Russell in 1896 – and sent Jesse Helms to the U.S. Senate. Helms, who served for six terms, quickly rose to prominence as a national leader of what came to be called the New Right.¹⁴⁷

E. Conservative Democrats Hold the Line on Black Voting Rights

Conservatives in the state Democratic Party held on through the 1970s and fought a rear-guard battle against civil rights advocates who used the courts to challenge suppression of the Black vote. In late 1965, the U.S. District Court for the Middle District of North Carolina ruled that the system for apportioning seats in both houses of the state legislature on the basis of geography rather than population violated the principle of "one man, one vote." That standard, derived from the Fourteenth Amendment's equal protection clause, holds that all votes cast in an election should carry roughly equal weight.¹⁴⁸

The state constitution guaranteed each of North Carolina's one hundred counties a seat in the state House of Representatives. That privileged small rural counties, where whites were most firmly in control, and diluted Black votes in urban areas. The largest legislative district had nearly twenty times more residents than the smallest. That meant that a majority in the House "could be assembled from members who represented only 27.09 percent of the state's population." The state Senate was apportioned more evenly. The constitution required that Senate districts contain equal populations, though a separate provision that no county was to be divided created some imbalance. The largest Senate districts had nearly three times more residents than the smallest. The court

¹⁴⁵ DeLapp to James Gardner, September 1, 1965, box 9, DeLapp Papers, and Lake to Gardner, August 5, 1967, box 23, Gardner Papers.

¹⁴⁶ Perlstein, *Nixonland*, 283-85, and Nixon, Nomination Acceptance Address, August 8, 1968, <<http://bit.ly/2HPCoel>>, September 5, 2019.

¹⁴⁷ Quotation from Doris Overman to Gardner, undated, box 14, Gardner Papers.

¹⁴⁸ *Drum v. Seawell*, 249 F. Supp. 877 (M.D.N.C. 1965).

ordered that both chambers be redistricted immediately, and that the populations of the largest new districts not exceed those of the smallest by more than a factor of 1.3.¹⁴⁹

Lawmakers convened in special session in 1966 to draw new district maps. They reduced population ratios as directed by the court but did so by creating a large number of multimember districts – fifteen of thirty-three in the Senate, which previously had thirty-six districts, eleven of which were multimember; and forty-one of forty-nine in the House, which previously had one hundred districts, twelve of which were multimember. Initially, seats in all of the multimember districts were to be filled through at-large elections. This was a familiar means of disadvantaging Black candidates. Lawmakers had used it effectively in the 1950s when they changed county and municipal governments from ward to at-large systems of representation.¹⁵⁰

In 1967, lawmakers did two things that further walled off the General Assembly. First, they approved a constitutional amendment, ratified by voters in the next election, that required that counties be kept whole in the creation of state House as well as Senate districts. This effectively made multimember districts a permanent feature of legislative apportionment, since it was mathematically difficult to base house and senate seats on equal measures of population without resorting to such a solution.¹⁵¹

Second, lawmakers added a numbered-seat plan in twenty of the forty-one multimember House districts and three of the fifteen multimember districts in the Senate. Taken together, these districts covered nearly all of the heavily Black counties in the eastern section of the state. The apportionment law directed that in multimember districts each seat would be treated as a separate office. When citizens went to the polls, they would no longer vote for a set number of candidates out of a larger field of contenders – for instance, three out of five. Instead, their ballots would list separate races within the district, and they would vote for only one candidate in each race.¹⁵² This enabled election officials to place individual minority candidates in direct, one-to-one competition with the strongest white candidates.

Proponents explained that the numbered-seat scheme was designed to "cure the problem of 'single-shot' voting," which was still legal in legislative elections. With conservative Democrats' critique of Black bloc voting clearly in mind, one lawmaker explained that in a numbered-seat election, "you are running against a man and not a group." Another added that numbered seats all but guaranteed "that no Negro could be elected to the General Assembly." The numbered-seat plan was, indeed, so effective that in 1971 the General Assembly had only two Black members: Henry E. Frye, a lawyer from Guilford County, who was elected to his first term in 1968 through a single-shot campaign, and Joy J. Johnson, a minister from Robeson County, who ran in one of the few eastern districts without numbered seats. Frye was the first Black lawmaker to serve in the General Assembly since 1898.¹⁵³

¹⁴⁹ Ibid., and O'Connor, "Reapportionment and Redistricting," 32-33.

¹⁵⁰ *Session Laws and Resolutions, State of North Carolina, Extra Session, 1966*, chaps. 1 and 5, and *Session Laws of the State of North Carolina, Regular Session, 1965*, 9–11.

¹⁵¹ *Session Laws and Resolutions, State of North Carolina, Regular Session, 1967*, chap. 640.

¹⁵² Ibid., chap. 106.

¹⁵³ "Seat Numbering Bill Produced Hot Debate," *Raleigh News and Observer*, July 8, 1967; "Senate Endorses 'Numbered Seats,'" *Raleigh News and Observer*, July 30, 1967; "Numbered Seat Bill Advances," *Raleigh News and Observer*, June 22, 1967; "Numbered Seats Measure Given House Approval," *Raleigh News and Observer*, June 13,

Conservative Democrats attempted to expand the scope of the numbered-seat plan in 1971. They reapportioned the state House to have forty-five districts. Thirty-five were multimember, and of those, twenty-three had numbered seats. In the Senate, there were twenty-seven districts. Eighteen were multimember, and within that group, eleven districts had numbered seats. Had these changes been implemented, the numbered-seat plan would have covered all North Carolina counties with populations that were 30 percent or more Black. But the U.S. Department of Justice blocked the move. It did so under authority of section 5 of the Voting Rights Act, which stipulated that in affected jurisdictions, changes to voting and representation had to be precleared by either the U.S. Attorney General or the U.S. District Court for the District of Columbia to ensure that they would not discriminate against protected minorities. In 1972, the U.S. District Court for the Middle District of North Carolina affirmed the Justice Department's decision. Ruling in *Dunston v. Scott*, the court struck down both the numbered-seat plan and the anti-single-shot laws that regulated elections in certain counties and municipalities. A three-judge panel concluded that "selective and arbitrary application" of both provisions "in some districts and not in others, denies to the voters of North Carolina the equal protection of the laws and is unconstitutional."¹⁵⁴

Though not a basis for their decision, the judges also suggested that the single-shot prohibition violated the U.S. Constitution by constraining voters' choice in use of the ballot. They wrote, "We are inclined to believe that the right to vote includes the right of the voter to refuse to vote for someone he does not know, may not agree with, or may believe to be a fool, and under the Fourteenth and Fifteenth Amendments, we doubt that the state may constitutionally compel a voter to vote for a candidate of another race or political philosophy in order to get his vote counted."¹⁵⁵

In subsequent elections, Black representation in the General Assembly grew from two members in 1970 to a high of six in both 1974 and 1976. The number then fell back to five in 1978 and to four in 1980. Numbered seats or not, Black candidates were still hard-pressed to win in multimember districts.¹⁵⁶

XI. Judicial Intervention and Battles Over a More Inclusive Democracy

A. *Gingles v. Edmisten* and Black Electoral Gains

In 1981, four Black voters filed suit in *Gingles v. Edmisten* to challenge the legislative redistricting plan that the General Assembly had crafted after the 1980 Census and the 1968 constitutional provision that counties not be divided when apportioning state House and Senate seats. Lawmakers had not submitted the plan or the amendment for preclearance by the U.S. Department of Justice; when they did so after the plaintiffs' filing, both were denied approval.¹⁵⁷

1967; Towe, *Barriers to Black Political Participation*, 28; *National Roster of Black Elected Officials*; "The Negro Vote," *Greensboro Daily News*, November 11, 1968; and "Failure of Singleshot Ban May Strengthen Black Vote," *Raleigh News and Observer*, January 17, 1972.

¹⁵⁴ *Session Laws and Resolutions, State of North Carolina, Regular Session, 1971*, chaps. 483, 1177, 1234, and 1237; Towe, *Barriers to Black Political Participation*, 61–62; Manderson, "Review of the Patterns and Practices of Racial Discrimination," 31; Watson, "North Carolina Redistricting Process, 1965–1966," 8; and *Dunston v. Scott*, 336 F. Supp. 206 (E.D.N.C. 1972).

¹⁵⁵ *Dunston v. Scott*, 336 F. Supp. 206 (E.D.N.C. 1972).

¹⁵⁶ "North Carolina African-American Legislators, 1969–2019," <<http://bit.ly/38KWF0u>>, November 29, 2020.

¹⁵⁷ Keech and Siström, "Implementation of the Voting Rights Act in North Carolina," 14.

Lawmakers reacted quickly by drafting a new plan that included five majority-Black House districts and one majority-Black Senate district. The creation of those districts aided the election of eight new Black members of the House, raising the total from three to eleven. As the court later noted, however, the legislature's change of heart was in some measure cynical. "The pendency of this very legislation," the court observed, "worked a one-time advantage for Black candidates in the form of unusual organized political support by white leaders concerned to forestall single-member districting." The U.S. District Court for the Eastern District of North Carolina ruled for the plaintiffs in April 1984. Acting in an extra session, the General Assembly subsequently divided a number of multimember districts into new single-member districts that improved the prospects of Black candidates. In November balloting, two additional Black lawmakers were elected to the General Assembly, bringing the total to thirteen.¹⁵⁸

By 1989, nineteen Black lawmakers served in the General Assembly, more than were elected during either Reconstruction or the Fusion era. Two years later, members elected state Representative Dan Blue Speaker of the House, at that time the highest state office held by a Black politician in North Carolina. Blacks also made substantial gains at the local level, largely as a result of legal challenges to at-large elections and multimember districts that followed the *Gingles* decision. At the end of the decade, more than four hundred Black elected officials served in county and municipal governments across the state.¹⁵⁹

Growing Black political influence was also evident in 1991, when the General Assembly redrew North Carolina's congressional districts on the basis of the 1990 census. Under pressure from the U.S. Department of Justice and Black leaders in the Democratic Party, legislators created two districts with slim Black majorities. They explained that had they not done so, the state would have been vulnerable to legal challenge for violating the Voting Rights Act of 1965. The issue was dilution of the Black vote. In most parts of the state, the geographical scope of congressional districts submerged Black voters in sizable white majorities. Statewide, whites also had a long, well-documented history of refusing to support Black candidates. As a result, it was difficult for Black voters to make their voices heard in federal elections. To remedy this marginalization, lawmakers created a new First Congressional District in the heavily Black northeastern corner of the state and a new Twelfth District that snaked along a narrow, 160-mile path from Durham to Charlotte. In 1992, voters in these districts elected Eva Clayton and Mel Watt, the first Black North Carolinians to serve in the U.S. House of Representatives since George Henry White, who ended his second term in 1901.¹⁶⁰

B. Jesse Helms and Racial Polarization

By the mid-1980s, North Carolina once again had a tightly contested two-party political system. A visitor from a similar time a century before would have been confounded by the way that party labels had flipped. Democrats now resembled the party of Lincoln, and Republicans looked like Democrats of old. But the visitor would easily have recognized the competing social visions the parties offered voters. One party stressed the importance of balancing individual rights

¹⁵⁸ *Ibid.*, 13-14, and *Gingles v. Edmisten*, 590 F. Supp. 345 (1984).

¹⁵⁹ Earls, Wynes, and Quattrucci, "Voting Rights in North Carolina," 581; "Two Blacks Join N.C.'s U.S. House Delegation," *Raleigh News and Observer*, November 4, 1992; and Keech and Siström, "Implementation of the Voting Rights Act in North Carolina," 14-17.

¹⁶⁰ Kousser, *Colorblind Injustice*, 243-76.

against social responsibility, contended that government had an indispensable role to play in promoting the general welfare, and viewed the prerogatives of citizenship as the birthright of every American. The other party was wary of government infringement on personal choice and thought of equal citizenship as a privilege to be earned rather than an entitlement. In a society that for most of its history had stood on a foundation of slavery and Jim Crow, contests over these competing ideals were centered, more often than not, on the question of racial equality. Conservatives – whatever their party label – took a narrow view on that issue, partly out of racial animus but also because they understood that Black enfranchisement led to progressive social policies.

This was at no time more obvious than in 1984 and 1990, when U.S. Senator Jesse Helms faced two Democratic challengers: Governor James B. (Jim) Hunt Jr. in the first contest, and, in the second, former Charlotte mayor Harvey B. Gantt.

After his first-term election in 1972, Helms had quickly established himself as a leading spokesman of the new Republican Party that was ascendant in North Carolina and across the nation. He did so by holding true to what I. Beverly Lake Sr. had described as the "eternal principles" of white southern conservatism. Helms championed individualism and free enterprise; he opposed labor unions and attributed inequality to the values and behaviors of people who lived on society's margins; and he characterized social welfare programs as instruments of theft that rewarded the takers rather than the makers of wealth. "A lot of human beings have been born bums," Helms famously declared at the height of the civil rights movement and war on poverty. "Most of them – until fairly recently – were kept from behaving like bums because work was necessary for all who wished to eat. The more we remove penalties for being a bum, the more bumism is going to blossom."¹⁶¹

Helms had a talent for capturing the anger of white Americans who felt aggrieved by their fellow citizens' demands for rights and respect. He was also an innovative campaigner. His North Carolina Congressional Club, founded in 1978, was a fund-raising juggernaut that pioneered targeted political advertising of the sort that began with mass mailing in Helms's era and today is conducted via the internet and social media. Added to all of that, Helms was unwavering in his convictions. Supporters and adversaries alike knew him as "Senator No." He was, in the words of one sympathetic biographer, "an uncompromising ideologue."¹⁶²

Jim Hunt, Helms's opponent in 1984, was cut from different cloth. Born in 1937, he belonged to a new generation of Democrats whose politics had been shaped by the progressive currents of the post–World War II era. Hunt followed in the footsteps of his parents, who had been devout New Dealers and supporters of Frank Graham. In 1960, while studying at North Carolina State University, he managed Terry Sanford's gubernatorial campaign on campuses statewide. As Sanford's protégé, he also learned to appreciate the ways that Jim Crow blighted North Carolina with illiteracy, hunger, sickness, and want. During two terms as governor – from 1977 to 1985 – Hunt put those lessons to work. He established a reputation as one of the South's most progressive leaders by persuading lawmakers to appropriate \$281 million in new spending on public education. He also recruited high-wage industries to shift North Carolina away from its traditional cheap-

¹⁶¹ Viewpoint, December 5, 1966, Jesse Helms Viewpoint editorial transcripts.

¹⁶² Link, *Righteous Warrior*, 9 and 144–46.

labor economy, appointed former Chapel Hill mayor Howard Lee as the first Black cabinet secretary in state history, and named pioneering Black lawmaker Henry Frye to the North Carolina Supreme Court.¹⁶³

As Hunt began his campaign to unseat Senator Helms in the 1984 election, he had reason to expect victory. Polls conducted in early 1983 showed him leading Helms by more than twenty percentage points. Hunt enjoyed particularly enthusiastic support among low-income whites earning less than \$15,000 a year. They preferred him over Helms by a margin of 64 to 21 percent. That was a testament to the popularity of Hunt's policies on education and economic development.¹⁶⁴

Events later in the year warned how quickly that lead could be undone. In early October, Helms led a four-day filibuster against legislation that eventually created a national Martin Luther King Jr. holiday. He revived a line of attack on King that he had honed during the 1960s as a nightly editorialist on Raleigh's WRAL-TV. King, he charged, was a communist revolutionary, not a peacemaker, and his actions and ideals were "not compatible with the concepts of this country." When President Ronald Reagan signed the King holiday bill into law a month later, many in the press reported a humiliating defeat for Helms. But the senator knew his audience back home. Even negative headlines helped him solidify his image as an uncompromising defender of conservative values. The effectiveness of that ploy showed in the polls. At the beginning of the race, Hunt had led Helms by 30 percentage points in counties where Blacks made up less than 10 percent of the population and whites were inclined to worry more about economic opportunities than civil rights. In the months after the filibuster, that deficit turned into a ten-point lead for Helms.¹⁶⁵

As one senior adviser acknowledged, the Helms campaign knew that they "couldn't beat Jim Hunt on issues," so they came out guns blazing on race. The campaign ran thousands of newspaper and radio ads that linked Hunt to the threat of a "bloc vote" being organized by Black Democratic presidential candidate Jesse Jackson and other civil rights leaders. One print ad showed Hunt and Jackson sitting together in the governor's residence and warned, "Gov. James B. Hunt Jr. wants the State Board of Elections to boost minority voter registration in North Carolina. . . . Ask yourself: Is this a proper use of taxpayer funds?"¹⁶⁶

As a means of courting evangelical Christian voters, Helms and his allies focused similar attacks on the emerging gay rights movement. The *Landmark*, a right-wing paper supported largely by advertising income from the Helms campaign, charged that Hunt was a closeted homosexual and had accepted contributions from "faggots, perverts, [and] sexual deviates." In a move reminiscent of the 1950 contest between Frank Graham and Willis Smith, Helms distanced himself from the specifics of those charges but reminded voters at every turn that his enemies were "the atheists, the homosexuals, the militant women's groups, the union bosses, the bloc voters, and so on." This enemies list endeared Helms to enough North Carolinians to best Hunt with 52 percent of the vote.¹⁶⁷

¹⁶³ Pearce, *Jim Hunt*, 11–41, 145–46.

¹⁶⁴ Link, *Righteous Warrior*, 268, and Kellam, "Helms, Hunt, and Whiteness," 53.

¹⁶⁵ Kellam, "Helms, Hunt, and Whiteness," 53, and Link, *Righteous Warrior*, 262–69.

¹⁶⁶ Link, *Righteous Warrior*, 274 and 284, and Goldsmith, "Thomas Farr, Jesse Helms, and the Return of the Segregationists.," <<http://bit.ly/36QLq4c>>, November 29, 2020.

¹⁶⁷ Link, *Righteous Warrior*, 290–91 and 304; "Pro-Helms Newspaper Publishes Rumor That Hunt Had a Gay Lover," *Raleigh News and Observer*, July 6, 1984; and "Article Stirs New Charges in Carolina Senate Race," *New York Times*, July 7, 1984.

Six years later, race became an issue by default when Harvey Gantt won the Democratic senatorial nomination. His very presence on the ticket testified to the gains that Blacks had made in access to the ballot box and political influence. Gantt was born in 1943 in the South Carolina Lowcountry, where cotton and rice barons had built their fortunes from the labor of his enslaved forebears. His parents moved the family to Charleston when he was still an infant. There his father found a job in the city's shipyard, thanks to Roosevelt's executive order opening war industries to Black workers. Gantt grew up in public housing and was educated in the city's segregated public schools. He traced his fascination with politics to his father's membership in the NAACP and to dinner table conversations about civil rights. As a high school student, Gantt joined his local NAACP Youth Council, and in April 1960, shortly after sit-in demonstrations began in North Carolina, he led similar protests in downtown Charleston.¹⁶⁸

When Gantt thought about college, an obvious option was to attend a historically Black institution, such as Howard University or the Tuskegee Institute. But he believed that America's future was going to be "all about" integration, so he headed off to Iowa State University, where he expected to get "an integrated education." Iowa State turned out to be as white as Howard was Black. Disappointed, Gantt returned home to create the future he longed for. He tried three times to gain admission to Clemson Agricultural College (now Clemson University) but was denied. With support from the NAACP Legal Defense Fund, Gantt sued, and in 1963 he won a federal court order that he be admitted as the school's first Black student. He graduated with a degree in architecture and then earned an M.A. in city planning from the Massachusetts Institute of Technology. Gantt made his way to Charlotte in 1971, opened an architectural firm, and quickly became involved in politics. He served on the city council from 1974 to 1983 and won election as mayor for two terms, from 1983 to 1987. When he challenged Helms in 1990, Gantt was the first Black Democrat in the nation's history to run for the U.S. Senate.¹⁶⁹

Helms's campaign against Gantt echoed his attacks on Hunt. When Gantt raised issues of education, health, and the environment, Helms pointed to Gantt's financial ties to "militant homosexuals." One newspaper ad asked, why are "homosexuals buying this election?" The answer: "Because Harvey Gantt will support their demands for mandatory gay rights." At a campaign rally, Helms echoed the "White People Wake Up" warning from Willis Smith's campaign against Frank Graham. "Think about it," he said. "Homosexuals and lesbians, disgusting people marching in our streets demanding all sorts of things, including the right to marry each other. How do you like them apples?"¹⁷⁰

Still, that only got Helms so far. In mid-October, some polls had him trailing Gantt by as many as 8 percentage points. It was time to play what one of Helms's advisers called "the race card." In the run-up to Election Day, the Helms campaign aired a television ad that played on white anxiety over Black access to desegregated workplaces. The ad showed a white man's hands crumpling a rejection letter. He wore a wedding band and presumably had a family to support. And he was dressed in a flannel shirt, not a button-down and tie. He obviously worked with those hands. The voice-over lamented, "You needed that job and you were the best qualified. But they had to give it to a minority because of a racial quota. Is that really fair? Harvey Gantt says it is. Harvey Gantt supports . . . [a] racial quota law that makes the color of your skin more important than your

¹⁶⁸ Gantt interview, <<https://unc.live/31hWV3N>>, November 29, 2020.

¹⁶⁹ *Ibid.*, and *Gantt v. Clemson Agricultural College of South Carolina*, 320 F.2d 611 (4th Cir. 1963).

¹⁷⁰ Link, *Righteous Warrior*, 375.

qualifications. You'll vote on this issue next Tuesday. For racial quotas, Harvey Gantt. Against racial quotas, Jesse Helms." The reference to quotas arose from debate over the proposed Civil Rights Act of 1990. Conservatives charged that it included such strict antidiscrimination rules that employers would feel compelled to adopt minority hiring goals in order to preempt potential lawsuits. President George H. W. Bush vetoed the law on October 22, days before the Helms ad ran on television. There was in all of this striking irony for anyone who cared to notice it. The ad attacked the very thing that Helms and his supporters sought to protect – economic privilege based on skin color.¹⁷¹

At the same time, the state Republican Party attempted to suppress Black voter turnout by mailing postcards to one hundred and twenty-five thousand voters in heavily Black precincts, warning recipients incorrectly that they would not be allowed to cast a ballot if they had moved within thirty days, and that if they attempted to vote, they would be subject to prosecution and imprisonment. Helms subsequently won the election with 65 percent of the white vote and 53 percent of the vote overall. When Gantt challenged him again in 1996, the results were the same.¹⁷²

These battles over Helms's seat in the U.S. Senate made it clear that the political realignment that had begun in the mid-1960s was all but complete. White conservatives now identified as Republicans, and a coalition of minority voters and liberal whites constituted the Democratic Party's base. Contests between the two camps were often decided by slim margins. That was evidence of how closely divided North Carolinians were in the ways that they imagined the state's future. It also revealed the profound difference that racially prejudicial appeals could make in the outcome of elections and the character of governance.

C. Progressive Democrats and Expansion of the Franchise

Despite his loss to Jesse Helms in 1984, Jim Hunt remained popular with North Carolina voters. They knew him as a reformer and modernizer who had improved the public schools and recruited new jobs that offset the loss of employment in the state's traditional manufacturing sector – textiles, tobacco, and furniture. In 1992, Hunt presented himself for an encore in the governor's office. On the campaign trail, Hunt spoke in optimistic terms. He told voters that he wanted "to change North Carolina," to "build a state that would be America's model." Hunt bested his Republican opponent, Lieutenant Governor Jim Gardner, by 10 percentage points. In 1996, he went on to win a fourth term by an even larger margin.¹⁷³

Over the course of eight years, Hunt and fellow Democrats in the General Assembly built on the accomplishments of his first administration. They established Smart Start, a program that pumped \$240 million into local communities to provide preschool education and improved health care to young children; raised teacher salaries by a third and increased state spending on public education from 76 to 86 percent of the national average; launched Health Choice, a state program for uninsured children who were ineligible for Medicaid or other forms of federal assistance; and created a new Department of Juvenile Justice to address the underlying causes of youth crime.

¹⁷¹ Goldsmith, "Thomas Farr, Jesse Helms, and the Return of the Segregationists"; Helms, Hands ad, <<http://bit.ly/2Q5zJnr>>, September 5, 2019; and "President Vetoes Bill on Job Rights, Showdown Is Set," *New York Times*, October 23, 1990.

¹⁷² Link, *Righteous Warrior*, 380; Earls, Wynes, and Quatrucci, "Voting Rights in North Carolina," 589; and Christensen, *Paradox of Tar Heel Politics*, 278.

¹⁷³ Pearce, *Jim Hunt*, 210, quotations at 217 and 220.

Hunt also continued to champion inclusive governance. When he left office in 2001, 22 percent of his appointees to state agencies and commissions were minorities, a figure that matched the state's demography.¹⁷⁴

Between 1992 and 2009, Democratic lawmakers worked to sustain these achievements by expanding minority citizens' access to the franchise. Many of their reforms echoed the Fusion election law of 1895. Key legislation created an option for early voting; allowed voters who went to the wrong precinct on Election Day to cast a provisional ballot; permitted same-day registration during early voting; and created a system for preregistering sixteen- and seventeen-year-olds, so that their names would be placed on the voter rolls automatically when they turned eighteen. The net effect of these reforms was a steady increase in voter participation. In 1996, North Carolina ranked forty-third among the states for voter turnout; it rose to thirty-seventh place by 2000 and to eleventh place in 2012.¹⁷⁵

Most of the increase was driven by higher rates of Black political participation. Between 2000 and 2012, Black voter registration surged by 51.1 percent, as compared to 15.8 percent among whites. Black turnout followed apace. Between 2000 and 2008, it jumped from 41.9 to 71.5 percent. In the 2008 and 2012 elections, Blacks registered and voted at higher rates than whites for the first time in North Carolina's history. That level of participation was critically important in the 2008 presidential contest, when Barack Obama won North Carolina with a slim margin of 14,171 votes out of 4,271,125 ballots cast. He was the first Democrat running for President to carry the state since Jimmy Carter in 1976.¹⁷⁶

D. Emergence of a New Multiracial Majority

The history of North Carolina and the South has been marked so profoundly by race that it is tempting to read the politics of the early twenty-first century solely in terms of Black and white. But there is, in fact, a new multiracial majority emerging. It bears resemblance to the biracial alliances of the Reconstruction and Fusion eras but has been shaped by the arrival of a new, rapidly expanding population of Hispanic citizens and immigrants.

Close observers of North Carolina politics noted that Hispanic voters were also "indispensable" to Obama's victory. The state's Hispanic population grew more than tenfold, from just over 75,000 to roughly 800,000, between 1990 and 2010. By 2018, that number exceeded 996,000, just shy of 10 percent of the state's total population. That expansion was driven by the economic boom of the 1990s and early 2000s, when immigrants poured into North Carolina to work jobs in pork and poultry processing, construction, building maintenance, and hospitality. By 2010, Hispanics represented 8.5 percent of the state's total population and 1.3 percent of registered voters. In a tight election, even that small number could change the outcome. North Carolina's Hispanic voters,

¹⁷⁴ Ibid., 145-46 and 263-66. In 1977, Hunt appointed Howard Lee, former mayor of Chapel Hill, to serve as Secretary of the Department of Natural Resources and Community Development. Seven years later, he named Henry E. Frye to the State Supreme Court, and in 1999 elevated Frye to chief justice.

¹⁷⁵ Berman, *Give Us the Ballot*, 290-91.

¹⁷⁶ For increases in Black voter registration and turnout, see *North Carolina State Conference v. McCrory*, No. 16-1468 (4th Cir. 2016), 13, and Berman, *Give Us the Ballot*, 291.

most of whom favored Democrats, cast 20,468 ballots in 2008, a figure larger than Obama's winning margin.¹⁷⁷

Hispanic voters' influence in state politics is likely to increase dramatically in the coming decade. Today the population stands at 997,000, roughly 10 percent of the state total, and the annual growth rate, at 24.6 percent, is a third higher than in the United States overall. Moreover, nearly 40 percent of North Carolina's current Hispanic residents are children or young teenagers who – unlike many of their parents' generation – were born in this country. Under the terms of the Fourteenth and Fifteenth Amendments, ratified during Reconstruction, and the Twenty-Sixth, ratified in 1971, they will be entitled to vote when they reach the age of eighteen. Taken together, these figures point to the potential for a new multiracial alliance of Hispanic, Black, and progressive white voters.¹⁷⁸

XII. Retrenchment

A. Polarized Politics of Race and Ethnicity

By the early 2000s, North Carolina voters had become as racially polarized as they were at the end of the nineteenth century. Whites, by a wide margin, associated with the party that favored a restricted franchise, limited government, tax cuts, and reduced spending on education and social services. For their part, the majority of Blacks and Hispanics gave their allegiance to the party that advocated for enlarged access to the franchise, education, and healthcare; equal job opportunities; and a broad social safety net that offers protection from poverty and misfortune. National polling data on registered voters' party affiliation, collected by Gallup in 2012, tell the story:

	White	Black	Hispanic	Asian	Other	Undesignated
Republicans	89%	2%	6%	1%	1%	1%
Democrats	60%	22%	13%	2%	1%	2%

Republican and Democratic Party demographics. Newport, "Democrats Racially Diverse; Republicans Mostly White." Gallup, 2012.

In tight elections, this polarization heightened the importance of two related factors: newly enfranchised voters' access to the ballot box and the effectiveness of racial strategies for limiting turnout.¹⁷⁹

How had this happened? As historian Carol Anderson argues, the 2008 election was the tipping point. At the national level, Barack Obama attracted a larger share of the white vote than Democrat John Kerry in 2004. He also won substantial majorities among Hispanic, Asian, youth, and women voters, along with 95 percent of Blacks. This loose coalition had gone to the polls to

¹⁷⁷ Ross, "Number of Latino Registered Voters Doubles in North Carolina," <<http://bit.ly/2I3lGID>>, September 5, 2019; "North Carolina's Hispanic Community: 2019 Snapshot," <<http://bit.ly/2SY8Rpd>>, November 29, 2020; and "Latinos in the 2016 Election: North Carolina," <<https://pewrsr.ch/2HOyFNV>>, September 5, 2019.

¹⁷⁸ "North Carolina's Hispanic Community: 2019 Snapshot," <<http://bit.ly/2SY8Rpd>>, November 29, 2020, and Tippet, "Potential Voters Are Fastest-Growing Segment of N.C. Hispanic Population," <<http://bit.ly/2QRRpQh>>, November 29, 2020.

¹⁷⁹ Newport, "Democrats Racially Diverse; Republicans Mostly White," <<http://bit.ly/2HOkDvH>>, September 5, 2019.

voice support for an expansive vision of government that Republicans had opposed since the days of the New Deal. They rallied to Obama's hopeful slogan, "Yes We Can," and his belief that Washington could improve people's lives with achievable reforms, such as raising the minimum wage, expanding the Earned Income Tax Credit, protecting the rights of labor, investing in public education, and guaranteeing universal access to affordable health care. Looking back on the election, Republican U.S. Senator Lindsey Graham identified the problem: his party was "not generating enough angry white guys to stay in business for the long term."¹⁸⁰

An economy in crisis offered the makings of a solution. When Obama took the oath of office in January 2009, a near collapse of the banking system was threatening to plunge America and the rest of the world into a second Great Depression. North Carolina was one of the states hit hardest. Within a year, the unemployment rate soared to 10.9 percent. That caused pain in every corner of the labor market, but the situation in manufacturing and construction became particularly grim. Between 2007 and 2012, those sectors experienced job losses of 18 and 32 percent, respectively. The banking crisis had begun with the implosion of the market for subprime mortgages. As more people lost their jobs, they fell behind on payments that under the best of circumstances had strained their budgets. Between 2006 and 2014, nine million American families lost their homes; in 2008 alone, the number in North Carolina was 53,995.¹⁸¹

Voters grew angry, particularly at politicians they felt had let the crisis happen and now sought to fix it with bailouts for financial institutions and corporations that were ostensibly "too big to fail." That fury fueled the Tea Party revolt that erupted in 2009. The movement was overwhelmingly white, and its supporters' grievances echoed principles that had defined a century of conservative thought and politics. Tea Partiers rallied against big government; denounced the 2010 Affordable Care Act as a socialist violation of individual liberty; criticized social welfare programs as a waste of taxpayers' money; and launched a xenophobic attack on immigrants who they claimed were stealing American jobs, dealing in illicit drugs, and perpetrating violent crime. The Tea Party sprang from the grassroots, but soon many of its rallies were financed and orchestrated by Americans for Prosperity, a conservative political action group backed by billionaire brothers Charles G. and David A. Koch and a national network of wealthy donors and like-minded organizations.¹⁸²

Tea Partiers channeled much of their anger through racial invective. They hailed President Obama as "primate in chief"; they donned T-shirts that demanded, "Put the White Back in White House"; and at rallies in Washington, D.C., they carried placards that exclaimed, "We came unarmed [this time]." In North Carolina, a member of the Charlotte-Mecklenburg Board of Education argued against increases in school spending on grounds that costs had been inflated by what he called "Obama Bucks" – a pejorative term initially applied to food stamps but soon attached to a wide variety of federal social welfare programs. Three years later, when Charlotte hosted the Democratic National Convention, V. R. Phipps, a self-styled "patriot" from eastern North Carolina, captured headlines when he parked his truck and a trailer near delegates' downtown hotels. The trailer contained effigies of the president and state political figures, each strung up lynching-style

¹⁸⁰ C. Anderson, *White Rage*, 138–39; 2008 Democratic Party Platform, <<http://bit.ly/2ti7IhI>>, November 29, 2020; and "As Republican Convention Emphasizes Diversity, Racial Incidents Intrude," *Washington Post*, August 29, 2012.

¹⁸¹ Gitterman, Coclanis, and Quintero, "Recession and Recovery in North Carolina," 7, <<https://unc.live/2HSb8vw>>, September 5, 2019; Samuels, "Never-Ending Foreclosures," <<http://bit.ly/35X96mZ>>, November 29, 2020; and "N.C. Foreclosures Jumped 9% in 2008," *Triad Business Journal*, January 5, 2009.

¹⁸² Mayer, "Covert Operations," <<http://bit.ly/30m6w8Z>>, November 29, 2020.

in a hangman's noose. Phipps later took his display on tour in the Midwest and up and down the East Coast.¹⁸³

Republican leaders embraced white voters' anger and presented themselves as the party that would defy the Black president and his supporters. Shortly before the 2010 midterm elections, in which Republicans won control of the U.S. House of Representatives, Mitch McConnell, the Republican majority leader in the Senate, pledged to voters, "The single most important thing we want to achieve is for President Obama to be a one-term president. . . . You need to go out and help us finish the job." Writing a year later, Ron Unz, publisher of the *American Conservative*, an influential online political forum, described that racial logic in approving terms: "As whites become a smaller and smaller portion of the local population in more and more regions, they will naturally become ripe for political polarization based on appeals to their interests as whites. And if Republicans focus their campaigning on racially charged issues such as immigration and affirmative action, they will promote this polarization, gradually transforming the two national political parties into crude proxies for direct racial interests, effectively becoming the 'white party' and the 'non-white party.'" Unz predicted that since white voters constituted a majority of the national electorate, "the 'white party' – the Republicans – will end up controlling almost all political power and could enact whatever policies they desired, on both racial and non-racial issues."¹⁸⁴

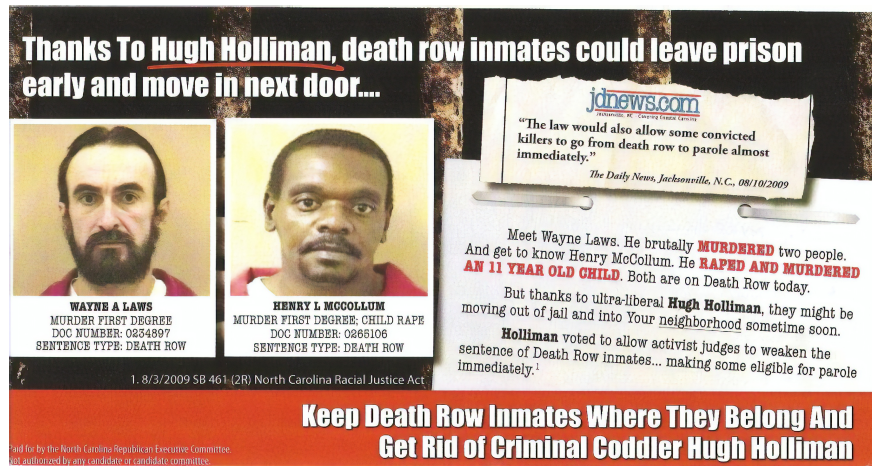
Unz's assessment read like a script for the future of North Carolina politics. Voter discontent offered Republicans an opportunity to extend their success in presidential and senatorial elections downward into campaigns for seats in the state legislature.

Racial appeals figured prominently in the 2010 election. Take, for example, the effort to unseat John J. Snow Jr., a state senator from western North Carolina, and L. Hugh Holliman, Democratic majority leader in the state House of Representatives. Both had voted for the 2009 Racial Justice Act, which Democrats passed after decades of effort to reform or abolish capital punishment. The law gave inmates the right to challenge imposition of the death penalty by using statistical evidence to prove that race was a factor in their sentencing. In the closing weeks of the campaign, the executive committee of the state Republican Party produced a mass mailing that attacked the law and its backers. An oversized postcard featured a photograph of Henry L. McCollum, who had been convicted of raping and killing an eleven-year-old girl. It played to the same ugly stereotypes of Black men's bestial sexuality that had been front-and-center in the white supremacy campaigns of 1898 and 1900, warning that "thanks to ultra-liberal lawmakers" like Holliman and Snow, McCollum might "be moving out of jail and into Your *neighborhood* (emphasis in the original) sometime soon." The not-so-subtle message was that recipients who cared

¹⁸³ Blake, "What Black America Won't Miss about Obama," <<https://cnn.it/2tXfX2E>>, November 29, 2020; "Racial Resentment Adds to GOP Enthusiasm," <<https://on.msnbc.com/378OX1r>>, November 29, 2020; Okun, *Emperor Has No Clothes*, 151; Charlotte-Mecklenburg Board of Education, meeting minutes, September 8, 2009, <<http://bit.ly/2LQCjYX>>, September 5, 2019; "GOP Mailing Depicts Obama on Food Stamps, Not Dollar Bill," <<https://n.pr/34GHRHT>>, September 5, 2019; and "'Hanging Obama' Truck Makes Way into Charlotte," <<http://bit.ly/32sZJu4>>, September 5, 2019.

¹⁸⁴ "GOP's No-Compromise Pledge," <<https://politi.co/2IyrixL>>, November 29, 2020, and Unz, "Immigration, the Republicans, and the End of White America," <<http://bit.ly/32sEyYY>>, September 5, 2019.

for their families' safety would vote to "get rid of criminal coddler[s]" and keep predators like McCollum "where they belong."¹⁸⁵



Republicans used this postcard and a similar mailing to target Democrats Hugh Holliman and John Snow for their support of the 2009 Racial Justice Act. Courtesy of WRAL.com.

There was a double layer of tragedy in this racial appeal. Holliman, a staunch defender of the death penalty, had lost a sixteen-year-old daughter to murder decades earlier. He and many of the public found the postcard so offensive that they demanded an apology from Tom Fetzner, state chairman of the Republican Party. Fetzner obliged but also took the opportunity to criticize Holliman's vote for the racial justice law. Then, in 2014, McCollum was exonerated and released from prison. The *New York Times* reported that the case against him, "always weak, fell apart after DNA evidence implicated another man" who "lived only a block from where the victim's body was found" and "had admitted to committing a similar rape and murder around the same time."¹⁸⁶

Conservative activists disparaged North Carolina's growing Hispanic population in comparable ways. In 2009, Jeff Mixon, legislative director in the Raleigh office of Americans for Prosperity, attacked Hispanic immigrants as deadbeats and thugs. He described North Carolina as a "magnet for illegals" who came to America to "take advantage [of a] vast array of benefits . . . from food stamps and free medical care to in-state tuition at our community colleges." He also played on historically familiar prejudices that associate dark skin with criminality. "Poor illegal aliens" deserved no sympathy, he argued, because they provided cover for "wolves among the sheep" – members of Mexican "narco gangs" who threatened to "ruin our communities."¹⁸⁷

A year later, the executive committee of the North Carolina Republican Party played on such anti-immigrant sentiments in a mailer it distributed to support candidate Thomas O. Murray, who was running against sitting Democrat John Christopher Heagarty for the District 41

¹⁸⁵ Roth, *Great Suppression*, 96–98, and "GOP Featured McCollum in 2010 Attack Ad," <<http://bit.ly/37SalWG>>, September 5, 2019.

¹⁸⁶ "GOP Featured McCollum in 2010 Attack Ad," <<http://bit.ly/37SalWG>>, September 5, 2019; Mayer, "State for Sale," <<http://bit.ly/37VMm96>>, November 29, 2020; "Flier Opens an Old Wound," *Winston-Salem Journal*, October 21, 2010; and "DNA Evidence Clears Two Men in 1983 Murder," *New York Times*, September 2, 2014.

¹⁸⁷ Mixon, "Just Look at the Results," <<http://bit.ly/32tZmj1>>, September 5, 2019; "Narco Gangs in North Carolina," <<http://bit.ly/2HNmPnq>>, September 5, 2019; and "Who Benefits from Illegal Immigration?" <<http://bit.ly/2I3fLTV>>, September 5, 2019.

House seat in the General Assembly. With a sombrero atop his head and his skin darkened by clever photo editing, "Señor" Heagarty exclaims, "Mucho taxo" – a reference to policies that Republicans charged were driving away jobs.¹⁸⁸



Republicans produced this postcard to insinuate that Democrat Chris Heagarty's stance on tax issues was connected to the interests of Hispanic immigrants. Courtesy of *IndyWeek*.

On Election Day, Snow, Holliman, Heagarty, and fifteen of the other Democrats lost their seats, giving Republicans a majority in both houses of the state legislature. Republican lawmakers subsequently consolidated their hold on power. The timing of Republican gains in North Carolina was fortuitous. The nation's decennial census was complete, and lawmakers would now take up the job of redistricting the state.

B. 2011 Redistricting

In 2011, Republican lawmakers redrew state legislative districts in a way that exposed the centrality of race in their strategy for extending and securing their partisan advantage. Managers of the process claimed – falsely – that in order to comply with the Voting Rights Act of 1965, the General Assembly was required to create majority-minority legislative districts in equal proportion to North Carolina's Black population. They instructed an outside consultant, Republican Party strategist Thomas Hofeller, to create such districts wherever geographically possible, and to complete that task before drawing other district lines. The plan that Hofeller designed, and the General Assembly ultimately approved, included thirty-six districts – twenty-four in the House and twelve in the Senate – in which Blacks constituted more than fifty percent of the voting age adults. These districts accounted for twenty-one percent of seats in the General Assembly, a figure that matched the percentage of Blacks in the state's population.¹⁸⁹

Republican leaders presented the redistricting plan as evidence of their commitment to civil rights, but that was a sleight of hand. The new majority-minority districts were bizarrely shaped; they sprawled across county lines, divided municipalities, and split precincts – all for the purpose

¹⁸⁸ "Anti-Heagarty Ads", <<http://bit.ly/2tmNfZ3>>, November 29, 2020.

¹⁸⁹ *Covington v. the State of North Carolina*, 316 F.R.D. 117 (M.D.N.C. 2016), 2, 4-6; *Covington v. North Carolina* (M.D.N.C.) 1:15-cv-00399, 3.

of packing Black voters together as tightly as possible. These configurations dismissed "traditional race-neutral districting principles" established by the U.S. Supreme Court, including "compactness contiguity, and respect for . . . communities defined by actual shared interests." The effect was to separate many Black voters from the interracial alliances that the Democratic Party had been building since the mid 1980s. In the 2012 election, Black candidates gained seven seats in the General Assembly, but nineteen of their white allies suffered defeat.¹⁹⁰ This gave Republicans a super majority in both chambers of the legislature, which, along with the election of Republican governor Patrick L. (Pat) McCrory, sharply diminished Black North Carolinians' ability to influence public policies that mattered to their communities.¹⁹¹

B. *Shelby County v. Holder* and House Bill 589

The severity of that setback quickly became apparent when the new Republican-controlled legislature convened. For more than a year, party leaders had been gathering information that might help them roll back Democratic reforms that had expanded access to the ballot box. As early as January 2012, a member of the Republican legislative staff had asked the State Board of Elections, "Is there any way to get a breakdown of the 2008 voter turnout, by race (white and Black) and type of vote (early and Election Day)?" A year later, a Republican lawmaker wondered, "Is there no category for 'Hispanic' voter?" Another questioned University of North Carolina officials "about the number of Student ID cards that [were] created and the percentage of those who [were] African American," and in April 2013, an aide to the Speaker of the House requested "a breakdown, by race, of those registered voters [who] do not have a driver's license number."¹⁹²

Two months later, the U.S. Supreme Court gave white conservatives an opening to make wholesale changes to state elections law. In *Shelby County v. Holder*, a 5-4 majority of justices struck down Section 5 of the Voting Rights Act, which had required that the U.S. Department of Justice preclear changes in voting procedures in portions of North Carolina and other affected jurisdictions to ensure that they would not disadvantage protected minorities. Within hours of the ruling, Republican leaders in North Carolina announced that they planned to introduce an omnibus bill that would dramatically modify the ways that citizens registered to vote and cast their ballots.¹⁹³

What eventually emerged was House Bill 589, legislation that targeted the electoral clout of the alliance of Black, Hispanic, and progressive white voters within the Democratic Party. Like

¹⁹⁰ *North Carolina General Assembly, 149th Session 2011-2012: House of Representatives*, <https://www.ncleg.gov/DocumentSites/HouseDocuments/2011-2012%20Session/2011%20Demographics.pdf>; *North Carolina General Assembly, 150th Session 2013-2014: House of Representatives*, <https://www.ncleg.gov/DocumentSites/HouseDocuments/2013-2014%20Session/2013%20Demographics.pdf>; *North Carolina General Assembly 2011 Senate Demographics*, <https://www.ncleg.gov/DocumentSites/SenateDocuments/2011-2012%20Session/2011%20Demographics.pdf>; *North Carolina General Assembly 2013 Senate Demographics*, <https://www.ncleg.gov/DocumentSites/SenateDocuments/2013-2014%20Session/2013%20Senate%20Demographics.pdf>.

¹⁹¹ "North Carolina Election Results 2012: McCrory Wins Governor's Race; Hudson Tops Kissell for House Seat; Romney Gets Narrow Victory," *Washington Post*, November 7, 2012, https://www.washingtonpost.com/politics/decision2012/north-carolina-election-results-2012-mccrory-wins-governors-race-hudson-tops-kissell-for-house-seat-romney-gets-narrow-victory/2012/11/07/201e8c1c-23a8-11e2-ac85-e669876c6a24_story.html.

¹⁹² "Inside the Republican Creation of the Norther Carolina Voting Bill Dubbed the 'Monster' Law," *Washington Post*, September 2, 2016.

¹⁹³ *Ibid.*

the Act to Regulate Elections that opponents of Fusion crafted in 1899, House Bill 589 made no explicit reference to race or ethnicity; nevertheless, it threatened to limit political participation by non-white minorities. The law included a number of provisions that would have made voting harder for Black and Hispanic electors.

- House Bill 589 required that in-person voters provide one of eight approved forms of photo identification in order to cast a ballot. Blacks constituted 22 percent of North Carolina's population, but according to an analysis of State Board of Elections data by political science and election scholars Michael Herron and Daniel Smith, they represented more than a third of the registered voters who at the time did not possess the two most common forms of photo identification: a valid driver's license or a state-issued nonoperator's ID card.¹⁹⁴
- The law also eliminated the first week of early voting, same-day registration, and straight-ticket voting. Statistics from the 2008 election in North Carolina suggested that these changes would have a disproportionately negative effect on Black voter participation. In the run-up to Election Day, 71 percent of Black voters cast their ballots early, including 23 percent who did so within the first week of the early voting period. That compared, respectively, to 51 and 14 percent of whites. Thirty-five percent of same-day voter registrants were Black, a figure 50 percent higher than what might have been predicted on the basis of population statistics, and Democrats voted straight-ticket by a two-to-one ratio over Republicans.¹⁹⁵
- House Bill 589 targeted young future voters in similar fashion. It ended a program that permitted sixteen and seventeen-year-olds to pre-register at their high schools and other public sites. That opportunity had been particularly popular among Black teenagers. Blacks constituted 27 percent of the pool of pre-registered youth, once again a figure that was significantly higher than Black representation in the general population.¹⁹⁶

Many observers at the time noted this potentially disproportionate effect on Black electors, but most missed something equally important. The elimination of pre-registration for sixteen and seventeen-year-olds was remarkably forward looking: it stood to diminish the impact of rapid growth in the number of Hispanic voters – growth that observers identified as the "future of Progressive strength in America."¹⁹⁷

A report from the University of North Carolina's Population Center explained the details. In 2012, as illustrated in the graph below, most of the state's Hispanic residents were non-citizens and only one if four was eligible to vote, but just over the horizon, Republicans faced a large population of young Hispanics who had been born in the United States, who would soon cast a ballot, and data showed were inclined to support Democrats. Of the

¹⁹⁴ Herron and Smith, "Race, *Shelby County*, and the Voter Information Verification Act in North Carolina," 497.

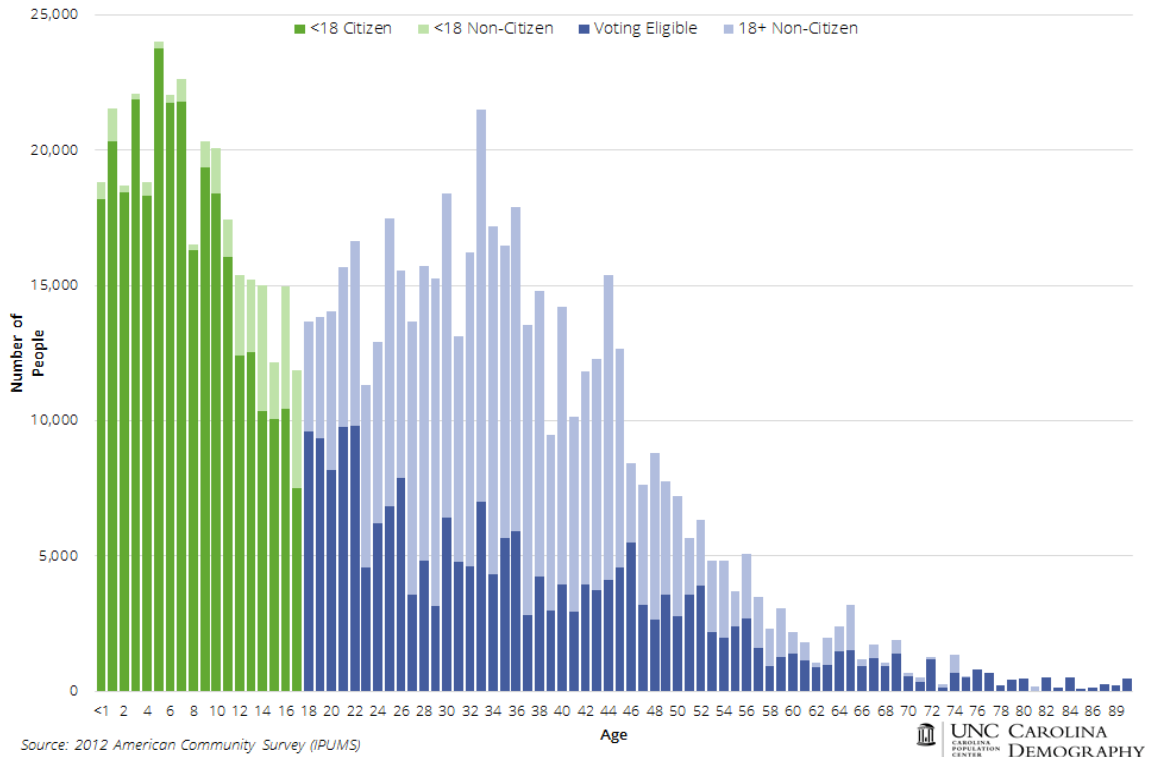
¹⁹⁵ and Heberling and Greene, "Conditional Party Teams," 117.

¹⁹⁶ Herron and Smith, "Race, *Shelby County*, and the Voter Information Verification Act in North Carolina," 505.

¹⁹⁷ Broockman and Roeder, "Hispanics Are the Future of Progressive Strength in America, New Organizing Institute, <<http://bit.ly/2HPJ3Fn>>, September 5, 2019; "Republicans Have a Major Demographic Problem, and It's Only Going to Get Worse," *Washington Post*, April 22, 2014; "The South is Solidly Republican Right Now; It Might Not Be that Way in 10 Years," *Washington Post*, April 29, 2014; and "Immigration is Changing the Political Landscape in Key States," <<http://ampr.gs/32wwPsW>>, September 5, 2019.

Hispanics who had or would turn eighteen between 2012 and 2015, 72 percent were citizens. That figure rose to 84 percent of those who would turn eighteen between 2015 and 2019, and to 98 percent of those who would do so between 2020 and 2030. For Republicans politically, there was little to be gained and much to be risked by pre-registering these future voters.¹⁹⁸

NC Hispanic Population by Age & Citizenship, 2012



Blue bars represent voting-age Hispanics, with dark shading for citizens and light shading for non-citizens. Green bars represent Hispanics under age eighteen, again with dark shading for citizens and light shading for non-citizens. Courtesy of Carolina Demography, University of North Carolina at Chapel Hill.

- Finally, House Bill 589 changed the rules for challenging voters' eligibility to cast a ballot and, by doing so, heightened the potential for intimidation. Three revisions were important in this regard. First, residents throughout the state were now allowed to inspect and challenge registration records in any of North Carolina's one hundred counties. In the past, challengers were permitted to act only in the counties in which they resided. Second, residents of a county were permitted to challenge voters' eligibility to cast a ballot at polling sites countywide, not just in the precincts where they themselves were registered. Third, the chair of each political party in a county were permitted to appoint ten at-large observers to monitor voting at any polling place they believed warranted close supervision. These poll watchers would be appointed in addition to the election judges assigned to specific voting sites.

¹⁹⁸ Tippet, "North Carolina Hispanics and the Electorate," <<http://bit.ly/2UDvIVC>>, September 5, 2019.

Worry that these provisions would encourage frivolous challenges and voter intimidation was based on more than speculation. During the 2012 election, a loose confederation of conservative activists mobilized by True the Vote, state-level Voter Integrity Projects, and the Madison Project launched a campaign they called Code Red USA. Their aim was to marshal a "cavalry" of volunteer poll watchers to police alleged voter fraud in battleground states, including North Carolina. In one incident, self-appointed watchdogs in Wake County petitioned to have more than five hundred voters, most of them people of color, removed from the registration rolls.

Though the attempt failed, it echoed in disturbing ways a similar episode during Reconstruction, when a group of whites in the same county challenged one hundred and fifty Black voters on grounds that they had registered fraudulently. As a researcher from the Brennan Center for Justice at the New York University School of Law observed, the 1872 challenge was "one of the first organized attempts by private citizens . . . to systematically undermine Black political participation in North Carolina – a practice that would continue throughout the Jim Crow era." The mechanism to allow and facilitate this practice was reintroduced by the enactment of House Bill 589.¹⁹⁹

When pressed on these issues, Republican lawmakers insisted that their intent was not to infringe on voting rights. Thom Tillis, Speaker of the House, encouraged the public to think of House Bill 589 instead as a means of "restoring confidence in government."²⁰⁰

C. Rolling Back Reform, Restricting Social Provision

The new Republican-led North Carolina Legislature wanted to roll back reforms that previous Democratic-led legislatures had fought so hard for, reforms that brought equity back into electoral politics. *Shelby County* and the nullification of the Federal Government's preclearance regime gave the new legislature the impetus to put forth discriminatory laws such as HB 589 and its successor SB 824, but also set up a decade of fights over the suppression of Black voters in various ways and has ultimately led to this lawsuit over the new 2021 district maps.

The Republicans' sweeping revision of state election law was a key element in a broader legislative agenda designed to roll back decades of reform that had made state government more responsive to the economic and social needs of minority populations who had been politically and economically marginalized throughout much of the state's history.

One of Republicans' top priorities was to repeal the 2009 Racial Justice Act. Democrats defended the law by pointing to a simple set of numbers: between 1977 and 2010, North Carolina courts had sent three hundred and ninety-two people to death row, 49 percent of whom were Black – a figure more than double Blacks' representation in the general population. Opponents were not impressed. Thomas Goolsby, a Republican in the state Senate, insisted that the Racial Justice Act was unnecessary because inmates on death row already had "multiple avenues of appeal." Governor Pat McCrory seconded that claim, arguing that the law did nothing more than create a new "judicial loophole to avoid the death penalty and not a path to justice." Timothy K.

¹⁹⁹ "Looking, Very Closely, for Voter Fraud," *New York Times*, September 17, 2012; "The Madison Project Launches the Code Red USA Project"; and Riley, "Lesson from North Carolina on Challengers," <<http://bit.ly/32uhGbN>>, September 5, 2019.

²⁰⁰ Berman, *Give Us the Ballot*, 290.

(Tim) Moore, who later became the state's Speaker of the House, heaped ridicule atop McCrory's scorn. "The Racial Justice Act tries to put a carte blanche solution on the problem," he said. "A white supremacist who murdered an African American could argue he was a victim of racism if Blacks were on the jury." There was, of course, no evidence that Blacks had systematically persecuted white supremacists in the past, or that prosecutors were eager to empanel Black jurors. In fact, district attorneys in North Carolina struck eligible Black jurors at roughly 2.5 times the rate they excluded

all others. In early June 2013, lawmakers voted largely along party lines to rescind the Racial Justice Act, and Governor McCrory quickly signed the repeal into law.²⁰¹

North Carolina's minority schoolchildren also ran afoul of Republican lawmakers, who mounted a stepwise campaign to weaken public education and expand private alternatives. The starting point was an issue that had been front and center in the 2012 election: a projected \$3 billion shortfall in the state budget. There were obvious ways to address that problem – raise taxes, cut spending, or do some of both. The Republican majority in the General Assembly chose austerity, and because expenditures on education accounted for nearly 40 percent of North Carolina's annual budget, public schools were in the bullseye. For fiscal year 2014, the total appropriation for K-12 education, when adjusted for inflation, fell \$563 million short of school spending in fiscal year 2008. Included in that figure were deep cuts in funding for pre-K programs, transportation, textbooks, and construction. The reductions hit teachers particularly hard. Their pay effectively stagnated as compensation in North Carolina fell from twenty-second to forty-seventh place in the nation. Soon teachers were fleeing the state's public schools; some dropped out of the profession, and others were lured away by better pay in neighboring states.²⁰²

Spending cuts and teacher attrition created a public perception of crisis, which was amplified by changes in the way that state officials had begun to report school performance. In 2012, the General Assembly created a simplified system that distilled a variety of measurements into letter grades that ranged from A to F. A year later, seven hundred and seven public schools received a grade of D or F. Parents and educators were shocked, in part because officials failed to tell them that nearly all of the underperforming schools were also high-poverty, majority-minority schools, where children needed more, not less, funding for supplemental instruction, pre-K and after-school programs, lower student-teacher ratios, and reduced class size.²⁰³

Republican lawmakers ignored those needs and instead used the low grades to argue for increased public support for charter schools and implementation of a new freedom-of-choice

²⁰¹ Kotch and Mosteller, "Racial Justice Act," 2035 and 2088; "North Carolina Repeals Law Allowing Racial Bias Claim in Death Penalty Challenges," *New York Times*, June 5, 2013; Grosso and O'Brien, "Stubborn Legacy," 1533; Florsheim, "Four Inmates Might Return to Death Row," <<http://bit.ly/37qiEss>>, September 5, 2019; and "McCrory Signs Repeal of Racial Justice Act," *Winston-Salem Journal*, June 20, 2013.

²⁰² "North Carolina's Step-by-Step War on Public Education," *Washington Post*, August 7, 2015; Johnson and Ellinwood, *Smart Money*, <<http://bit.ly/37tcCqO>>, November 29, 2020; 2013–2015 North Carolina Budget Short-Changes Students, Teachers, and Public Education, <<http://bit.ly/2RTBUrA>>, November 29, 2020; Gerhardt, "Pay Our Teachers or Lose Your Job," <<http://bit.ly/2ROO19t>>, November 29, 2020; Wagner, "North Carolina Once Again Toward the Bottom in National Rankings on Teacher Pay," <<http://bit.ly/2TZHA67>>, November 29, 2020; and Brenneman, "Teacher Attrition Continues to Plague North Carolina," <<http://bit.ly/2uuLBVu>>, November 29, 2020.

²⁰³ 2013–14 School Performance Grades (A–F) for North Carolina Public Schools. On the grading scheme, see *Unraveling*, <<http://bit.ly/2TYTpcG>>, November 29, 2020.

voucher program for private and religious academies. These policy decisions threatened to accelerate school re-segregation, which had been gathering speed since 2000, when the U.S. Supreme Court overturned its earlier decision in *Swann v. Charlotte-Mecklenburg Board of Education*. The Swann ruling, issued in 1971, had made busing a preferred means of desegregation and, in Charlotte, led to the creation of one of the nation's most integrated school systems. But behind that success lay deep racial anxiety, which led a group of white parents to initiate the court challenge to *Swann* in 1997 and, more broadly, informed the creation of North Carolina's charter school program a year later. A Duke University study of charter schools in the period between 1998 and 2012 offered insight into these developments and their role in re-segregation. The Duke researchers found that white parents preferred schools that were no more than 20 percent Black. Beyond that tipping point, they began to look for alternatives. The results showed in the demography of North Carolina schools. In 2012, only about 30 percent of students in the traditional public education system attended highly segregated schools that were more than 80 percent or less than 20 percent Black. In charter schools, the figures were reversed; more than two-thirds of students were enrolled in schools that were overwhelmingly white or Black. The Duke team concluded from these numbers that "North Carolina's charter schools have become a way for white parents to secede from the public school system, as they once did to escape racial integration orders."²⁰⁴

North Carolina's voucher program also undermined confidence in public schools and encouraged re-segregation. The program used public school funds to offer Opportunity Scholarships to low-income families that earned less than 133 percent of the federal poverty line. The State Department of Public Instruction marketed the vouchers, valued at up to \$4,200 a year, as assistance for parents who wished to remove their students from high-poverty, under resourced schools – that is, underperforming schools created by state policies. Today, 93 percent of voucher recipients attend religious schools, which, on average, do not serve them particularly well. North Carolina accountability standards for voucher-eligible schools are among the most lenient in the nation. Those schools are not required to seek accreditation, employ licensed teachers, comply with state curriculum standards, or administer end-of-year evaluations of student learning. Given that lax oversight, it is not surprising that in the small number of voucher-eligible schools that do report results from standardized reading and math tests, 54 percent of students score below national averages. Enrollment data for voucher-eligible schools is not readily available, but information from disparate sources suggests that they are an increasingly attractive choice for white families who are looking for an alternative to integrated public schools. Between the 2014-15 and 2016-17 academic years, the share of vouchers claimed by Black students fell from 49 to 35 percent, while the share used by whites increased from 27 to 41 percent. One fact provides at least a partial explanation of that shift: in large religious schools with more than eighty voucher students, average enrollment was 89 percent white.²⁰⁵

Restoring "blindfolded" justice that dismissed four centuries of racial inequity in American jurisprudence and defaulting on North Carolina's constitutional obligation to provide all children equal opportunities in school – this was the agenda that Republicans enacted after their sweep of

²⁰⁴ Ladd, Clotfelter, and Holbein, "Growing Segmentation," 11, 35, <<https://ampr.gs/32wwPsW>>, September 5, 2019, and "White Parents in North Carolina Are Using Charter Schools to Secede from the Education System," *Washington Post*, April 15, 2015.

²⁰⁵ *School Vouchers*, 1–2, 7, 11–13, and 21n2, <<http://bit.ly/2Sbg03j>>, November 29, 2020; Opportunity Scholarship Program, 2019–20 School Year, <<http://bit.ly/2GoFFzZ>>, November 29, 2020; and Private School Minority Statistics in North Carolina, <<http://bit.ly/3aJN8I4>>, November 29, 2020.

the General Assembly and governor's office in 2012. On election night in 2016, as he celebrated Donald J. Trump's presidential victory, Tim Moore, the state Speaker of the House, looked back on his party's handiwork and declared, "We've had a great four years since we took the majority." But even in that moment, Moore and other party leaders surely knew that candidates with different priorities might prevail in future elections and sweep away Republicans' accomplishments. How, then, to make the conservative revolution permanent? One answer – the answer that Charles Aycock and white-rule Democrats had imposed in 1900 – was to disenfranchise dissenting voters. That was the threat posed by House Bill 589, which a federal court would later describe as "the most restrictive voting law North Carolina has seen since the era of Jim Crow."²⁰⁶

D. House Bill 589 in the Federal Courts

In 2016, the North Carolina NAACP, League of Women Voters, and U.S. Department of Justice lost their challenge to House Bill 589 in the U.S. District Court for the Middle District of North Carolina. But on appeal, the Fourth Circuit ruled for the plaintiffs and reversed the district court's decision. A three-judge panel found compelling evidence of discriminatory intent in the Republican election law. Among other considerations, the court pointed to "the inextricable link between race and politics in North Carolina," Republican lawmakers' consideration and use of race-specific data on voting practices, and the bill's timing. In addition to following closely on the heels of the *Shelby County* decision, House Bill 589 was also situated at a critical juncture in North Carolina politics. The appellate court judges noted that "after years of preclearance and expansion of voting access, by 2013 African American registration and turnout rates had finally reached near-parity with white registration and turnout rates. African Americans were poised to act as a major electoral force." Republican lawmakers "took away that opportunity because [Blacks] were about to exercise it," and they did so, the judges added, "with almost surgical precision."²⁰⁷

From this and other evidence, the Fourth Circuit panel concluded "that, because of race, the legislature enacted one of the largest restrictions of the franchise in modern North Carolina." They did not directly cite North Carolina's 1900 disenfranchisement amendment to the state constitution, but that was the obvious historical reference point. No other change to election law had been so sweeping in its effect. The judges remanded the House Bill 589 case to the district court, with instructions to enjoin the voter ID requirement and changes made to early voting, same-day registration, out-of-precinct voting, and teen preregistration.²⁰⁸

Republican leaders quickly regrouped after the Fourth Circuit ruling. They began to prepare an appeal to the Supreme Court and, in the interim, attempted to salvage some of the advantage that House Bill 589 would have given them in the upcoming 2016 general election. In mid-August, Republican governor Pat McCrory petitioned Chief Justice John G. Roberts Jr. to reinstate the law's photo ID requirement, which had been implemented months earlier in the spring primaries. Roberts declined. At the same time, Dallas Woodhouse, executive director of the state

²⁰⁶ "North Carolina's 'Racial Justice Act,'" Civitas Institute, November 16, 2010, <<http://bit.ly/38K467o>>, November 29, 2029; "Berger and Moore Celebrate Majority Victory in State Legislature," *Raleigh News and Observer*, (updated online, <<http://bit.ly/2tIJPjJ>>, November 29, 2020); *North Carolina State Conference of the NAACP v. McCrory*, 831 F.3d 204, 229 (4th Cir. 2016).

²⁰⁷ *North Carolina State Conference of the NAACP v. McCrory*, 831 F.3d 204, 214, 215 (4th Cir. 2016); see also *North Carolina State Conference of the NAACP v. McCrory*, 182 F. Supp. 3d 320 (M.D.N.C. 2016); *North Carolina State Conference of the NAACP v. McCrory*, 997 F. Supp. 2d 322 (M.D.N.C. 2014).

²⁰⁸ *North Carolina State Conference of the NAACP v. McCrory*, 831 F.3d 204, 239–241 (4th Cir. 2016).

Republican Party, encouraged county election boards to press ahead with what he called "party line changes" to early voting. The boards no longer had legal authority to shorten the early-voting period, but they could achieve much the same effect by reducing the number of early-voting sites and cutting the hours they would be open.²⁰⁹

Seventeen county boards, mostly in the east, did just that. Had Section 5 of the Voting Rights Act still been in place, the changes would have required preclearance from the U.S. Department of Justice, but that was no longer a hurdle. In the affected counties, Black voter turnout sagged significantly through much of the early voting period and caught up to 2012 levels only after a Herculean get-out-the-vote effort. Tellingly, state Republican Party officials reported that news in explicitly racial terms. The "North Carolina Obama coalition" was "crumbling," they reported in a news release. "As a share of Early Voters, African Americans are down 6.0%, (2012: 28.9%, 2016: 22.9%) and Caucasians are up 4.2%, (2012: 65.8%, 2016: 70.0%)." ²¹⁰

On appeal in 2017, the U.S. Supreme Court declined to review the Fourth Circuit's ruling on House Bill 589.²¹¹

E. Redistricting in Federal and State Courts

As House Bill 589 wound its way through the federal courts, plaintiffs raised related objections to the redistricting plan enacted by Republican lawmakers in 2011. In *Covington v. North Carolina*, twenty-eight plaintiffs contested the configuration of the same number of new, majority-minority districts in the General Assembly. They charged that those districts had been created "through the predominant and unjustified use of race." State defendants answered the complaint by insisting that "race was not the primary factor used in the redistricting, and that even if it was, their use of race was necessary to serve a compelling state interest – namely, compliance with Section 2 and Section 5 of the Voting Rights Act."²¹²

In August 2016, the U.S. District Court for the Middle District of North Carolina rejected that defense. The court ruled against the Section 2 claim, noting that Republican lawmakers presented no evidence that they had created majority-minority districts to remedy situations in which "vote dilution" – as in at-large elections, or as a consequence of white bloc voting – restricted minority citizens' "opportunity . . . to participate in the political process and to elect representatives of their choice." In fact, the court observed, Black legislators had a strong record of electoral success in "non-majority-Black" districts. It noted that "in three election cycles preceding the 2011 redistricting, African-American candidates for the North Carolina House won thirty-nine general elections in districts without a majority [Black voting age population] . . . and African-American candidates for the North Carolina Senate won twenty-four such elections." The court took a similarly jaundiced view of Republican lawmakers' Section 5 claim. It pointed out that "eleven of the

²⁰⁹ "McCrory Asks Supreme Court to Restore Voter ID Law," *Raleigh News and Observer*, August 16, 2016, and "N.C. Republican Party Seeks 'Party Line Changes' to Limit Early Voting Hours," *Raleigh News and Observer*, August 18, 2016.

²¹⁰ Newkirk, "What Early Voting in North Carolina Actually Reveals," <<http://bit.ly/2ULBchm>>, September 5, 2019, and North Carolina Republican Party, "NCGOP Sees Encouraging Early Voting," <<http://bit.ly/2HS9B8J>>, September 5, 2019.

²¹¹ *North Carolina v. North Carolina State Conference of the NAACP*, 137 S. Ct. 1399 (2017).

²¹² *Covington v. North Carolina*, 316 F.R.D. 117, 124, 126, 174 (M.D.N.C. 2016).

[twenty-eight] challenged districts [did] not include any county, in whole or in part, that was covered by Section 5 in 2011, and therefore those districts could not have been drawn to remedy a Section 5 violation."²¹³

The court concluded that Republican lawmakers could point to "no strong basis in evidence" that they had acted to correct voting practices or procedures that limited racial minorities' "effective exercise of the electoral franchise."²¹⁴ In fact, the 2011 redistricting plan appeared to have been designed to do just the opposite. In Guilford County, for example, the Republican map split forty-six precincts in order to cram 88.39 percent of Greensboro's Black voting-age residents into three majority-minority state House districts. Similarly, Senate district 28 split Greensboro and neighboring High Point along racial lines, and by doing so captured 82.45 percent of the Black voting age population in Greensboro, along with 60 percent of that population in High Point.²¹⁵

Based on these observations, the court ruled that the 2011 redistricting plan "constitute[d] racial gerrymandering in violation of the [Fourteenth Amendment's] Equal Protection Clause." North Carolina "citizens have the right to vote in districts that accord with the Constitution," the court declared. "We therefore order that new maps be drawn that comply with the Constitution and the Voting Rights Act."²¹⁶ In 2017, the General Assembly adopted a new redistricting plan that included 116 revised districts. *Covington* plaintiffs objected that twelve of the new districts failed to remedy original instances of racial gerrymandering, or were otherwise unconstitutional. The district court found that nine of those complaints had merit and appointed a Special Master to make additional revisions. On appeal in 2018, the U.S. Supreme Court upheld four of the Special Master's revised maps.²¹⁷

As the *Covington* case came to closure in the federal courts, Common Cause and twenty-three individual plaintiffs sued in state court to block the 2017 redistricting plan. They charged that despite revisions intended to correct racial gerrymandering, redrawn legislative districts still advantaged Republicans over the Democratic challengers that most Black and progressive white voters preferred. In their court filing, the plaintiffs explained how this was done:

To maximize the number of Republican seats in the General Assembly, the 2017 Plan meticulously 'pack[ed] and crack[ed]' Democratic voters. Packing and cracking are the two primary means by which mapmakers carry out a partisan gerrymander. 'Packing' involves concentrating one party's backers in a few districts that they will win by overwhelming margins to minimize the party's votes elsewhere. 'Cracking' involves dividing a party's supporters among multiple districts so that they fall comfortably short of a majority in each district.²¹⁸

The configuration of legislative districts in Charlotte and Mecklenburg County offered a striking example of these practices in action. The 2017 plan broke Mecklenburg County into twelve House

²¹³ Ibid., 125.

²¹⁴ Ibid., 174.

²¹⁵ Ibid., 47–48 and 164.

²¹⁶ Ibid., 178.

²¹⁷ Order, *Covington v. North Carolina*, 316 F.R.D. 117 (M.D.N.C. 2016) (No. 1:15-cv-399); Memo. Op. and Order, *Covington v. North Carolina*, 316 F.R.D. 117 (M.D.N.C.) (No. 1:15-cv-399); *North Carolina v. Covington*, 137 S. Ct. 1624 (2017); *North Carolina v. Covington*, 138 S. Ct. 2548, 2550, 2555 (2018).

²¹⁸ Amended Compl., 33, *Common Cause v. Lewis*, 2019 N.C. Super. LEXIS 56, 18 CVS 014001 (N.C. Super. Ct. Sept. 3, 2019).

districts. Democratic voters were packed into eight of the districts, seven of which included no Republican-leaning precincts. Conversely, Charlotte's Republican voters were packed into three districts in southern Mecklenburg County, and the last remaining district, in north Mecklenburg, was drawn to give Republicans an advantage by dodging adjacent Democratic-leaning precincts. Senate districts followed a similar pattern. All of Charlotte's Republican-leaning precincts were packed into two districts that overlapped the southern House districts, and Democrat-leaning precincts were concentrated in three districts that included heavily minority, inner city neighborhoods.²¹⁹ Given the sharp racial polarization in political party membership, this configuration worked to disadvantage minority citizens, the overwhelming majority of whom affiliate as Democrats.

The effectiveness of packing and cracking was apparent in the 2018 statewide election results. In contests for "both the state House and state Senate . . . Democratic candidates won a majority of the statewide vote." Even so, Republicans secured "a substantial majority of seats in each chamber": 29 of 50 in the Senate and 65 of 120 in the House.²²⁰ "The [electoral] maps," Common Cause and its allies complained, "are impervious to the will of the voters." So was policy making. "In today's state legislatures—and particularly in North Carolina," the Common Cause plaintiffs observed, "Republican representatives are simply not responsive to the views and interests of Democratic voters. Regardless of whether gerrymandering has caused this increased partisanship, such extreme partisanship magnifies the effects of partisan gerrymandering. When Democratic voters lose the ability to elect representatives of their party as a result of partisan gerrymandering, those voters lose not only electoral power, but also the ability to influence legislative outcomes – because Republican representatives pay no heed to these voters' views and interests once in office."²²¹

In September 2019, a three-judge panel of the Wake County Superior Court affirmed these claims. They ruled that the 2017 redistricting plan violated the North Carolina state constitution on three counts. "First, the court wrote that partisan gerrymandering 'strikes at the heart' of the Free Elections Clause, a provision of the North Carolina Constitution stating that 'all elections shall be free.' Second, the court held that partisan gerrymandering violated the North Carolina Equal Protection Clause, which [state] courts have interpreted to include the fundamental 'right to vote on equal terms.' . . . Finally, the court declared that under the North Carolina Constitution, partisan gerrymandering unconstitutionally burdens the free speech and assembly rights of those who vote for the disfavored party by diluting their votes and their ability to effectively organize."²²² Based

²¹⁹ *Common Cause v. Lewis*, N. C. General Court of Justice, Superior Court Division, 18 CVS 014001, Complaint, November 13, 2018, 1, 28, 109-17, 186-91.

²²⁰ Amended Compl. 1, *Common Cause v. Lewis*, N. 2019 N.C. Super. LEXIS 56, 18 CVS 014001 (N.C. Super. Ct. Sept. 3, 2019); Millhisser, "Cracks in the GOP's Gerrymandering Firewall," <<http://bit.ly/35Tq1qL>>, November 29, 2020. See also North Carolina General Assembly 2019 Senate Demographics, <<https://cutt.ly/IUsQoPw>>.

²²¹ Amended Compl. 64, *Common Cause v. Lewis*, 2019 N.C. Super. LEXIS 56, 18 CVS 014001 (N.C. Super. Ct. Sept. 3, 2019); *Common Cause v. Lewis*, Common Cause North Carolina blog, December 17, 2019, <<https://cutt.ly/qUenOvR>>.

²²² Recent Case: *Common Cause v. Lewis*, Harvard Law Review Blog, October 15, 2019, <<https://cutt.ly/cUem59X>>.

on these findings, the court ordered that legislative maps be redrawn once more. The General Assembly complied, without legal objection, in October 2019.²²³

Taken together, these judicial rulings underscore the fact that in North Carolina politics, extreme partisan gerrymandering is a highly effective means of discriminating against racial minorities. It works to restrict minority voting power, and, by doing so, weakens the influence of interracial and multiethnic coalitions, particularly within the Democratic Party. The ultimate effect is to entrench white conservatives' control of the General Assembly and public policy.

F. Constitutional Amendment – A New Old Strategy

Republican leaders – including party chairman Robin Hayes, Senate President Pro Tempore Phil Berger, and Speaker of the House Tim Moore – answered these defeats with public declarations that they would "continue to fight." Having failed to secure a comprehensive revision of election law with House Bill 589, they narrowed their focus to voter ID and shifted the battle to the state constitution, where similar struggles over voting rights, race, and democracy had been waged in 1868 and again in 1900. In 2018, Republican lawmakers drafted a constitutional amendment that would require photographic identification of all electors "offering to vote in person." They placed it on the ballot for ratification in the upcoming November election.²²⁴

That was a shrewd tactical move. As Gerry Cohen, retired special counsel to the General Assembly, observed, Republicans viewed the amendment as a means of "immuniz[ing] voter ID, specifically photo voter ID, from [court challenges on] state constitutional grounds." A future legislature dominated by Democrats would also find it far more difficult to reverse a constitutional amendment than to repeal an election law like House Bill 589. These were live concerns for Republicans who faced a Democratic majority on the North Carolina Supreme Court and, if opinion polls in advance of Election Day had any predictive power, were at risk of losing their supermajority in the state House of Representatives.²²⁵

Over the course of the campaign, Republicans argued for the voter ID amendment as a reasonable, necessary, and common-sense reform. It was reasonable, they said, because the state had made adequate provision for its citizens to acquire a photo ID. The amendment was necessary,

²²³ *Common Cause v. Lewis*, N. C. General Court of Justice, Superior Court Division, 18 CVS 014001, Judgment, September 3, 2019; *Common Cause v. Lewis*, Common Cause North Carolina blog, December 17, 2019, <<https://cutt.ly/qUenOvR>>.

²²⁴ "Supreme Court Won't Rescue N.C. Voter ID Law; GOP Leaders Say They Will Try Again with New Law," *Raleigh News and Observer*, May 15, 2017; Act to Amend the North Carolina Constitution to Require Photo Identification to Vote in Person, S.L. 2018-128, H.B. 1092, <<http://bit.ly/2LRAE5p>>, September 5, 2019; and "Voter ID to Go on N.C. Ballots," <<http://bit.ly/2LVTh8c>>, September 5, 2019.

²²⁵ Cohen interview, <<http://bit.ly/34VsJXc>>, September 5, 2019; Act to Amend the North Carolina Constitution to Require Photo Identification to Vote in Person, S.L. 2018-128, House Bill 1092, <<http://bit.ly/2LRAE5p>>, September 5, 2019; and "Voter ID to Go on N.C. Ballots," <<http://bit.ly/2LVTh8c>>, September 5, 2019. In June 2018, National Research Inc. conducted a poll for the conservative Civitas Institute, headquartered in Raleigh. When asked which party they would support if the "election for [the] North Carolina State Legislature were held today," 42 percent of respondents favored Democrats and only 34 percent supported Republicans. That was a dramatic change from February and May, when Democrats and Republicans were locked in a tie. The poll, labeled Generic Ballot, General Assembly, was made public on the Longleaf Politics web site, <<http://bit.ly/34Gp8CB>>, September 5, 2019. The online link is no longer active.

proponents claimed, because widespread voter fraud threatened the integrity of elections. And requiring a photo ID to vote made sense because similar proof of identity was required to "board an airplane, see an R-rated movie, cash a check, or use a credit card."²²⁶



Voter ID campaign card, Republican John Bell,
Raleigh News and Observer, November 1, 2018.

These arguments for the amendment did not stand up to close scrutiny. On the point of reasonableness, the fact remained that Blacks made up 23 percent of registered voters but accounted for 34 percent of voters without photo ID. And widespread voter fraud was simply a myth. In April 2017, the State Board of Elections released an audit of the previous year's general election in which it reported that questionable ballots accounted for just over 0.01 percent of the 4.8 million total votes cast. Of the five hundred and eight cases of fraudulent voting that the board identified, only one involved the kind of in-person deception that a photo ID requirement was designed to expose and prevent. In that instance, a voter impersonated her recently deceased mother, whom she described to election officials as "a tremendous Donald Trump fan." Of the remaining ineligible ballots, four hundred and forty-one were cast by people with felony records whose right to vote had not been restored; forty-one were cast by non-citizens; twenty-four were cast by people who double voted; and one was cast by mail.²²⁷

The notion of common sense was equally misleading. Theaters have no legal obligation to check moviegoers' photo IDs; the Transportation Safety Administration routinely allows passengers to board planes without a photo ID, so long as they can present other forms of identification; the American Express merchant guide imposes no photo ID requirement on authorized credit card

²²⁶ "Voter ID: A Form of Suppression or Necessary Protection?" <<http://bit.ly/2IR8wOL>>, November 29, 2020; "Support Voter ID Today," <<http://bit.ly/33mJf8x>>, November 29, 2020; "Voter ID Is Back in North Carolina, and the Justifications Are as Lame as Ever," *Charlotte Observer*, June 7, 2018; and "North Carolina Voter ID Amendment Debate Features Misleading Claims," <<http://bit.ly/32A2tpJ>>, September 5, 2019.

²²⁷ "County-by-County Data Reveal Dramatic Impact of Proposed Election Changes on Voters," <<https://bit.ly/3nj4fpK>>, November 29, 2020; and *Postelection Audit Report: General Election 2016*, 2, appendix 4.2, and appendix 5, <<http://bit.ly/2LQ3TFP>>, November 29, 2020. See also Citizens Without Proof, 3, <<http://bit.ly/34QpHtJ>>, September 5, 2019; Atkeson et. al., "New Barriers to Participation," <<http://bit.ly/2LSocT6>>, September 5, 2019.

customers; and Visa and Mastercard require a photo ID only for face-to-face cash disbursements, not purchases.²²⁸

These points of fact notwithstanding, voters approved the constitutional amendment in November 2018 by a margin of 55.49 to 44.51 percent. Republicans carried the day, in part because they had effectively undermined faith in the electoral process by convincing voters that fraud was widespread but remained invisible because there were no laws to expose it. Dallas Woodhouse put it this way: "Millions of North Carolinians believe that there is voter fraud. Now, somebody can disagree with them, but they believe it. So, adding confidence into the system is a very important thing."²²⁹

Republican leaders had also broken with the General Assembly's well-established practice of appointing study commissions to evaluate the impact of constitutional changes and of drafting legislation to make the details of implementation public and transparent. The bill that authorized the photo ID amendment stipulated that it would be presented as a single declarative sentence on which voters were to decide 'yes' or 'no.' Under pressure from critics, the North Carolina Constitutional Amendments Publication Commission, provided a lengthier explanation:

This amendment requires you to show photographic identification to a poll-worker before you can vote in person. It does not apply to absentee voting.

The Legislature would make laws providing the details of acceptable and unacceptable forms of photographic identification after passage of the proposed amendment. The Legislature would be authorized to establish exceptions to the requirement to present photographic identification before voting. However, it is not required to make any exceptions.

There are no further details at this time on how voters could acquire valid photographic identification for the purposes of voting. There is no official estimate of how much this proposal would cost if it is approved.

Even though it still lacked specifics, and did not change what voters saw on the ballot itself, this description weakened voter support for photo ID. Shortly before the election, an Elon University poll found that "based upon that language," voter approval dropped from 63 to 59 percent. Had the General Assembly followed past practice and offered a draft of enabling legislation, support might have eroded further.²³⁰

²²⁸ "Voter ID Is Back in North Carolina, and the Justifications Are as Lame as Ever," *Charlotte Observer*, June 7, 2018; "North Carolina Voter ID Amendment Debate Features Misleading Claims," <<http://bit.ly/32A2tpJ>>, September 5, 2019; American Express Merchant Reference Guide – U.S., <<https://amex.co/2HKPqtq>>, September 5, 2019; Visa Core Rules and Visa Product and Services Rules, <<https://vi.sa/2HKJGzJ336>>, September 5, 2019; and Mastercard Transaction Processing Rules, 75, <<http://bit.ly/32w1iaI>>, September 5, 2019.

²²⁹ "North Carolina Voter ID Amendment (2018)," <<http://bit.ly/32tAI1Z>>, September 5, 2019. Woodhouse's comments are transcribed from a video recording of a press conference he held on July 29, 2016. See "N.C. Voter ID Law Overturned," *Raleigh News and Observer*, February 9, 2018, (updated online, <<http://bit.ly/32oS3cm>>), September 5, 2019.

²³⁰ Schofield, "Former Legislative Counsel Gerry Cohen on N.C.'s Six Proposed Constitutional Amendments," <<http://bit.ly/34NR8Ea>>, September 5, 2019; North Carolina Constitutional Amendments Publication Commission, Official Explanation of the Proposed Constitutional Amendment to Require Photographic Identification to Vote, S.L. 2018-128, <<http://bit.ly/34PG5KX>>, September 5, 2019; and "N.C. Voters Know Little About Proposed Constitutional Amendments," <<http://bit.ly/34VCCnM>>, September 5, 2019.

Shortly after Thanksgiving, Republican leaders convened a special session of the General Assembly to pass Senate Bill 824, legislation crafted to implement the photo ID amendment. They were in a hurry, because in the 2018 general election they had lost their super-majority in the state House of Representatives and would soon be unable to counter Democratic Governor Roy Cooper's opposition. When Cooper vetoed the bill, the lame duck legislature quickly overrode him and made it into law.²³¹

In December 2018, plaintiffs in *Holmes v. Moore* challenged Senate Bill 824 in state Superior Court. They noted that the new law had been shepherded through the legislature by the same Republican leaders who crafted House Bill 589 five years earlier. Thus, there was no surprise that Senate Bill 824 "retain[ed] many of the harmful provisions" from the voter photo ID section of the prior legislation, and, by doing so, "reproduced the . . . racially discriminatory intent" identified by the Fourth Circuit Court of Appeals. More specifically, the plaintiffs contended that Senate Bill 824 violated the North Carolina Constitution's equal protection and free elections clauses, its property qualification clause, and its protection of free speech and the right of assembly and petition.²³²

A three-judge panel ruled, two to one, for the plaintiffs in September 2021. Senate Bill 824, they wrote, "was enacted in part for a discriminatory purpose and would not have been enacted in its current form but for its tendency to discriminate against African American voters." The legislation therefore violated Article 1, section 19, of the North Carolina State Constitution, which affords all citizens "equal protection of the laws" and specifies that no person "shall . . . be subjected to discrimination by the State because of race, color, religion, or national origin." In reaching this conclusion, authors of the majority opinion pointed to a "totality of circumstances" that included North Carolina's "history of voting and election laws." That history, they observed, "shows a recurring pattern in which the expansion of voting rights and ballot access to African Americans is followed by periods of backlash and retrenchment that roll back those gains for African American voters." In the judges' view, this "historical context" supported plaintiffs' claims the Republican legislature "intended to discriminate against African American voters."²³³

G. Redistricting Redux

Over the course of a decade, Republican legislators have largely failed in their efforts to use the power of the law to restrict minority political participation and influence in shaping public policy. But the fight is hardly over. As noted above, *Shelby v. Holder* gave conservatives new freedom to rewrite election law, and by nullifying the federal preclearance regime, has significantly disadvantaged voting rights advocates, who must now contest discriminatory practices after the fact and on a case-by-case basis. In that respect, the voting rights landscape in North Carolina today bears a troubling resemblance to that of the 1950s.

Republicans retained control of the General Assembly in the 2020 election, and in the subsequent legislative session used the decennial redistricting process to make another run at partisan gerrymandering. In early November of this year, they released maps of new Congressional and

²³¹ "House Enacts Voter ID with Veto Override," <<http://bit.ly/2HNXXf0>>, November 29, 2020, and Civitas Statement on Overriding Governor Cooper's Voter ID Veto, <<https://bit.ly/33Fc5RH>>, November 20, 2020.

²³² *Holmes v. Moore*, N. C. General Court of Justice, Superior Court Division, 18 CVS 15292, Verified Complaint, December 19, 2018, 3, 20- 15292, Verified Complaint, December 19, 2018, 3-5.

²³³ *Holmes v. Moore*, N. C. General Court of Justice, Superior Court Division, 18 CVS 15292, Judgment and Order, September 17, 2021, 76, 78; *Constitution of the State of North Carolina, 1868*.

legislative districts that, in the view of critics and partisans alike, will give Republicans a wide advantage over Democratic challengers. Pundits predict that in the 2022 election, Republicans are likely to win ten or eleven of North Carolina's congressional seats and may re-establish a veto-proof super majority in the state legislature.²³⁴

In court challenges to the new district maps, plaintiffs charge that Republican lawmakers have once again manipulated the redistricting process in order suppress minority political participation and deny political influence to Black and Hispanic voters, who constitute fifty percent of the Democratic electorate. Republican leaders answer that charge by insisting that they "did not look at race" while drawing new district maps.²³⁵

That claim to colorblindness is cynical and pernicious. It asks us to believe that history has ended; that in a society deeply scarred by slavery and Jim Crow, race no longer matters; and that politicians vying for public office in the racially polarized America of the twenty-first century lack an intimate knowledge of where people live and how they vote.

As historian Morgan Kousser has observed, redistricting will always be informed by race – "formally or informally, precisely or approximately" – because racial divisions "are the single most salient social and political facts in contemporary America, as they have been in much of the nation's past. Redistricting cannot be race-unconscious until the country ceases to be, and pretending that society or politics has become colorblind can only allow discrimination to go unchecked." That is particularly true in North Carolina, where conservatives have long relied on racial discrimination to secure partisan advantage. As the state Superior Court judges noted in *Holmes v. Moore*, "this history of restricting African American voting rights . . . is not ancient; it is a twenty-first-century phenomenon."²³⁶

XIII. Conclusion

Today's contests over access to the ballot box and representation in government are the latest chapters in North Carolina's long and cyclical history of suppressing minority political participation. Over the last century and a half, white conservatives have employed a variety of measures to limit the rights of racial and ethnic minorities. In the process, they have imposed a heavy burden of injustice. Historically, when minority rights have been constrained, North Carolina's government has been decidedly unresponsive to minority concerns and interests related to social and economic policy. This lack of accountability has perpetuated stark racial disparities in education, employment, health, and general well-being. These circumstances undermine the principles enshrined in North Carolina's constitution by newly emancipated slaves and their white al-

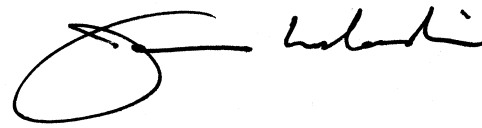
²³⁴ "North Carolina Passes New Maps Giving GOP and Edge in Congress, State Legislature," *News and Observer* (Raleigh, N.C.), November 4, 2021.

²³⁵ "N.C. Redistricting Suits Challenges Lack of Race Data for Maps," WFAE 90.7, October 30, 2021, <<https://cutt.ly/YUyjoDF>>; "Map by Map, GOP Chips Away at Black Democrats' Power," *New York Times*, December 18, 2021.

²³⁶ J. Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill: University of North Carolina Press, 1999), 270; *Holmes v. Moore*, N. C. General Court of Justice, Superior Court Division, 18 CVS 15292, Judgment and Order, September 17, 2021, 77.

lies of good conscience. "All political power is vested in, and derived from the people," that document still proclaims, and "all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole."²³⁷

I declare under penalty of perjury under the laws of North Carolina that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Leloudis", is written above a horizontal line.

James L. Leloudis II

December 23, 2021

²³⁷ Constitution of North Carolina, Article I, Section 2.

Bibliography

Manuscripts

Chapel Hill, North Carolina

Wilson Library, University of North Carolina

North Carolina Collection

Jesse Helms Viewpoint editorial transcripts, C384.5 H48v nos. 1001–1750

Southern Historical Collection

James Carson Gardner Congressional and Political Papers #3829

North Carolina Fund Records #4710

Terry Sanford Papers #3531

Junius Irving Scales Papers #4879

Durham, North Carolina

David M. Rubenstein Rare Book and Manuscript Library, Duke University

Joshua William Bailey Papers

Sim A. DeLapp Papers

Records and Papers of Terry Sanford

Madison, Wisconsin

Wisconsin Historical Society, University of Wisconsin

Hunter Gray (John R. Salter) Papers

Government Documents

Constitution of the State of North Carolina, 1868. Raleigh: Joseph W. Holden, 1868.

Eure, Thad. *Public School Laws of North Carolina.* (Issued by Thad Eure, Secretary of State, 1955).

Laws and Resolutions of the State of North Carolina, Session of 1900. Raleigh: Edwards and Broughton, and F. M. Uzzell, 1899.

President's Committee on Civil Rights. *To Secure These Rights: The Report of the President's Committee on Civil Rights* (Washington, D.C.: Government Printing Office, 1947).

Public Laws of the State of North Carolina, Sessions of 1865-66, and 1861, 62, 63, and 1864. Raleigh: Robt. W. Best, 1866.

Public Laws and Resolutions of the State of North Carolina, Session of 1895. Winston: M. I. and J. C. Stewart, 1895.

Public Laws and Resolutions of the State of North Carolina, Session of 1897. Winston: M. I. and J. C. Stewart, 1897.

Public Laws and Resolutions of the State of North Carolina, Session of 1899. Raleigh: Edwards and Broughton, and E. M. Uzzell, 1899.

Public Laws and Resolutions of the State of North Carolina, Session of 1901. Raleigh: Edwards and Broughton, and E. M. Uzzell, 1901.

Report of Population of the United States at the Eleventh Census: 1890, Part II. Washington, D.C.: Government Printing Office, 1897.

Revised Code of North Carolina, 1854. Boston: Little, Brown, and Company, 1855.

Session Laws and Resolutions, State of North Carolina, 1955. Winston-Salem: Winston Printing Company, 1955.

Session Laws and Resolutions, State of North Carolina, Extra Session of 1956, and Regular Session, 1957. Winston-Salem: Winston Printing Company, 1957.

Session Laws of the State of North Carolina, Regular Session, 1965. Winston-Salem: Winston Printing Company, n.d.

Session Laws and Resolutions, State of North Carolina, Extra Session, 1966. Winston-Salem: Winston Printing Company, n.d.

Session Laws and Resolutions, State of North Carolina, Regular Session, 1967. Winston-Salem: Winston Printing Company, n.d.

Session Laws and Resolutions, State of North Carolina, 1971. Winston-Salem: Winston Printing Company, 1971.

Statutes at Large, Treaties, and Proclamations of the United States of America from December 1865 to March 1867. Boston: Little, Brown, and Company, 1868.

U.S. Department of the Interior, Census Office. *Report on Population of the United States, 1890* (Washington, D.C.: Government Printing Office, 1895).

Court Cases

Allison v. Sharp, 184 S.E. 27 (N.C. 1936)

Alston v. School Board of City of Norfolk, 112 F.2d 992 (4th Cir. 1940)

Bazemore v. Bertie County Board of Elections, 119 S.E.2d 637 (N.C. 1961)

Blue v. Durham Public School District, 95 F. Supp. 441 (M.D.N.C. 1951)

Brown v. Board of Education of Topeka, 347 U.S. 483 (1954)
Common Cause v. Lewis, 2019 N.C. Super. LEXIS 56 (Wake Cnty. Sup. Ct.)
Covington v. the State of North Carolina, 316 F.R.D. 117 (M.D.N.C. 2016)
Drum v. Seawell, 249 F. Supp. 877 (M.D.N.C. 1965)
Dunston v. Scott, 336 F. Supp. 206 (E.D.N.C. 1972)
Gantt v. Clemson Agricultural College of South Carolina, 320 F.2d 611 (4th Cir. 1963)
Gingles v. Edmisten, 590 F. Supp. 345 (E.D.N.C. 1984)
Holmes v. Moore, 270 N.C. App. 7 (Wake Cnty. Sup. Ct. 2019)
Lassiter v. Northampton County Board of Elections, 102 S.E.2d 853 (N.C. 1958)
Lassiter v. Northampton County Board of Elections, 360 U.S. 45 (1959)
Lassiter v. Taylor, 152 F. Supp. 295 (E.D.N.C. 1957)
North Carolina State Conference of the NAACP v. McCrory, Civ No. 1:13-cv-658, August 12, 2013
North Carolina State Conference of the NAACP v. McCrory, No. 16-1468 (4th Cir. 2016)
North Carolina State Conference of the NAACP v. McCrory, 182 F. Supp. 3d 320 (M.D.N.C. 2016)
North Carolina v. North Carolina State Conference of the NAACP, 137 S. Ct. 1399 (2017)
North Carolina v. Covington, 137 S. Ct. 1624 (2017)
North Carolina v. Covington, 138 S. Ct. 2548 (2018)
United States v. North Carolina, 1:13CV861 (M.D.N.C. Feb. 6, 2014)
Walker v. Moss, 97 S. E.2d 836 (N.C. 1957)
Watkins v. City of Wilson, 121 S.E.2d 861 (N.C. 1961)
Watkins v. Wilson, 370 U.S. 46 (1962)

Newspapers and Periodicals

Atlanta Constitution
Atlanta Daily World
Carolina Times
Charlotte Daily Observer
Charlotte Observer
Chicago Defender
Greensboro Daily News

New York Times

Norfolk Journal and Guide

Outlook

Pittsburgh Courier

Raleigh Morning Post

Raleigh News and Observer

Triad Business Journal

Washington Post

Wilmington Messenger

Wilmington Morning Star

Winston Salem-Journal

Books, Articles, Pamphlets, and Theses

Anderson, Carol. *White Rage: The Unspoken Truth of Our Racial Divide*. New York: Bloomsbury, 2016.

Anderson, Eric. *Race and Politics in North Carolina, 1872-1901: The "Black Second" Congressional District*. Baton Rouge: Louisiana University Press, 1978.

Ashby, Warren. *Frank Porter Graham, a Southern Liberal*. Winston-Salem: J. F. Blair, 1980.

Barksdale, Marcellus Chandler. "The Indigenous Civil Rights Movement and Cultural Change in North Carolina: Weldon, Chapel Hill, and Monroe, 1946-1965." (Ph.D. Dissertation, Duke University, 1977).

Batchelor, John E. *Race and Education in North Carolina: From Segregation to Desegregation* (Baton Rouge: Louisiana State University Press, 2015).

Beckel, Deborah. *Radical Reform: Interracial Politics in Post-Emancipation North Carolina*. Charlottesville: University of Virginia Press, 2011.

Beeby, James M. *Revolt of the Tar Heels: The North Carolina Populist Movement, 1890-1901*. Jackson: University Press of Mississippi, 2008.

Berman, Ari. *Give Us the Ballot: The Modern Struggle for Voting Rights in America* (New York: Farrar, Strauss, and Giroux, 2015).

Bernstein, Leonard. "The Participation of Negro Delegates in the Constitutional Convention of 1868 in North Carolina." *Journal of Negro History* 34 (October 1949): 391-409.

Browning, James B. "The North Carolina Black Code." *Journal of Negro History* 15 (October 1930): 461-73.

Carlton, David L., and Peter A. Coclanis. *Confronting Southern Poverty in the Great Depression: The Report on Economic Conditions of the South with Related Documents*. Boston: Bedford Books of St. Martin's Press, 1996.

- Carmichael, Orton H. *Lincoln's Gettysburg Address* (New York: Abingdon Press, [1917]).
- Carter, Dan T. *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics*. New York: Simon and Schuster, 1995.
- Chafe, William H. *Civilities and Civil Rights: Greensboro, North Carolina, and the Black Struggle for Freedom* (New York: Oxford University Press, 1989).
- Chetty, Raj, Nathaniel Hendren, Patrick Kline, and Emmanuel Saez, "Where is the Land of Opportunity? The Geography of Intergenerational Mobility in the U.S." *Quarterly Journal of Economics* 129 (November 2014), 1553-162.
- Christensen, Rob. *The Paradox of Tar Heel Politics: The Personalities, Elections, and Events That Shaped Modern North Carolina*. Chapel Hill: University of North Carolina Press, 2008.
- Connor, Robert D. W., and Clarence H. Poe, eds. *The Life and Speeches of Charles Brantley Aycock*. Garden City, N.Y.: Doubleday Page and Co., 1912.
- Covington, Howard E, and Marion A Ellis. *Terry Sanford: Politics, Progress, and Outrageous Ambitions*. Durham: Duke University Press, 1999.
- Crow, Jeffrey J. "Cracking the Solid South: Populism and the Fusionist Interlude." In *The North Carolina Experience*, edited by Lindsey Butler and Alan Watson, 333-54. Chapel Hill: UNC Press, 1984.
- Culver, John C., and John Hyde. *American Dreamer: A Life of Henry A. Wallace* (New York: W.W. Norton, 2000).
- Cunningham, David. *Klansville, U.S.A.: The Rise and Fall of the Civil Rights Era Ku Klux Klan* (New York: Oxford University Press, 2013).
- Dalfiume, Richard M. "The 'Forgotten Years' of the Negro Revolution." *Journal of American History* 55 (June 1968): 90–106.
- Daniel, Pete. *Dispossession: Discrimination Against African American Farmers in the Age of Civil Rights* (Chapel Hill: University of North Carolina Press, 2013).
- Devine, Thomas W. *Henry Wallace's 1948 Presidential Campaign and the Future of Postwar Liberalism* (Chapel Hill: University of North Carolina Press, 2013).
- Douglas, Davison M. *Reading, Writing, and Race: The Desegregation of the Charlotte Schools* (Chapel Hill: University of North Carolina Press, 1995).
- Drescher, John. *Triumph of Good Will: How Terry Sanford Beat a Champion of Segregation and Reshaped the South* (Jackson: University Press of Mississippi, 2000).
- Du Bois, W.E. Burghardt. *Black Reconstruction in America: Toward a History of the Part Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880* (New York: Harcourt, Brace, and Company, 1935).
- Dunn, Susan. *Roosevelt's Purge: How FDR Fought to Change the Democratic Party*. Cambridge: Harvard University Press, 2010.

- Durrill, Wayne K. *War of Another Kind: A Southern Community in the Great Rebellion*. New York: Oxford University Press, 1990.
- Earls, Anita S., Emily Wynes, and LeeAnne Quatrucci. "Voting Rights in North Carolina, 1982-2006," *Southern California Review of Law and Social Justice*. 17 (no. 2, 2008). <http://goo.gl/zlMYEf>.
- Escott, Paul D. *Many Excellent People: Power and Privilege in North Carolina, 1850-1900*. Chapel Hill: University of North Carolina Press, 1985.
- Foner, Eric. *Reconstruction: America's Unfinished Revolution, 1863-1877*. New York: Harper and Row, 1988.
- _____. *Second Founding: How the Civil War and Reconstruction Remade the Constitution* (New York: W.W. Norton, 2019).
- Gershenhorn, Jerry. *Louis Austin and the Carolina Times: A Life in the Long Black Freedom Struggle* (Chapel Hill: University of North Carolina Press, 2018).
- _____. "The Rise and Fall of Fusion Politics in North Carolina, 1880-1900." Unpublished paper in author's possession.
- Goldfield, David. *Still Fighting the Civil War: The American South and Southern History*. Baton Rouge: Louisiana State University Press, 2002.
- Graf, Leroy P. and Ralph W. Haskins, eds. *The Papers of Andrew Johnson, Vol. 6, 1862-1864* (Knoxville: University of Tennessee Press, 1983).
- Gregory, James M. "The Second Great Migration: A Historical Overview, in Joe W. Trotter Jr. and Kenneth L. Kusmer, eds, *African-American Urban History: The Dynamics of Race, Class, and Gender Since World War II* (Chicago: University of Chicago Press, 2009), 19-38.
- Grosso, Catherine M., and Barbara O'Brien. "A Stubborn Legacy: The Overwhelming Importance of Race in Jury Selection in 173 Post-Batson North Carolina Capital Appeals." *Iowa Law Review* 97 (July 2012): 1531–59.
- Hall, Jacquelyn Dowd, James Leloudis, Robert Korstad, Mary Murphy, Lu Ann Jones, and Christopher B. Daly. *Like a Family: The Making of a Southern Cotton Mill World*. Chapel Hill: University of North Carolina Press, 1987.
- Hanchett, Thomas W. *Sorting Out the New South City: Race, Class, and Urban Development in Charlotte, 1875-1975*. Chapel Hill: University of North Carolina Press, 1998.
- Hamilton, Joseph Grégoire de Roulhac, ed. *The Papers of Randolph Abbott Shotwell*, vol. 2 (Raleigh: North Carolina Historical Commission, 1931).
- _____. *Reconstruction in North Carolina*. New York: Columbia University, 1914.
- Heberling, Eric S., Peter L. Francia, and Steven H. Greene. "The Conditional Party Teams of the 2008 North Carolina Federal Elections." In *Change Election: Money, Mobilization, and Persuasion in the 2008 Federal Elections*, edited by David Magleby, 108-39. Philadelphia: Temple University Press, 2010.

- Herbin-Triant, Elizabeth A. "Southern Segregation South Africa-Style: Maurice Evans, Clarence Poe, and the Ideology of Rural Segregation." *Agricultural History* 87 (Spring 2013): 170-93.
- Herron, Michael C., and Daniel A. Smith. "Race, *Shelby County*, and the Voter Information Verification Act in North Carolina." *Florida State University Law Review* 43, no. 2 (Winter 2016): 465–506.
- Hogan, Wesley C. *Many Minds One Heart: SNCC's Dream of a New America* (Chapel Hill: University of North Carolina Press, 2007).
- Johnson, Guy B. "Does the South Owe the Negro a New Deal?" *Social Forces* 13 (October 1934): 100-103.
- Jones, William P. *The March on Washington: Jobs, Freedom, and the Forgotten History of Civil Rights* (New York: W.W. Norton, 2013).
- Justesen, Benjamin R. *George Henry White: An Even Chance in the Race of Life*. Baton Rouge: Louisiana State University Press, 2001.
- Katznelson, Ira. *Fear Itself: The New Deal and the Origins of Our Time* (New York: Liveright Publishing, 2013).
- _____. *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America* (New York: W.W. Norton, 2005).
- Keech, William R., and Michael P. Siström. "Implementation of the Voting Rights Act in North Carolina." Pasadena, California: Division of the Humanities and Social Sciences, California Institute of Technology, 1992.
- Kellam, James Patrick. "Helms, Hunt, and Whiteness: The 1984 Senate Campaign in North Carolina." MA thesis, Appalachian State University, 2017.
- Korstad, Robert Rodgers. *Civil Rights Unionism: Tobacco Workers and the Struggle for Democracy in the Mid-Twentieth-Century South*. Chapel Hill: University of North Carolina Press, 2003.
- Korstad, Robert R., and James L. Leloudis. *To Right These Wrongs: The North Carolina Fund and the Battle to End Poverty and Inequality in 1960s America*. Chapel Hill: University of North Carolina Press, 2010.
- Kotch, Seth, and Robert P. Mosteller. "The Racial Justice Act and the Long Struggle with Race and the Death Penalty in North Carolina." *North Carolina Law Review* 88, no. 6 (2010): 2031–2131.
- Kousser, J. Morgan. *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction*. Chapel Hill: University of North Carolina Press, 2000.
- _____. *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South*. New Haven: Yale University Press, 1974.
- Ladd, Everett Carl Jr., with Charles D. Hadley. *Transformations of the American Party System: Political Coalitions from the New Deal to the 1970s* (New York: W.W. Norton, 1975).

- Larkins, John R. *The Negro Population of North Carolina: Social and Economic*. Raleigh, N.C.: North Carolina State Board of Charities and Public Welfare, 1944.
- Leloudis, Jim and Robert Korstad, *Fragile Democracy: The Struggle Over Race and Voting Rights in North Carolina* (Chapel Hill: University of North Carolina Press, 2020).
- Link, William A. *Righteous Warrior: Jesse Helms and the Rise of Modern Conservatism*. New York: St. Martin's Press, 2008.
- McKinney Jr., Charles W. *Greater Freedom: The Evolution of the Civil Rights Struggle in Wilson, North Carolina* (Lanham, MD: University Press of America, 2010).
- Manderson, Marge. "Review of the Patterns and Practices of Racial Discrimination." Manuscript in author's possession.
- Mitchell, Memory F., ed. *Message, Addresses, and Public Papers of Terry Sanford* (Raleigh: Council of State, State of North Carolina, 1966).
- Moore, John Robert. "Senator Josiah W. Bailey and the 'Conservative Manifesto' of 1937." *Journal of Southern History* 31 (February 1965): 21-39.
- Morris, Charles Edward. "Panic and Reprisal: Reaction in North Carolina to the Nat Turner Rebellion, 1831," *North Carolina Historical Review* 62 (January 1985): 29-52.
- National Roster of Black Elected Officials*. Washington, D.C.: Joint Center for Political Studies, 1971.
- Nixon, Donna L. "The Integration of UNC-Chapel Hill – Law School First," *North Carolina Law Review* 97 (No. 6): 1741-1793.
- North Carolina Advisory Committee to the United States Commission on Civil Rights, *Equal Protection of the Laws in North Carolina* (Washington, D.C.: Government Printing Office [1962]).
- _____. "Voting and Voter Registration in North Carolina, 1960," (Bound typescript report, North Carolina Collection, Wilson Library, University of North Carolina at Chapel Hill).
- O'Connor, Paul T. "Reapportionment and Redistricting: Redrawing the Political Landscape," *North Carolina Insight* (December 1990): 30-49.
- Okun, Tema. *The Emperor Has No Clothes: Teaching about Race and Racism to People Who Don't Want to Know*. Charlotte: Information Age, 2010.
- Orth, John V. "North Carolina Constitutional History." *North Carolina Law Review* 70 (1991-1992: 1759-1802.
- Paschal, Richard A. *Jim Crow in North Carolina: The Legislative Program from 1865 to 1920*. (Durham: Carolina Academic Press, 2020).
- Patterson, James T. "The Failure of Party Realignment in the South, 1937-1939. *The Journal of Politics* 27 (August 1965): 602-17.
- Pearce, Gary. *Jim Hunt: A Biography*. Winston-Salem, N.C.: John F. Blair, Publisher, 2010.
- Perlstein, Rick. *Nixonland: The Rise of a President and the Fracturing of America* (New York: Scribner, 2008).

- Petty, Adrienne Monteith. *Standing Their Ground: Small Farmers in North Carolina Since the Civil War*. New York: Oxford University Press, 2013.
- Pleasants, Julian M, and Augustus M. Burns. *Frank Porter Graham and the 1950 Senate Race in North Carolina*. Chapel Hill: University of North Carolina Press, 1990.
- Prather, H. Leon Jr. "The Red Shirt Movement in North Carolina, 1898–1900." *North Carolina Historical Review* 62 (April 1977): 174–84.
- Prominent People of North Carolina: Brief Biographies of Leading People for Ready Reference Purposes* (Asheville, N.C.: Evening News Publishing Company, 1906).
- Proceedings of the Colored National Labor Convention Held in Washington, D.C., December 6th, 7th, 8th, 9th, and 10th, 1869*. (Washington, D.C.: The New Era, 1870).
- Raper, Horace W. *William W. Holden: North Carolina's Political Enigma*. Chapel Hill: University of North Carolina Press, 1985.
- Roth, Zachary. *The Great Suppression: Voting Rights, Corporate Cash, and the Conservative Assault on Democracy*. New York: Crown, 2016.
- Sharpless, Rebecca. *Cooking in Other Women's Kitchens: Domestic Workers in the South, 1865-1960* (Chapel Hill: University of North Carolina Press, 2010).
- Shin, Eui Hang. "Black-White Differentials in Infant Mortality in the South, 1940-1970," *Demography* 12, 1 (February 1975): 1-19.
- Thuesen, Sarah C. *Greater Than Equal: African American Struggles for Schools and Citizenship in North Carolina, 1919-1965*. Chapel Hill: University of North Carolina Press, 2013.
- Towe, William H. *Barriers to Black Political Participation in North Carolina*. Atlanta: Voter Education Project, 1972.
- Trelease, Alan W. "The Fusion Legislatures of 1895 and 1897: A Roll-Call Analysis of the North Carolina House of Representatives." *North Carolina Historical Review* LVII (July 1980): 280-309.
- Uesugi, Sayoko. "Gender, Race, and the Cold War: Mary Price and the Progressive Party in North Carolina, 1945-1948," *North Carolina Historical Review* 77 (July 2000): 269-311.
- Valelly, Richard M. *The Two Reconstructions: The Struggle for Black Enfranchisement* (Chapel Hill: University of North Carolina Press, 2004).
- Ward, Jason Morgan. *Defending White Democracy: The Making of a Segregationist Movement and the Remaking of Racial Politics, 1936-1965* (Chapel Hill: University of North Carolina Press, 2011).
- Watson, Harry L. "North Carolina Redistricting Process, 1965-1966." Manuscript in author's possession.
- Wertheimer, John W. *Law and Society in the South: A History of North Carolina Court Cases* (Lexington: Kentucky University Press, 2015).
- Wettach, Robert H. "North Carolina School Legislation, 1956," *North Carolina Law Review* 35 (Number 1): 1-16.

- Whalan, Mark. *The Great War and the Culture of the New Negro* (Gainesville: University Press of Florida, 2008).
- Widestrom, Amy M. "Impoverished Democracy: Economic Inequality, Residential Segregation, and the Decline of Political Participation." (Ph.D. Dissertation, Syracuse University, 2008).
- Williamson, Joel. *Crucible of Race: Black-White Relations in the American South Since Emancipation* (New York: Oxford University Press, 1984).
- Winquist, Thomas R. "Civil Rights: Legislation: The Civil Rights Act of 1957," *Michigan Law Review* 56 (February 1958) 619-630.
- Woodward, C. Vann. *Origins of the New South, 1877–1913*. Baton Rouge: Louisiana University Press, 1971.
- Zieger, Robert. *The CIO: 1935–1955*. Chapel Hill: University of North Carolina Press, 1995.
- Zoltan, Hajnal, Nazita Lajevardi, and Lindsay Nielson, "Voter Identification Laws and the Suppression of Minority Votes," *Journal of Politics* 79 (April 2017), 363-79.

Online Sources

- 1898 Wilmington Race Riot Report*. 1898 Wilmington Race Riot Commission, May 31, 2006. <<http://bit.ly/2HOWsgJ>>, September 5, 2019.
- 2008 Democratic Party Platform. American Presidency Project. <<http://bit.ly/2ti7lhI>>, November 29, 2020.
- 2013–14 School Performance Grades (A–F) for North Carolina Public Schools. North Carolina Department of Public Instruction, February 5, 2015. <<http://bit.ly/2Ruw7Ki>>, November 29, 2020.
- 2013–2015 North Carolina Budget Short-Changes Students, Teachers, and Public Education. North Carolina Justice Center, August 2013. <<http://bit.ly/2RTBUrA>>, November 29, 2020.
- American Express Merchant Reference Guide – U.S. <<https://amex.co/2HKPqtq>>, September 5, 2019.
- Act to Amend the North Carolina Constitution to Require Photo Identification to Vote in Person, S.L. 2018-128, House Bill 1092. <<http://bit.ly/2LRAE5p>>, September 5, 2019.
- “Anti-Heagerty Ads: We Just Threw Up in Our Mouths.” *Indy Week*, November 1, 2010. <<http://bit.ly/2tmNfZ3>>, November 29, 2020.
- Atkeson, Lonna Rae, Lisa A. Bryant, Thad E. Hall, Kyle Saunders, and Michael R. Alvarez. “New Barriers to Participation: Application of New Mexico’s Voter Identification Law.” Caltech/MIT Voting Technology Project. <<http://bit.ly/2LSocT6>>, September 5, 2019.
- Blake, John. "What Black America Won't Miss about Obama." CNN, July 1, 2016. <<https://cnn.it/2tXfX2E>>, November 29, 2020.

- Brenneman, Ross. "Teacher Attrition Continues to Plague North Carolina." *Education Week*, October 13, 2015. <<http://bit.ly/2uuLBVu>>, November 29, 2020.
- Brief of Harry McMullan, Attorney General of North Carolina, Amicus Curiae. *Brown v. Board of Education*, 349 U.S. 294 (1955). Gale, *The Making of Modern Law, U.S. Supreme Court Records, 1832–1978*. <<http://bit.ly/36PHJfd>>, November 29, 2020.
- Broockman, David, and Ethan Roeder. "Hispanics are the Future of Progressive Strength in America." New Organizing Institute. <<http://bit.ly/2HPJ3Fn>>, September 5, 2019.
- Butterfield, George Kenneth Jr. Interview. Behind the Veil: Documenting African American Life in the Jim Crow South Digital Collection. John Hope Franklin Research Center, Duke University Libraries. <<http://bit.ly/2RMrziw>>, November 29, 2020.
- Car access. National Equity Atlas. <<https://bit.ly/2KOX628>>, November 29, 2020.
- Charlotte-Mecklenburg Board of Education, meeting minutes, September 8, 2009. <<http://bit.ly/2LQCjYX>>, September 5, 2019.
- Charlotte-Mecklenburg Opportunity Task Force, *Opportunity Task Force Report*. <<https://bit.ly/3msnwF3>>, November 29, 2020.
- Citizens Without Proof. Brennan Center for Justice. <<http://bit.ly/34QpHtJ>>, September 5, 2019.
- Civitas Statement on Overriding Governor Cooper's Voter ID Veto. Civitas Institute, December 19, 2018. <<https://bit.ly/33Fc5RH>>, November 20, 2020.
- Cohen, Gerry Interview. N.C. Policy Watch, August 19, 2018. <<http://bit.ly/34VsjXc>>, September 5, 2019.
- Collins, William J., and Robert A. Margo. "Historical Perspectives on Racial Differences in Schooling in the United States," Working Paper No. 03-W13. Department of Economics, Vanderbilt University, June 2003. <<http://bit.ly/2UMbN7e>>, September 5, 2019.
- Corasaniti, Nick & Reid J. Epstein, "Map by Map, GOP Chips Away at Black Democrats' Power," *New York Times*, December 18, 2021, available at <https://www.ny-times.com/2021/12/18/us/politics/gop-gerrymandering-Black-democrats.html>.
- "County-by-County Data Reveal Dramatic Impact of Proposed Election Changes on Voters." Democracy North Carolina. <<https://bit.ly/3nj4fpK>>, November 29, 2020.
- DMV Office Locations. North Carolina Division of Motor Vehicles. <<https://bit.ly/36q8Dxc>>, November 29, 2020.
- Florsheim, "Four Inmates Might Return to Death Row." *New Republic*, May 9, 2014. <<http://bit.ly/37qiEss>>, September 5, 2019.
- Gantt, Harvey B. Interview C-0008. Southern Oral History Program Collection #4007, Documenting the American South, University of North Carolina at Chapel Hill Libraries. <<https://unc.live/31hWV3N>>, November 29, 2020.
- Gerhardt, Deborah R. "Pay Our Teachers or Lose Your Job." *Slate*, January 4, 2014. <<http://bit.ly/2ROO19t>>, November 29, 2020.
- Gitterman, Daniel P., Peter A. Coclanis, and John Quinterno. "Recession and Recovery in North

- Carolina: A Data Snapshot, 2007-12." Global Research Institute, University of North Carolina at Chapel Hill. <<https://unc.live/2HSb8vw>>, September 5, 2019.
- Goldsmith, Thomas. "Thomas Farr, Jesse Helms, and the Return of the Segregationists." *Indy Week*, January 3, 2018. <<http://bit.ly/36QLq4c>>, November 29, 2020.
- "GOP Featured McCollum in 2010 Attack Ad." WRAL.com, September 4, 2014. <<http://bit.ly/37SalWG>>, September 5, 2019.
- "GOP Mailing Depicts Obama On Food Stamps, Not Dollar Bill." NPR, October 16, 2008. <<https://n.pr/34GHrHT>>, September 5, 2019.
- "The GOP's No-Compromise Pledge." Politico, October 28, 2010. <<https://politi.co/2IyrixL>>, November 29, 2020.
- "'Hanging Obama' Truck Makes Way into Charlotte." WBTV, September 6, 2012. <<http://bit.ly/32sZJu4>>, September 5, 2019.
- Harris, Logan Rockefeller. "2020 Poverty Report: Persistent Poverty Demands a Just Recovery for North Carolinians." North Carolina Justice Center. <<https://bit.ly/37NcFzb>>, November 29, 2020.
- Helms hands ad. <<http://bit.ly/2Q5zJnr>>, September 5, 2019.
- "High Price of Mandatory Auto Insurance in Predominantly African American Communities." Consumer Federation of America, November 2015. <<https://bit.ly/3fX8Efl>>, November 29, 2020.
- "House Enacts Voter ID with Veto Override." N.C. House District 117, Legislative News from Representative Chuck McGrady, December 19, 2018. <<http://bit.ly/2HNXXf0>>, November 29, 2020.
- "Immigration is Changing the Political Landscape in Key States." Center for American Progress. <<https://ampr.gs/32wwPsW>>, September 5, 2019.
- Johnson, Cedric, and Matthew Ellinwood. *Smart Money: Investing in Student Achievement*. North Carolina Justice Center. <<http://bit.ly/37tcCqO>>, November 29, 2020.
- Ladd, Helen F., Charles T. Clotfelter, and John B. Holbein. "The Growing Segmentation of the Charter School Sector in North Carolina." National Bureau of Economic Research, April 2015. <<http://bit.ly/36P2cRw>>, November 29, 2019.
- "Latinos in the 2016 Election: North Carolina." Pew Research Center. <<https://pewrsr.ch/2HOy-FNV>>, September 5, 2019.
- "The Madison Project Launches the Code Red USA Project." Madison Project, August 24, 2012. <<http://goo.gl/yC9oDz>>, September 5, 2019.
- Mastercard Transaction Processing Rules. <<http://bit.ly/32w1iaI>>, September 5, 2019.
- Mayer, Jane. "Covert Operations." *The New Yorker*, August 23, 2010, <<http://bit.ly/30m6w8Z>>, November 29, 2020.
- _____. "State for Sale: A Conservative Multimillionaire Has Taken Control in North Carolina, One of 2012's Top Battlegrounds." *The New Yorker*, October 10, 2011.

- <http://bit.ly/37VMm96>, November 29, 2020.
- Millhiser, Ian. "The Cracks in the GOP's Gerrymandering Firewall." Vox, September 11, 2019. <http://bit.ly/35Tq1qL>, November 29, 2020.
- Mixon, Jeff. "Just Look at the Results." Red Clay Citizen, March 27, 2009. <http://bit.ly/32tZmj1>, September 5, 2019.
- _____. "Narco Gangs in North Carolina." Civitas Review Online, April 1, 2009. <http://bit.ly/2HNmPnq>, September 5, 2019.
- _____. "Who Benefits from Illegal Immigration?" Civitas Review Online, October 14, 2009. <http://bit.ly/2I3fLTV>, September 5, 2019.
- National Research Inc. Generic Ballot, General Assembly. Longleaf Politics. <http://bit.ly/34Gp8CB>, September 5, 2019. The link to this site is no longer active.
- Newkirk, Van R. II. "What Early Voting in North Carolina Actually Reveals." *The Atlantic*, November 8, 2016. <http://bit.ly/2ULBchm>, September 5, 2016.
- Newport, Frank. "Democrats Diverse, Republicans Mostly White: Democrats and Independent Grow More Diverse Since 2008." Gallup. <http://bit.ly/2HOkDvH>, September 5, 2019.
- Nixon, Richard. Nomination Acceptance Address, August 8, 1968. Presidential Rhetoric, <http://bit.ly/2HPCoel>, September 5, 2019.
- "N.C. Voter ID Law Overturned." Raleigh *News and Observer*, February 9, 2018. <http://bit.ly/32oS3cm>, September 5, 2019.
- "N.C. Voters Know Little About Proposed Constitutional Amendments." Elon University Poll, September 6, 2018. <http://bit.ly/34VCcnM>, September 5, 2019.
- stit"North Carolina African American Legislators, 1969–2019." North Carolina General Assembly, January 7, 2019. <http://bit.ly/38KWF0u>, November 29, 2020.
- North Carolina Constitutional Amendments Publication Commission. Official Explanation of the Proposed Constitutional Amendment to Require Photographic Identification to Vote, S.L. 2018-128. <http://bit.ly/34PG5KX>, September 5, 2019.
- North Carolina Governor, 1896. Our Campaigns. <http://bit.ly/32oUHPk>, September 5, 2019.
- North Carolina Republican Party. "NCGOP Sees Encouraging Early Voting, Obama/Clinton Coalition Tired/Fail to Resonate in North Carolina," November 7, 2017. <http://bit.ly/2HS9B8J>, September 5, 2019.
- "North Carolina Voter ID Amendment (2018)." Ballotpedia. <http://bit.ly/32tAI1Z>, September 5, 2019.
- "North Carolina Voter ID Amendment Debate Features Misleading Claims." Politifact. <http://bit.ly/32A2tpJ>, September 5, 2019.
- "North Carolina's Hispanic Community: 2019 Snapshot." Carolina Demography. <http://bit.ly/2SY8Rpd>, November 29, 2020.
- "North Carolina's 'Racial Justice Act.'" Civitas Institute, November 16, 2010. <http://bit.ly/38K467o>, November 29, 2029.

"North Carolina Passes New Maps Giving GOP and Edge in Congress, State Legislature," News and Observer, November 4, 2021. <https://www.newsobserver.com/news/politics-government/article255542776.html>

"North Carolina Passes New Maps Giving GOP and Edge in Congress, State Legislature," News and Observer, November 4, 2021. <https://www.newsobserver.com/news/politics-government/article255542776.html>

North Carolina General Assembly, 149th Session 2011-2012: House of Representatives, <https://www.ncleg.gov/DocumentSites/HouseDocuments/2011-2012%20Session/2011%20Demographics.pdf>

North Carolina General Assembly 2011 Senate Demographics, <https://www.ncleg.gov/DocumentSites/SenateDocuments/2011-2012%20Session/2011%20Demographics.pdf>

North Carolina General Assembly, 150th Session 2013-2014: House of Representatives, <https://www.ncleg.gov/DocumentSites/HouseDocuments/2013-2014%20Session/2013%20Demographics.pdf>.

North Carolina General Assembly 2013 Senate Demographics, <https://www.ncleg.gov/DocumentSites/SenateDocuments/2013-2014%20Session/2013%20Senate%20Demographics.pdf>.

"North Carolina General Assembly 2019 Senate Demographics", <https://www.ncleg.gov/DocumentSites/SenateDocuments/2019-2020%20Session/2019%20Senate%20Demographics.pdf>

"North Carolina Election Results 2012: McCrory Wins Governor's Race; Hudson Tops Kissell for House Seat; Romney Gets Narrow Victory," Washington Post, November 7, 2012, https://www.washingtonpost.com/politics/decision2012/north-carolina-election-results-2012-mccrory-wins-governors-race-hudson-tops-kissell-for-house-seat-romney-gets-narrow-victory/2012/11/07/201e8c1c-23a8-11e2-ac85-e669876c6a24_story.html.

Opportunity Scholarship Program, 2019–20 School Year, recipients by nonpublic school. North Carolina Education Assistance Authority. <<http://bit.ly/2GoFFzZ>>, November 29, 2020.

"Politics of Financial Insecurity." Pew Research Center – U.S. Politics & Policy, January 8, 2015. <<https://pewrsr.ch/2HQQJXI>>, September 5, 2019.

Post-election Audit Report: General Election 2016. North Carolina State Board of Elections, April 21, 2017. <<http://bit.ly/2LQ3TFP>>, November 29, 2020.

Poverty Guidelines. U.S. Department of Health and Human Services. <<https://bit.ly/33YACmh>>, November 29, 2020.

Private School Minority Statistics in North Carolina. Private School Review. <<http://bit.ly/3aJN8I4>>, November 29, 2020.

Public Law 85-315: An Act to Provide Means of Further Securing and Protecting the Civil Rights of Persons Within the Jurisdiction of the United States, 637. (71 Stat. 634; Date: September 9, 1957; Enacted H.R. 6127). <<http://bit.ly/2UGEvGA>>, September 5, 2019.

"Racial Disparities in Auto Loan Mark Ups, State-by-State Data, June 2015," National Consumer Law Center. <<https://bit.ly/2KYffuD>>, November 29, 2020.

"Racial Resentment Adds to GOP Enthusiasm." *MSNBC*, October 15, 2012.

<<https://on.msnbc.com/378OX1r>>, November 29, 2020.

Report of the North Carolina Advisory Committee on Education, April 5, 1956.

<<http://bit.ly/2LTNQXw>>, September 5, 2019.

"Reported Voting and Registration of Family Members, by Age and Family Income: November 2008." U.S. Census Bureau. <<http://bit.ly/2ZyyOAc>>, September 5, 2019.

Riley, Nicolas. "A Lesson from North Carolina on Challengers." Brennan Center for Justice, July 2, 2012. <<http://bit.ly/32uhGbN>>, September 5, 2019.

Robertston, Gary, "N.C. Redistricting Suits Challenges Lack of Race Data for Maps," WFAE 90.7, October 30, 2021, <<https://cutt.ly/YUyjoDF>>

Ross, Janell. "Number of Latino Registered Voters Doubles In North Carolina Creating Potential Long-Term Swing State." *Huffington Post – Latino Voices*, May 25, 2012.

<<http://bit.ly/2I3lGID>>, September 5, 2019.

Samuels, Alana. "The Never-Ending Foreclosures." *The Atlantic*, December 1, 2017.

<<http://bit.ly/35X96mZ>>, November 29, 2020.

Schofield, Rob. "Former Legislative Counsel Gerry Cohen on N.C.'s Six Proposed Constitutional Amendments." N.C. Policy Watch, August 8, 2018. <<http://bit.ly/34NR8Ea>>, September 5, 2019.

School Vouchers in North Carolina: The First Three Years. Children's Law Clinic, Duke University School of Law. <<http://bit.ly/2Sbg03j>>, November 29, 2020.

Sirota, Alexandra F. "2019 Poverty Report: Fight Poverty, Promote Prosperity for North Carolina." North Carolina Justice Center. <<https://bit.ly/2HX6gbO>>, November 29, 2020.

Sobel, Richard. "The High Cost of 'Free' Voter Photo Identification Cards." Charles Hamilton Houston Institute for Race and Justice, Harvard Law School. <<https://bit.ly/36pMXBu>>, November 29, 2020.

"Support Voter ID Today." Civitas Institute. <<http://bit.ly/33mJf8x>>, November 29, 2020.

Tippett, Rebecca. "North Carolina Hispanics and the Electorate." *Carolina Demography*, October 9, 2014. <<http://bit.ly/2UDvIVC>>, September 5, 2019.

_____. "Potential Voters Are Fastest-Growing Segment of N.C. Hispanic Population." *Carolina Demography*. <<http://bit.ly/2QRRpQh>>, November 29, 2020.

The Unraveling: Poorly-Crafted Education Policies Are Failing North Carolina's Children. Education and Law Project, North Carolina Justice Center. <<http://bit.ly/2TYTpcG>>, November 29, 2020.

Unz, Ron. "Immigration, the Republicans, and the End of White America." *The American Conservative*, September 19, 2011. <<http://bit.ly/32sEyYY>>, September 5, 2019.

Visa Core Rules and Visa Product and Services Rules. <<https://vi.sa/2HKJGzJ336>>, September 5, 2019.

"Voter ID: A Form of Suppression or Necessary Protection?" Civitas Institute, June 28, 2018.

- <<http://bit.ly/2IR8wOL>>, November 29, 2020.
- "Voter ID to Go on N.C. Ballots." Tribune Papers, July 12, 2018. <<http://bit.ly/2LVTh8c>>, September 5, 2019.
- Wagner, Lindsay. "North Carolina Once Again Toward the Bottom in National Rankings on Teacher Pay." N.C. Policy Watch, March 18, 2015. <<http://bit.ly/2TZHA67>>, November 29, 2020.
- Wallace, Henry A. "Ten Extra Years." *Sphinx* 34 (February 1948), 13–14, 34–37. <<http://bit.ly/31hRDVR>>, November 29, 2020.
- Wan, William, "Inside the Republican Creation of the North Carolina Voting Bill Dubbed the 'Monster' Law", Washington Post, September 2, 2016, *available at* https://www.washingtonpost.com/politics/courts_law/inside-the-republican-creation-of-the-north-carolina-voting-bill-dubbed-the-monster-law/2016/09/01/79162398-6adf-11e6-8225-fbb8a6fc65bc_story.html.
- "When Debt Takes the Wheel." North Carolina Equal Access to Justice Commission. <<https://bit.ly/2HY8E21>>, November 29, 2020.
- Widestrom, Amy M. "Impoverished Democracy." American Political Science Association, August 31– September 4, 2006. <<http://bit.ly/2HODy9J>>, September 5, 2019.

Appendix

Curriculum Vitae

James L. Leloudis II

ADDRESSES

121 Cardiff Place (919) 967-8015
Chapel Hill, NC 27516

Honors Carolina (919) 966-5110
CB# 3510, Graham Memorial

University of North Carolina
Chapel Hill, NC 27599-3510 E-mail: leloudis@unc.edu

EDUCATION

Ph.D., University of North Carolina at Chapel Hill, May 15, 1989

M.A., Northwestern University, June 16, 1979

B.A., with highest honors, University of North Carolina at Chapel Hill, May 14, 1977

ACADEMIC APPOINTMENT

Professor, Department of History, University of North Carolina at Chapel Hill

ADMINISTRATIVE APPOINTMENTS (in reverse chronological order)

Co-Chair, University Commission on History, Race, and a Way Forward, University of North Carolina at Chapel Hill, January 2020 to present.

Peter T. Grauer Associate Dean for Honors Carolina and founding Director, The James M. Johnston Center for Undergraduate Excellence, College of Arts and Sciences, University of North Carolina at Chapel Hill. Appointed July 1, 1999-June 30, 2004; re-appointed July 1, 2004-June 30, 2009, appointment revised and extended July 1, 2007-June 30, 2012; reappointed July 1, 2012-June 30, 2017; appointment revised and extended July 1, 2014-June 30, 2019; reappointed July 1, 2019-June 30, 2024.

Interim Director, Center for the Study of the American South, University of North Carolina at Chapel Hill, July 1, 1998-June 30, 1999.

Associate Chair, Department of History, University of North Carolina at Chapel Hill, July 1, 1996-June 30, 1998.

SCHOLARSHIP

Books

Co-author, *Fragile Democracy: The Struggle Over Race and Voting Rights in North Carolina* (Chapel Hill: University of North Carolina Press, 2020).

Co-author, *To Right These Wrongs: The North Carolina Fund and the Battle to End Poverty and Inequality in 1960s America* (Chapel Hill: University of North Carolina Press, 2010).

Schooling the New South: Pedagogy, Self, and Society in North Carolina, 1880-1920 (Chapel Hill: University of North Carolina Press, 1996).

Co-author, *Like a Family: The Making of a Southern Cotton Mill World* (Chapel Hill: University of North Carolina Press, 1987 and 2000; New York: W.W. Norton, 1989).

Historical Exhibits

"Fragile Democracy: The Struggle Over Race and Voting Rights in North Carolina," <https://adobe.ly/3c8WJsL>.

"Silent Sam: The Confederate Monument at the University of North Carolina," <https://silent-sam.online> and <https://adobe.ly/3dT3XRe>.

"The Carolina Hall Story," a permanent exhibit on race, politics, and historical memory at the University of North Carolina at Chapel Hill, installed in Carolina Hall, November, 2016.

"Like a Family: The Making of a Southern Cotton Mill World," Teaching and Learning in the Digital Age, American Historical Association, 2001 (no longer available online).

Articles

Co-author, "Citizen Soldiers: The North Carolina Volunteers and the South's War on Poverty," in Elna C. Green, ed., *The New Deal and Beyond: Social Welfare in the South since 1930* (Athens: University of Georgia Press, 2003), pp. 138-62.

"A Classroom Revolution: Graded School Pedagogy and the Making of the New South," in Czeslaw Majorek and Erwin V. Johanningsmeier, eds., *Educational Reform in International Perspective: Past, Present, and Future* (Krakow: Polish Academy of Sciences, 2000), pp. 245-60.

Co-author, "Citizen Soldiers: The North Carolina Volunteers and the War On Poverty," *Law and Contemporary Problems* 62 (No. 4, Autumn 1999): 178-96.

"Schooling the New South: Pedagogy, Self, and Society in North Carolina, 1880-1920," *Historical Studies in Education/Revue d'histoire de l'éducation* 5 (Fall 1993): 203-229.

"Oral History and Piedmont Mill Villages, 1880-1940," *International Journal of Oral History* 7 (November 1986): 163-80.

"Cotton Mill People: Work, Community, and Protest in the Textile South, 1880-1940," (with Jacquelyn Hall and Robert Korstad) *American Historical Review* 91 (April 1986): 245-86.

"School Reform in the New South: The Woman's Association for the Betterment of Public School Houses in North Carolina, 1902-1919," *Journal of American History* 69 (March 1983): 886-909.

"Subversion of the Feminine Ideal: The *Southern Lady's Companion* and White Male Morality in the Antebellum South, 1847-1854," in Rosemary S. Keller, Louise L. Queen, and Hilah F. Thomas, eds., *Women in New Worlds: Historical Perspectives on the Wesleyan Tradition*, vol. 2 (Nashville: Abingdon Press, 1982), pp. 60-75.

Legal Consulting

Plaintiffs' expert witness, *Holmes v. Moore*. Paul, Weiss, Rifkind, Wharton, and Garrison LLP, New York, N.Y., and Southern Coalition for Social Justice, representing Jabari Holmes, Fred Culp, Daniel E. Smith, Brendon Jayden Peay, and Paul Kearney Sr. 2020 and ongoing.

Plaintiff's expert witness. *North Carolina State Conference of the NAACP v. Cooper*, 1:18-cv-01034, U.S. District Court, Middle District of North Carolina. Arnold and Porter LLP, Washington, D.C., and Forward Justice. 2019 and ongoing.

Plaintiffs' expert witness, *Hall v. Jones County Board of Commissioners*, 4:17-cv-00018, U.S. District Court, Eastern District of North Carolina. Cleary Gottlieb Steen and Hamilton LLP, New York, N.Y., representing John Hall, Elaine Robinson-Strayhorn, Lindora Toudle, and Thomas Jenkins. 2018.

Plaintiff's expert witness. *North Carolina State Conference of the NAACP v. McCrory*, 182 F. Supp. 3d 320 (M.D.N.C. 2016), and *North Carolina State Conference of the NAACP v. McCrory*, No. 16-1468 (4th Cir. 2016). Kirkland and Ellis LLP, Washington, D.C., and North Carolina State Chapter of the NAACP.

TEACHING

Courses

U.S. Since 1865 North Carolina Since 1865 The New South (1865-present)

History of Poverty Slavery and the University Oral History Methodology

Recent Doctoral Advisees

R. Joshua Sipe, "Evolving Jim Crow: An Analysis of the Consolidation Movement on the Virginia Peninsula, 1940-1958," M.A. thesis, 2019.

Elizabeth Lundeen, "Brick and Mortar: Historically Black Colleges and the Struggle for Equality, 1930-1960," Ph.D. dissertation, 2018.

Evan Faulkenbury, "Poll Power: The Voter Education Project and the Financing of the Civil Rights Movement, 1961-1992," Ph.D. dissertation, 2016. Published as *Poll Power: The Voter Education Project and the Movement for the Ballot in the American South* (University of North Carolina Press, 2019).

Willie J. Griffin, "Courier of Crisis, Messenger of Hope: Trezzvant W. Anderson and the Black Freedom Struggle for Economic Justice," Ph.D. dissertation, 2016. Forthcoming, Vanderbilt University Press, 2021.

Brandon K. Winford, "'The Battle for Freedom Begins Every Morning': John Hervey Wheeler, Civil Rights, and New South Prosperity," Ph.D. dissertation, 2014. Published as *John Hervey Wheeler: Black Banking and the Economic Struggle for Civil*

Rights (University Press of Kentucky, 2020). Winner of the Lillian Smith Award, 2020.

PROFESSIONAL AWARDS AND FELLOWSHIPS

Faculty Service Award, General Alumni Association, University of North Carolina at Chapel Hill, 2019.

Engaged Scholarship Award, Office of the Provost, University of North Carolina at Chapel Hill, 2011.

Senior Fellow, Kenan Institute for Ethics, Duke University, “Moral Challenges of Poverty and Inequality,” 2010-2011.

North Caroliniana Society Book Award, 2010. Awarded for *To Right These Wrongs*.

Academic Leadership Fellow, Institute for the Arts and Humanities, University of North Carolina at Chapel Hill, 2003. Included participation in the Leadership Development Program, Center for Creative Leadership, San Diego, California.

Commencement Speaker, University of North Carolina at Chapel Hill, December 2003 (selected by Senior Class officers and marshals).

Chapman Family Fellowship, Institute for the Arts and Humanities, University of North Carolina at Chapel Hill, 1997.

Fellow of the Academy of Distinguished Teaching Scholars, University of North Carolina at Chapel Hill, inducted in 1996.

Mayflower Cup, awarded by the North Carolina Literary and Historical Association for the year's best work in non-fiction, 1996. Awarded for *Schooling the New South*.

Ruth and Phillip Hettleman Award for Outstanding Scholarly or Artistic Accomplishment by Young Faculty, University of North Carolina at Chapel Hill, 1995.

Fellow of the Institute for the Arts and Humanities, University of North Carolina at Chapel Hill, 1992.

Students' Undergraduate Teaching Award, University of North Carolina at Chapel Hill, 1991.

Claude A. Eggertsen History of Education Dissertation Award, 1989, presented by the Rackham School of Graduate Studies, University of Michigan, for the best dissertation on the history of education.

Albert J. Beveridge Award, 1988, presented by the American Historical Association for *Like a Family*.

Merle Curti Social History Award, 1988, presented by the Organization of American Historians for *Like a Family*.

Philip Taft Labor History Award, 1988, presented by the New York State School of Industrial and Labor Relations, Cornell University for *Like a Family*.

Honorable mention, John Hope Franklin Award, 1988, presented by the American Studies Association for *Like a Family*.

Honorable mention, Research on Women in Education Award, 1984, presented by Women Educators, American Educational Research Association, for "School Reform in the New South."

Louis Pelzer Memorial Award, 1982, presented by the Organization of American Historians for "School Reform in the New South."

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NORTH CAROLINA STATE CONFERENCE)
OF THE NAACP,)
et al.,)

Plaintiffs,)

vs.)

Case No: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his)
official capacity as the)
Governor of North Carolina,)
et al.,)

Defendants.)

LEAGUE OF WOMEN VOTERS OF)
NORTH CAROLINA, et al.,)

Plaintiffs,)

vs.)

Case No: 1:13-CV-660

THE STATE OF NORTH CAROLINA,)
et al.,)

Defendants.)

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

Case No: 1:13-CV-861

THE STATE OF NORTH CAROLINA,)
et al.,)

Defendants.)

VIDEOTAPED DEPOSITION
OF
JAMES L. LELOUDIS II, Ph.D.

NCLCV v. Hall

21 CVS 15426

LDTX127

Exhibit #

Leloudis 2

12/29/2021 - JNC

exhibitstickers.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VIDEOTAPED DEPOSITION
OF
JAMES L. LELOUDIS II, Ph.D.

9:59 A.M.

FRIDAY, APRIL 3, 2015

MARRIOTT COURTYARD
100 MARRIOTT WAY
CHAPEL HILL, NORTH CAROLINA

By: Denise Myers Byrd, CSR 8340, RPR, CLR 102409-02

A P P E A R A N C E S

Counsel for NAACP Plaintiffs:

KIRKLAND & ELLIS
BY: JODI WU, ESQ.
655 Fifteenth Street, N.W.
Washington, DC 20005
(202) 879-5078
jodi.wu@kirkland.com

ADVANCEMENT PROJECT
BY: CAITLYN SWAIN, ESQ.
1220 L Street, N.W.
Suite 850
Washington, DC 20005
(202) 728-9557

TIN FULTON WALKER & OWEN
BY: ADAM STEIN, ESQ.
312 West Franklin Street
Chapel Hill, NC 27516
(919) 240-7089
astein@tinfulton.com

Counsel for League of Women Voters Plaintiffs:

SOUTHERN COALITION FOR SOCIAL JUSTICE
BY: EMILY SEAWELL
1415 West Highway 54
Suite 101
Durham, NC 27707
(919) 323-3380

ACLU - NC
BY: CHRISTOPHER BROOK, ESQ.
P.O. Box 28004
Raleigh, NC 27611
(919) 834-3466
cbrook@acluofnc.org

1
2 Counsel for the United States of America Plaintiffs:

3 U.S. DEPARTMENT OF JUSTICE
4 BY: JUDYBETH GREENE, ESQ.
5 950 Pennsylvania Avenue, N.W.
6 Washington, DC 20530
7 (800) 253-3931
8 judybeth.greene@usdoj.gov

9
10 Counsel for Defendants State of North Carolina and
11 Members of the State Board of Elections:

12 OGLETREE DEAKINS NASH SMOAK & STEWART
13 BY: PHILLIP J. STRACH, ESQ.
14 4208 Six Forks Road
15 Suite 1100
16 Raleigh, NC 27609
17 (919) 787-9700
18 phillip.strach@ogletreedeakins.com

19 Reported By:

20 DISCOVERY COURT REPORTERS
21 AND LEGAL VIDEOGRAPHERS
22 BY: DENISE MYERS BYRD, CSR 8340, RPR
23 4208 Six Forks Road
24 Suite 1000
25 Raleigh, NC 27609
(919) 649-9998
denise@discoverydepo.com

--o0o--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXAMINATION

Page

By Mr. Strach..... 7

--o0o--

INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	Page
Leloudis 1	Expert Report - April 11, 2014	9
Leloudis 2	Surrebuttal Expert Report - May 2, 2014	9
Leloudis 3	Expert Report - February 12, 2015	9

--o0o--

1 THE VIDEOGRAPHER: We are now on the
2 record. The time is 9:59. Today's date is
3 April 3, 2015.

4 This is the deposition of James
5 Leloudis in the matter of North Carolina State
6 Conference of the NAACP, et al., plaintiff,
7 versus Patrick Lloyd McCrory in his official
8 capacity as Governor of North Carolina, et al.,
9 and related actions, defendants.

10 Would counsel please now introduce
11 themselves.

12 MR. STRACH: Phil Strach, counsel for
13 the defendants.

14 MS. WU: Jodi Wu from Kirkland & Ellis
15 on behalf of the NAACP plaintiffs and the
16 witness.

17 MS. SWAIN: Caitlin Swain with
18 Advancement Project on behalf of the NAACP and
19 the witness.

20 MR. STEIN: Adam Stein on behalf of the
21 NAACP, plaintiffs.

22 MR. BROOK: Christopher Brook --

23 MS. GREENE: Judybeth Greene from the
24 Department of Justice on behalf of the
25 United States.

1 MR. BROOK: Christopher Brook on behalf
2 of the League of Women Voter plaintiffs from
3 the ACLU of North Carolina.

4 MR. SEAWELL: Emily Seawell, Southern
5 Coalition for Social Justice, on behalf of
6 League of Women Voters, North Carolina,
7 plaintiffs.

8
9 JAMES LELOUDIS,
10 having been first duly sworn or affirmed by the
11 Certified Shorthand Reporter and Notary Public
12 to tell the truth, the whole truth and nothing
13 but the truth, testified as follows:

14 EXAMINATION

15 BY MR. STRACH:

16 Q. Good morning.

17 A. Good morning.

18 Q. Would you tell me again how to pronounce your
19 last name.

20 A. Leloudis.

21 Q. Dr. Leloudis, my name is Phil Strach, proud
22 Carolina law grad so got some connection. I'm
23 going to be taking your deposition today.

24 You understand, of course, that you're
25 under oath as if you were in court, correct?

1 A. Yes.

2 Q. And have you had your deposition taken before?

3 A. I have not.

4 Q. Okay. Then let me just give you a few of the
5 ground rules.

6 When you answer questions, if you will
7 be careful to say yes, no or some other audible
8 response so that the court reporter can take it
9 down. That would be great. Is that okay?

10 A. That's fine. Okay.

11 Q. If you need a break at any time, let me know.
12 And I will take occasional breaks also.

13 If I ask a question that is not clear
14 or you need -- it needs to be clarified in some
15 way, don't hesitate to let me know.

16 Is that okay?

17 A. Okay, that's fine.

18 Q. Primarily what we will be looking at this
19 morning are the expert reports that you have
20 submitted in this case, and by my account, I
21 see one that was submitted last year, then a
22 short surrebuttal --

23 A. Yes.

24 Q. -- and then another one this year; is that
25 correct?

1 A. Yes, that's correct.

2 Q. And can you tell me what hourly rate you're
3 being paid.

4 A. 300 an hour.

5 Q. 300 an hour?

6 A. Yeah.

7 Q. And do you know how much total to date you've
8 been paid?

9 A. Not the exact figure. Something on the order
10 of 48-, 49,000.

11 Q. Okay. And have you -- who's your -- who's your
12 client, the NAACP?

13 A. Yes, the NAACP.

14 Q. And have you submitted invoices to them?

15 A. For the initial work. Not for the latest
16 report.

17 Q. Okay. So what I will do here, initially I am
18 just going to mark these as Leloudis 1, 2 and
19 3. One will be your April 2014 report, 2 will
20 be your May surrebuttal report and 3 will be
21 the 2015 report.

22 (WHEREUPON, Defendants' Exhibits 1, 2
23 and 3 were marked for identification.)

24 BY MR. STRACH:

25 Q. Dr. Leloudis, I am going to focus on certain

1 aspects of the report. Obviously feel free to
2 read whatever you think you need to read to
3 answer the question fairly, and if I ask you
4 something in a paragraph somewhere and you need
5 to read around it, just let me know.

6 A. Okay. Thank you.

7 MS. WU: Which one are we going to
8 start with?

9 MR. STRACH: We will start with the
10 April 2014 report, Exhibit 1.

11 BY MR. STRACH:

12 Q. Let me start, Dr. Leloudis, on Page 30 of your
13 April 2014 report.

14 A. All right.

15 Q. And in particular, I'm looking at the paragraph
16 in the middle of the page where you're talking
17 about the Helms-Gantt contest and a political
18 realignment in the making.

19 A. Uh-huh.

20 Q. And you state that this new political
21 realignment involved conservative whites,
22 particularly white men, were moving in
23 ever-greater numbers into the Republican Party,
24 and in the Democratic Party a new biracial
25 alliance was coalescing around a progressive

1 social vision.

2 What did you mean by "progressive
3 social vision" there?

4 A. What that phrase refers to is a vision of state
5 and federal government that is proactive in the
6 expansion of access to the franchise, the
7 guarantee of economic opportunity, access to
8 quality education.

9 Q. Okay. Is it fair to say that some might
10 describe that as a liberal ideology?

11 A. That's fair.

12 Q. So the new biracial alliance that you describe
13 there involve black voters and I guess, for
14 lack of a better term, white liberals?

15 A. Yes.

16 Q. And then in the next paragraph you talk about
17 some of the policy issues that Governor Jim
18 Hunt supported during his terms in office.

19 Do you see that?

20 A. Yes.

21 Q. And I guess I just want to understand what
22 point, if any, you're making about his support
23 for those particular -- those particular
24 policies. Is there a reason why you picked
25 those particular policies to focus on?

1 A. I picked those particular policies because they
2 are -- they offer very concrete description of
3 the kinds of policies that would be embraced in
4 that progressive social vision.

5 Q. Okay. So here you're using Governor Hunt as
6 sort of an example of implementation of this
7 new biracial alliance that you described
8 earlier?

9 A. Of its political and economic agenda or vision,
10 yes.

11 Q. Okay. And for whites in particular who oppose
12 or did not agree with these particular programs
13 that you describe in this paragraph, how would
14 you categorize those folks?

15 A. I would categorize them as conservatives who
16 embrace a very different conception of the role
17 of government.

18 Q. Okay. And is it your opinion that
19 conservatives who embrace the different -- a
20 different role of government are necessarily a
21 product of, say, Jim Crow laws from the early
22 part of the century?

23 MS. WU: Object to form.

24 THE WITNESS: What I would say is that
25 it is well documented in the scholarly

1 literature and elsewhere that as the Democratic
2 Party more firmly embraced this liberal
3 progressive agenda in the years after World War
4 II, the conservative whites moved increasingly
5 out of that party into the Republican Party.

6 BY MR. STRACH:

7 Q. Okay. And have you concluded that the
8 conservative whites moved out of that party
9 primarily as a reaction to blacks or primarily
10 as a reaction to liberal policies that they
11 didn't agree with?

12 MS. WU: Object to form.

13 THE WITNESS: I don't think they would
14 have made the distinction between the two.

15 BY MR. STRACH:

16 Q. You don't think that the conservative
17 whites who left --

18 A. Right.

19 Q. -- would have made that --

20 A. Would have made that distinction.

21 MS. WU: Make sure you let him finish
22 his question. It's easier for the
23 court reporter.

24 MR. STRACH: And I'll try to do good on
25 that too.

1 BY MR. STRACH:

2 Q. Now, in particular, the conservative whites we
3 were talking about, is there a particular
4 timeframe that you're thinking about those
5 folks that wouldn't make that distinction?

6 A. I think that change began as early as the 1930s
7 as Roosevelt's New Deal began to open the door
8 ever so slightly, particularly to economic
9 opportunity for blacks in the South and
10 elsewhere in the nation and accelerated in the
11 years after that, particularly after World War
12 II as the Democratic Party more firmly and
13 officially endorsed the Civil Rights agenda.

14 Q. Do you think that there are modern conservative
15 whites who disagree with, say, a Governor
16 Hunt's progressive social vision -- who
17 disagree with that vision for reasons
18 completely unrelated to race?

19 MS. WU: Object to form.

20 THE WITNESS: I don't think one can
21 make that distinction. The policies we're
22 talking about here by very definition involve a
23 differential impact on minority Americans, and
24 if that's the case, then race is an issue.

25 BY MR. STRACH:

1 Q. And that's your view based simply on your
2 review of the historical record, correct?

3 A. It is.

4 Q. You've not done -- have you done any surveys of
5 voter attitudes on race versus ideology?

6 A. No, I have not.

7 Q. On Page 31 of the report you talk about, in
8 Section 2, electoral reform from 2000 to 2012,
9 and in the first paragraph there you remark
10 that the reforms open the way for black turnout
11 to soar to historic highs in the 2008 and 2012
12 elections.

13 Do you see that?

14 A. Yes.

15 Q. What evidence do you have that the turnout by
16 blacks in 2008 and 2012 was due to the election
17 reforms as opposed to the candidacy of Barack
18 Obama?

19 MS. WU: Object to form.

20 Just for the record, the entire
21 sentence says "when voters rallied behind the
22 candidacy of Barack Obama, who would become the
23 first African American president of the
24 United States."

25 MR. STRACH: Thank you, Jodi. We can

1 all read that.

2 BY MR. STRACH:

3 Q. Do you remember the question?

4 A. Let me -- restate it, please, if you would.

5 Q. What evidence do you have that the increase in
6 black turnout in 2008 and 2012 was due to the
7 election reforms and not the candidacy of
8 Barack Obama?

9 A. I'd point to two things: One, that those
10 election reforms addressed and mitigated
11 barriers to participation that are well
12 documented in the scholarly literature,
13 including the fact that minority voters suffer
14 a higher rate of poverty, higher rates of
15 unemployment, are more likely than whites to be
16 sick or disabled, are more likely to work in
17 jobs that don't provide time off to vote during
18 regular hours on a weekday, workday.

19 So those reforms mitigated those --
20 those barriers and barriers that are themselves
21 a legacy of a long history of racial
22 discrimination under Jim Crow.

23 And the second thing I'd point to is
24 that the increase in participation begins
25 before 2008. If it were attributable solely to

1 the candidacy of Barack Obama, I think we would
2 have expected a much sharper spike in 2008, but
3 the numbers actually crest 50 percent for the
4 first time in 2004.

5 Q. Right. I don't see where you mentioned that in
6 this report.

7 A. I'm sorry. It's not in this report. It's
8 illustrated in the most recent report.

9 Q. All right. Have you done any quantitative
10 studies of the turnout in 2008 and 2012 to
11 attempt to determine the source of that
12 turnout?

13 A. I have not. I have relied on the scholarly
14 literature.

15 Q. And what scholarly literature have you reviewed
16 that concluded that the turnout by blacks in
17 2008 in North Carolina were due to the election
18 reforms?

19 MS. WU: Object to form.

20 THE WITNESS: Those sources are
21 documented in footnotes on this page,
22 particularly Footnote 85, and I'd refer you to
23 the subsequent report where additional
24 literature is cited.

25 BY MR. STRACH:

1 Q. Okay. Footnote 85 here, we have an article by
2 McLaughlin, "Improving Voter Participation."

3 Do you recall what publication that was
4 in?

5 A. I don't. I'd need to look at the bibliography.

6 Q. And the other article that you cite is by
7 Crowell, which I believe is Michael Crowell.

8 A. Who is at the Institute of Government, yes.

9 Q. And it looks like the other article that you
10 cited is the Atlantic Wire; is that correct?

11 A. Yes.

12 Q. If you would turn to Page 33. In the first
13 full paragraph that starts "The policies at the
14 Civitas Institute opposes," et cetera, you talk
15 about several policy issues starting with the
16 lawmakers cut benefits for North Carolinians
17 who are chronically unemployed, et cetera.

18 Do you see that?

19 A. Yes.

20 Q. In your opinion with respect to these
21 particular issues that you outline in this
22 paragraph, are there any legitimate reasons for
23 opposing these programs that are not related to
24 race?

25 MS. WU: Object to form.

1 THE WITNESS: I'm sure the reasons are
2 not -- not unilateral, but, again, it is very
3 clear and well documented that these policies
4 have a differential impact on minority voters.
5 They address sort of turning back of policies
6 that had been designed to mitigate the
7 long-term consequences of Jim Crow and racial
8 discrimination.

9 So again, to the degree that these
10 reforms disproportionately affect minority
11 voters, it seems to me they are by virtue of
12 that fact a matter of race.

13 BY MR. STRACH:

14 Q. Okay. So the disproportionate impact is what
15 you're focused on there?

16 A. Yes.

17 Q. Do you have any evidence that the provision of
18 unemployment benefits when it was first created
19 was enacted specifically to help blacks?

20 A. I do not.

21 MS. WU: Object to form.

22 BY MR. STRACH:

23 Q. Do you have any evidence that Medicaid was
24 created specifically to help blacks?

25 A. I have not undertaken exhaustive research on

1 that topic, but I think it's well accepted in
2 the scholarly literature that, yes, Medicare
3 established in the mid 1960s in the context of
4 the Voting Rights Act and Civil Rights Act was
5 meant in significant measure to address these
6 racial disparities.

7 Q. Excuse me. Can you -- sitting here today, can
8 you direct me to any scholarly literature that
9 concludes that?

10 A. I can't sitting here today.

11 Q. Further down the page there's several bullet
12 points. In the second one is a paragraph
13 discussing difficulty in acquiring
14 identification, and there's a sentence that
15 says, "The U.S. Department of Justice reports
16 that in 10 North Carolina counties the DMV
17 operates only a single office that opens once
18 per month," and you provide other such
19 statements in that paragraph, and I just want
20 to understand the source.

21 I see the Footnote 91 which cites the
22 case number in this particular legal action.

23 Do you recall what specifically was the
24 basis for the information in that bullet point?

25 A. One of the plaintiffs' expert's reports.

1 Q. Okay. Do you recall which one?

2 A. I do not.

3 Q. With regard to this issue of disproportionate
4 impact on blacks that we've talked about, is it
5 your opinion that if blacks utilize a
6 particular election procedure at a higher rate
7 than other voters that it's inappropriate to
8 repeal that practice?

9 MS. WU: Object to form; calls for a
10 legal conclusion.

11 THE WITNESS: I don't think I have the
12 expertise to render a judgment.

13 BY MR. STRACH:

14 Q. Is the -- in your mind, if blacks utilize a
15 particular election procedure at a higher rate
16 than other voters, can there be any legitimate
17 reason to repeal it that does not have a basis
18 in race?

19 MS. WU: Object to form; calls for
20 speculation.

21 THE WITNESS: I'm not willing to
22 speculate on that -- on that point.

23 BY MR. STRACH:

24 Q. Why do you think that it's asking you to
25 speculate?

1 A. Because it's asking me to speak to the motives
2 of people whose -- whose motives I've not
3 inquired into.

4 Q. Okay. That's fair.

5 Let's take a look at the surrebuttal
6 report.

7 MS. WU: Is this Exhibit 2?

8 MR. STRACH: This is Exhibit 2, yes.

9 BY MR. STRACH:

10 Q. Let me ask you a more general question about
11 the -- what we just looked at.

12 From a pure history professor
13 perspective, does your study, as reflected in
14 Exhibit 1, reflect any -- reflect any
15 particular genre of historical study?

16 A. I don't believe --

17 MS. WU: Object to form.

18 THE WITNESS: I don't believe so.

19 BY MR. STRACH:

20 Q. In Paragraph 1 of the surrebuttal report, you
21 address the reports by Dr. Donald Schroeder and
22 Sean Trende in which they attempt to put the
23 North Carolina election law in context of other
24 states.

25 A. Uh-huh.

1 Q. Do you see that? Do you think it's important
2 in assessing the impact of an election law in
3 one state to put it in the context of other
4 states?

5 MS. WU: Object to form.

6 THE WITNESS: In this instance, no.

7 BY MR. STRACH:

8 Q. And why is that?

9 A. I think it's -- it's false argument that
10 doesn't stand up to scrutiny. It reminds me of
11 an argument that basically says I used to beat
12 my wife a little. Other states do it more, let
13 me do it more to move to the middle. And it in
14 that sense ignores and dodges the history that
15 is detailed -- that is laid out in detail in
16 each of these reports.

17 Q. So in your mind, historical context in the
18 state matters but other types of context do
19 not?

20 MS. WU: Object to form.

21 THE WITNESS: Forms of context that
22 don't speak to the fundamental issue, they do
23 not help us in understanding.

24 BY MR. STRACH:

25 Q. Okay. And in your mind, what is the

1 fundamental issue?

2 MS. WU: Object to form.

3 THE WITNESS: The issue I believe is a
4 fundamental right of access to the ballot and
5 to exercise the franchise.

6 BY MR. STRACH:

7 Q. And so in your mind, in terms of access to the
8 ballot, it's irrelevant what other states do?

9 A. If other states also deny that access, yes, I
10 think it is irrelevant.

11 Q. In the second paragraph of this Exhibit 2 you
12 note that in 2001, lawmakers gave nearly
13 unanimous approval to a bill that extended
14 early voting to party primaries.

15 With regard to that bill specifically,
16 do you have any evidence that that bill was
17 passed specifically to remedy black-voting
18 issues?

19 A. Yes, to the degree that it was spearheaded by
20 lawmakers who were accountable to that
21 constituency.

22 Q. Right. But do you have any evidence that it
23 was passed in order to remedy black-voting
24 issues?

25 MS. WU: Object to form.

1 THE WITNESS: I'm not sure I understand
2 the question.

3 BY MR. STRACH:

4 Q. Can you point me to any -- other than
5 speculation about representation of
6 constituents, can you point to any evidence in
7 any record anywhere that indicates this bill
8 was passed to remedy black-voting issues?

9 MS. WU: Object to the characterization
10 of the witness' testimony, and he's already
11 answered the question.

12 BY MR. STRACH:

13 Q. You can answer.

14 A. I do believe I've answered the question. And I
15 would just say that I think drawing a link
16 between lawmakers' actions and the interest of
17 their constituencies is not speculation.

18 Q. Is that the only evidence that you have?

19 A. Yes.

20 Q. And then the sentence goes on to discuss in
21 2003 they supported legislation that allowed
22 for ballots cast out of precinct to be counted
23 on a provisional basis.

24 What evidence do you have that that
25 particular legislation was passed to remedy

1 black-voting issues?

2 A. The same evidence that I've just cited.

3 Q. Okay. In the next paragraph you make -- you
4 ask the rhetorical question "What changed after
5 2007," and you go on to talk about the voter
6 participation in 2008.

7 Are you aware of when a photo ID
8 requirement was first sought in the
9 North Carolina General Assembly?

10 A. I'm not.

11 Q. Do you know if a photo ID requirement was
12 sought before 2007?

13 A. I do not.

14 Q. Have you made -- ever made any attempt to
15 research that issue?

16 A. I have not researched that issue in part
17 because the legislation here spans well beyond
18 simple requirement of voter ID.

19 Q. Okay. Do you -- are you aware of any
20 opposition to out-of-precinct voting that
21 occurred in the legislature prior to 2007?

22 MS. WU: Object to form.

23 THE WITNESS: I have not. It's not
24 something I've researched.

25 BY MR. STRACH:

1 Q. Are you aware of a bill that passed in 2005
2 that clarified that out-of-precinct votes would
3 be counted?

4 A. I'd have to look in more detail in the
5 subsequent report to answer that.

6 Q. In the next paragraph you make a statement that
7 the 2010 redistricting process diminished the
8 voting power of African Americans.

9 In what way?

10 A. The gerrymandering of districts that isolated
11 pools of African American voters and their
12 white allies and gerrymandering that was
13 calculated.

14 Q. Are you aware of the number of seats held by
15 African Americans in the North Carolina
16 legislature prior to 2010?

17 A. I can't cite that precise number here today.

18 Q. Are you aware that the number of seats
19 significantly increased after the 2010
20 redistricting process?

21 MS. WU: Object to form.

22 THE WITNESS: I'm not, but I'm not sure
23 that that's wholly relevant. There could be an
24 increase in the number of seats but still those
25 lawmakers isolated in a small minority.

1 BY MR. STRACH:

2 Q. Because they're Democrats?

3 A. Because of the gerrymandering that produced a
4 majority Republican legislature.

5 Q. Okay. So you're saying they lost voting power
6 because they're Democrats and Democrats are in
7 the minority?

8 MS. WU: Object to form.

9 THE WITNESS: No. I'm saying that they
10 lost voting power because they were black
11 Democrats and that race has been a fundamental
12 constitutive force in this process at every
13 step.

14 BY MR. STRACH:

15 Q. Now, if the number of blacks holding seats in
16 the legislature increased, though, logically
17 that means they increase their voting power,
18 correct?

19 MS. WU: Object to form.

20 THE WITNESS: Their voting power on the
21 legislative floor itself, they might have
22 increased numbers, but they lost effectiveness.

23 BY MR. STRACH:

24 Q. And they lost effectiveness because they're
25 Democrats?

1 A. They lost effectiveness because they're black
2 Democrats.

3 Q. Why does it matter if they're black Democrats
4 or white Democrats if the Democrats are in a
5 minority?

6 A. Well, that would require a long accounting of
7 this history, but I would repeat the fact that
8 the history of partisan politics in this state
9 that race has at every step along the way been
10 a powerful constitutive force in party
11 alignment.

12 Q. Okay. I understand your opinion on that, but I
13 don't understand how their voting power, if
14 their numbers are increased in the legislature,
15 are decreased -- is decreased unless it's
16 simply because they're in the minority party.

17 MS. WU: Do you need him to rephrase
18 the question?

19 THE WITNESS: Yes. Rephrase the
20 question for me, please.

21 BY MR. STRACH:

22 Q. How -- if African American numbers in the state
23 legislature have increased, how is their voting
24 power diminished through anything other than
25 the fact that they are in the minority party?

1 MS. WU: Object to form.

2 THE WITNESS: Those lawmakers'
3 effectiveness on the floor of the legislature
4 is diminished because they and the alliance in
5 which they are situated is shaped in
6 fundamental ways by issues of race, have been
7 effectively ring-fenced and contained in
8 gerrymandered districting.

9 BY MR. STRACH:

10 Q. So does that mean that since those black
11 members of the General Assembly are Democrats,
12 that Democrats are therefore entitled to be in
13 the majority so that their voting power is not
14 diminished?

15 MS. WU: Object to form.

16 THE WITNESS: I'm not sure I understand
17 the question.

18 BY MR. STRACH:

19 Q. If their voting power has been diminished
20 because they are black Democrats, are you
21 saying that they are entitled -- are you saying
22 that their voting power would only not be
23 diminished if they were in the majority --

24 MS. WU: Same objection.

25 BY MR. STRACH:

1 Q. -- party in the legislature?

2 MS. WU: Same objection.

3 THE WITNESS: I'm not sure I understand
4 that question.

5 BY MR. STRACH:

6 Q. I take it you do not purport to be a
7 redistricting expert, correct?

8 A. I am not.

9 Q. Okay. Let's take a look at Exhibit 3, the most
10 recent report. And one thing I wanted to
11 confirm just for the sake of efficiency and
12 time is I read it -- as I read it, the sections
13 that were added or significantly changed were
14 Subsections F and G under the discussion.

15 A. That's correct.

16 Q. Okay. And the Subsections A through E at least
17 appear to me to be virtually the same as the
18 last report, correct?

19 A. Yes. Minor changes, but...

20 Q. If you'll turn to Page 30, you list -- you have
21 several bullet points and you list several
22 pieces of legislation. The first one is 1992,
23 a particular statute required the State Board
24 of Elections to initiate a statewide voter
25 registration drive and adopt rules under which

1 county boards of elections were to conduct the
2 drive.

3 Are you saying that this House Bill
4 1776 was adopted in 1992?

5 A. Yes.

6 Q. And what evidence do you have that it was
7 adopted to remedy black-voting issues?

8 MS. WU: Object to form.

9 THE WITNESS: Again, I'd repeat a point
10 I made before and that it was proposed,
11 advocated for by the lawmakers who were
12 responsive to their constituency.

13 BY MR. STRACH:

14 Q. And do you recall which lawmaker proposed this
15 bill?

16 A. I do not.

17 Q. Do you recall which lawmakers voted for it?

18 A. I did not investigate roll call vote.

19 Q. And Senate Bill 568, as referenced in the next
20 paragraph but there's no bullet point, was that
21 something to your knowledge that was also
22 passed in 1992?

23 A. Yes.

24 Q. And other than the evidence that you've
25 referred to several times, do you have any

1 other evidence that this was passed to remedy
2 black-voting issues?

3 MS. WU: Object to form.

4 THE WITNESS: I believe I've already
5 stated the evidence which I've drawn that
6 conclusion.

7 BY MR. STRACH:

8 Q. Okay. And in 2002, you reference 163-227.2
9 allowed voting not earlier than the third
10 Thursday before an election.

11 Were you aware of the fact that that
12 law actually shortened the early voting period
13 previously in effect?

14 A. No.

15 Q. The next statute is 163-166.11 allowing voters
16 who went to the wrong precinct on election day
17 to vote a provisional ballot.

18 I think we talked about that already.

19 A. Yes.

20 Q. 2005 is -- you have a reference to Senate Bill
21 133. This is the bill I think we talked about
22 earlier which the General Assembly clarified
23 its intent regarding out-of-precinct
24 provisional ballots, correct?

25 A. Yes.

1 Q. And you refer here to a reference by the
2 General Assembly regarding African American
3 disproportionate use of out-of-precinct voting.

4 Do you see that?

5 A. Yes.

6 Q. Are you aware of what data the General Assembly
7 relied upon to make that statement?

8 A. I am not.

9 Q. Okay. Have you done any independent
10 investigation of that statement?

11 A. None other than the legislation, no.

12 Q. All right. Regarding the vote on Senate Bill
13 133, are you aware of what the partisan
14 breakdown was on the final vote?

15 A. I did not investigate roll call.

16 Q. 2007, you reference House Bill 91 allowing for
17 same-day registration, correct?

18 A. Yes.

19 Q. Are you aware of what the partisan breakdown on
20 the vote on that was?

21 A. No.

22 Q. And do you have -- other than the evidence
23 you've discussed already, do you have any
24 evidence that same-day registration was enacted
25 to remedy black-voting issues?

1 MS. WU: Object to form.

2 THE WITNESS: I believe I've already
3 stated the evidence.

4 BY MR. STRACH:

5 Q. Okay. And then similarly with the 2009
6 pre-registration, are you aware of the vote
7 breakdown on that bill?

8 A. I am not.

9 Q. And other than evidence you've discussed, do
10 you have any evidence that pre-registration was
11 enacted to remedy black-voting issues?

12 MS. WU: Object to form.

13 THE WITNESS: Other than the evidence
14 I've already stated, no.

15 BY MR. STRACH:

16 Q. Are you aware of what the black turnout was in
17 the 2014 election following the repeal of
18 same-day registration and out-of-precinct
19 voting?

20 A. I don't have that number at hand.

21 Q. All right. Have you done any independent study
22 or review of the number of voters who may lack
23 an identification that's required under House
24 Bill 589?

25 A. I've not taken an independent investigation,

1 no.

2 Q. Are you aware of any -- are you aware of the
3 scholarly literature on the effect of early
4 voting on turnout?

5 MS. WU: Object to form.

6 THE WITNESS: Other than the sources
7 cited in this report, no.

8 BY MR. STRACH:

9 Q. Are you aware of the literature that concludes
10 that early voting does not increase turnout?

11 MS. WU: Object to form.

12 THE WITNESS: I am not.

13 BY MR. STRACH:

14 Q. Are you aware of any literature that discusses
15 the impact of same-day registration on turnout?

16 A. Other than the literature cited in this report,
17 no.

18 Q. Have you ever studied educational disparities
19 between whites and blacks in states other than
20 North Carolina?

21 A. I have not.

22 Q. Are you aware of whether there are states that
23 have educational disparities that are higher
24 than the educational disparities in
25 North Carolina?

1 A. Yes.

2 Q. Are you aware that some of those states are
3 states without the history of official
4 discrimination that North Carolina has?

5 MS. WU: Object to form.

6 THE WITNESS: I'm not sure I understand
7 the term "official discrimination."

8 BY MR. STRACH:

9 Q. What does that mean to you?

10 A. Law.

11 Q. De jure like --

12 A. Yes.

13 Q. -- say, de jure segregation?

14 A. Yes.

15 Q. Do you know if Wisconsin has a history of
16 de jure segregation?

17 A. No.

18 Q. Do you know whether or not the educational
19 disparities between whites and blacks in
20 Wisconsin is higher or lower than those
21 disparities in North Carolina?

22 A. I don't have that information at hand.

23 MR. STRACH: Take a break.

24 THE VIDEOGRAPHER: Off record, the time
25 is 10:50.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Brief Recess.)

THE VIDEOGRAPHER: Now back on the
record, 10:57.

MR. STRACH: Thank you, Dr. Leloudis, I
don't have any further questions for you right
now.

THE WITNESS: Thank you.

MS. WU: No questions.

THE VIDEOGRAPHER: Then this concludes
the deposition at 10:57.

MS. GREENE: No questions.

[SIGNATURE RESERVED]

[DEPOSITION CONCLUDED AT 10:57 A.M.]

A C K N O W L E D G E M E N T O F D E P O N E N T

I, JAMES L. LELOUDIS II, Ph.D., declare under the penalties of perjury under the State of North Carolina that I have read the foregoing 38 pages, which contain a correct transcription of answers made by me to the questions therein recorded, with the exception(s) and/or addition(s) reflected on the correction sheet attached hereto, if any.

Signed this the day of , 2015.

JAMES L. LELOUDIS II, Ph.D.

E R R A T A S H E E T

Case Name: NAACP vs. Patrick Lloyd McCrory, et al.

Witness Name: JAMES L. LELOUDIS II, Ph.D.

Deposition Date: Friday, April 3, 2015

Page/Line	Reads	Should Read
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____
____/____	_____	_____

Signature

Date

1 STATE OF NORTH CAROLINA)
2) C E R T I F I C A T E
3 COUNTY OF WAKE)

4 I, DENISE MYERS BYRD, Court Reporter and Notary
5 Public, the officer before whom the foregoing proceeding was
6 conducted, do hereby certify that the witness whose testimony
7 appears in the foregoing proceeding were duly sworn by me; that
8 the testimony of said witness was taken by me to the best of my
9 ability and thereafter transcribed under my supervision; and
10 that the foregoing pages, inclusive, constitute a true and
11 accurate transcription of the testimony of the witness(es).

12 Before completion of the deposition, review of the
13 transcript [X] was [] was not requested. If requested, any
14 changes made by the deponent (and provided to the reporter)
15 during the period allowed are appended hereto.

16 I further certify that I am neither counsel for,
17 related to, nor employed by any of the parties to this action,
18 and further, that I am not a relative or employee of any
19 attorney or counsel employed by the parties thereof, nor
20 financially or otherwise interested in the outcome of said
21 action.

22 This the 27th day of April 2015.

23
24 Denise Myers Byrd
25 CSR 8340, RPR, CLR 102409-02

A	allowing 33:15 34:16 America 1:18 4:2 American 15:23 27:11 29:22 34:2 Americans 14:23 27:8,15 and/or 39:8 answer 8:6 10:3 25:13 27:5 answered 25:11 25:14 answers 39:6 appear 31:17 appears 41:7 appended 41:15 approval 24:13 April 2:6 5:10 6:3 9:19 10:10 10:13 40:4 41:22 argument 23:9 23:11 article 18:1,6,9 asking 21:24 22:1 aspects 10:1 Assembly 26:9 30:11 33:22 34:2,6 assessing 23:2 astein@tinfult... 3:13 Atlantic 18:10 attached 39:9 attempt 17:11 22:22 26:14 attitudes 15:5 attorney 41:19 attributable 16:25 audible 8:7 Avenue 4:4 aware 26:7,19 27:1,14,18 33:11 34:6,13 34:19 35:6,16 36:2,2,9,14,22	37:2 B back 19:5 38:2 ballot 24:4,8 33:17 ballots 25:22 33:24 Barack 15:17,22 16:8 17:1 barriers 16:11 16:20,20 based 15:1 basically 23:11 basis 20:24 21:17 25:23 beat 23:11 began 14:6,7 begins 16:24 behalf 6:15,18 6:20,24 7:1,5 believe 18:7 22:16,18 24:3 25:14 33:4 35:2 benefits 18:16 19:18 best 41:8 better 11:14 beyond 26:17 bibliography 18:5 bill 24:13,15,16 25:7 27:1 32:3 32:15,19 33:20 33:21 34:12,16 35:7,24 biracial 10:24 11:12 12:7 black 11:13 15:10 16:6 28:10 29:1,3 30:10,20 35:16 black-voting 24:17,23 25:8 26:1 32:7 33:2 34:25 35:11 blacks 13:9 14:9 15:16 17:16 19:19,24 21:4	21:5,14 28:15 36:19 37:19 Board 4:7 31:23 boards 32:1 Box 3:20 break 8:11 37:23 breakdown 34:14,19 35:7 breaks 8:12 Brief 38:1 Brook 3:20 6:22 6:22 7:1,1 bullet 20:11,24 31:21 32:20 Byrd 2:17 4:15 41:4,24 C C 3:1 39:1 41:1 41:1 Caitlin 6:17 CAITLYN 3:8 calculated 27:13 call 32:18 34:15 calls 21:9,19 candidacy 15:17 15:22 16:7 17:1 capacity 1:7 6:8 careful 8:7 Carolina 1:1,3,8 1:12,15,21 2:10 4:7 6:5,8 7:3,6,22 17:17 20:16 22:23 26:9 27:15 36:20,25 37:4 37:21 39:5 41:1 Carolinians 18:16 case 1:6,14,20 8:20 14:24 20:22 40:2 cast 25:22 categorize 12:14 12:15 cbrook@aclu... 3:22 century 12:22	certain 9:25 Certified 7:11 certify 41:6,16 cetera 18:14,17 change 14:6 changed 26:4 31:13 changes 31:19 41:14 Chapel 2:10 3:12 characterization 25:9 Christopher 3:20 6:22 7:1 chronically 18:17 cite 18:6 27:17 cited 17:24 18:10 26:2 36:7,16 cites 20:21 Civil 14:13 20:4 Civitas 18:14 clarified 8:14 27:2 33:22 clear 8:13 19:3 client 9:12 CLR 2:17 41:25 coalescing 10:25 Coalition 3:16 7:5 completely 14:18 completion 41:12 conception 12:16 concluded 13:7 17:16 38:13 concludes 20:9 36:9 38:9 conclusion 21:10 33:6 concrete 12:2 conduct 32:1 conducted 41:6 Conference 1:3 6:6 confirm 31:11
----------	---	--	--	--

connection 7:22	cut 18:16	detailed 23:15	drawing 25:15	endorsed 14:13
consequences	<hr/> D <hr/>	determine 17:11	drawn 33:5	entire 15:20
19:7	D 39:1,1	different 12:16	drive 31:25 32:2	entitled 30:12,21
conservative	data 34:6	12:19,20	due 15:16 16:6	ESQ 3:4,8,11,20
10:21 13:4,8	date 6:2 9:7 40:4	differential	17:17	4:3,9
13:16 14:2,14	40:25	14:23 19:4	duly 7:10 41:7	established 20:3
conservatives	day 33:16 39:10	difficulty 20:13	Durham 3:18	et 1:4,8,12,15,21
12:15,19	41:22	diminished 27:7	<hr/> E <hr/>	6:6,8 18:14,17
constituencies	DC 3:5,9 4:4	29:24 30:4,14	E 3:1,1 31:16	40:2
25:17	de 37:11,13,16	30:19,23	39:1,1,1,1,1	ever-greater
constituency	DEAKINS 4:8	direct 20:8	40:1,1,1 41:1,1	10:23
24:21 32:12	Deal 14:7	disabled 16:16	earlier 12:8 33:9	evidence 15:15
constituents	declare 39:3	disagree 14:15	33:22	16:5 19:17,23
25:6	decreased 29:15	14:17	early 12:21 14:6	24:16,22 25:6
constitute 41:10	29:15	DISCOVERY	24:14 33:12	25:18,24 26:2
constitutive	defendants 1:9	4:14	36:3,10	32:6,24 33:1,5
28:12 29:10	1:16,22 4:7 6:9	discrimination	easier 13:22	34:22,24 35:3
contain 39:6	6:13	16:22 19:8	economic 11:7	35:9,10,13
contained 30:7	Defendants'	37:4,7	12:9 14:8	exact 9:9
contest 10:17	9:22	discuss 25:20	education 11:8	EXAMINATI...
context 20:3	definition 14:22	discussed 34:23	educational	5:1 7:14
22:23 23:3,17	degree 19:9	35:9	36:18,23,24	example 12:6
23:18,21	24:19	discusses 36:14	37:18	exception(s)
correct 7:25	Democratic	discussing 20:13	effect 33:13 36:3	39:8
8:25 9:1 15:2	10:24 13:1	discussion 31:14	effectively 30:7	Excuse 20:7
18:10 28:18	14:12	disparities 20:6	effectiveness	exercise 24:5
31:7,15,18	Democrats 28:2	36:18,23,24	28:22,24 29:1	exhaustive 19:25
33:24 34:17	28:6,6,11,25	37:19,21	30:3	Exhibit 5:9
39:6	29:2,3,4,4	disproportion...	efficiency 31:11	10:10 22:7,8
correction 39:9	30:11,12,20	19:14 21:3	election 15:16	22:14 24:11
counsel 3:3,15	Denise 2:17 4:15	34:3	16:7,10 17:17	31:9
4:2,7 6:10,12	41:4,24	disproportion...	21:6,15 22:23	Exhibits 5:7
41:16,19	denise@disco...	19:10	23:2 33:10,16	9:22
counted 25:22	4:17	distinction	35:17	expansion 11:6
27:3	deny 24:9	13:14,20 14:5	elections 4:7	expected 17:2
counties 20:16	Department 4:3	14:21	15:12 31:24	expert 5:10,11
county 32:1 41:2	6:24 20:15	DISTRICT 1:1	32:1	5:12 8:19 31:7
course 7:24	deponent 41:14	1:1	electoral 15:8	expert's 20:25
court 1:1 4:14	deposition 1:24	districting 30:8	Ellis 3:4 6:14	expertise 21:12
7:25 8:8 13:23	2:1 6:4 7:23	districts 27:10	embrace 12:16	extended 24:13
41:4	8:2 38:10,13	DMV 20:16	12:19	<hr/> F <hr/>
COURTYARD	40:4 41:12	documented	embraced 12:3	F 31:14 39:1
2:9	describe 11:10	12:25 16:12	13:2	41:1
created 19:18,24	11:12 12:13	17:21 19:3	Emily 3:16 7:4	fact 16:13 19:12
crest 17:3	described 12:7	dodges 23:14	employed 41:17	29:7,25 33:11
Crow 12:21	description 5:9	Donald 22:21	41:19	fair 11:9,11 22:4
16:22 19:7	12:2	door 14:7	employee 41:18	fairly 10:3
Crowell 18:7,7	designed 19:6	Dr 7:21 9:25	enacted 19:19	false 23:9
CSR 2:17 4:15	detail 23:15 27:4	10:12 22:21	34:24 35:11	February 5:12
41:25		38:4		

federal 11:5 feel 10:1 Fifteenth 3:5 figure 9:9 final 34:14 financially 41:20 fine 8:10,17 finish 13:21 firmly 13:2 14:12 first 7:10 15:9 15:23 17:4 18:12 19:18 26:8 31:22 floor 28:21 30:3 focus 9:25 11:25 focused 19:15 folks 12:14 14:5 following 35:17 follows 7:13 Footnote 17:22 18:1 20:21 footnotes 17:21 force 28:12 29:10 foregoing 39:5 41:5,7,10 Forks 4:9,15 form 12:23 13:12 14:19 15:19 17:19 18:25 19:21 21:9,19 22:17 23:5,20 24:2 24:25 26:22 27:21 28:8,19 30:1,15 32:8 33:3 35:1,12 36:5,11 37:5 Forms 23:21 franchise 11:6 24:5 Franklin 3:12 free 10:1 Friday 2:6 40:4 full 18:13 FULTON 3:11 fundamental 23:22 24:1,4 28:11 30:6	further 20:11 38:5 41:16,18 <hr/> G G 31:14 39:1 general 22:10 26:9 30:11 33:22 34:2,6 genre 22:15 gerrymandered 30:8 gerrymandering 27:10,12 28:3 give 8:4 go 26:5 goes 25:20 going 7:23 9:18 9:25 10:7 good 7:16,17 13:24 government 11:5 12:17,20 18:8 Governor 1:8 6:8 11:17 12:5 14:15 grad 7:22 great 8:9 Greene 4:3 6:23 6:23 38:11 ground 8:5 guarantee 11:7 guess 11:13,21 <hr/> H H 40:1 hand 35:20 37:22 held 27:14 Helms-Gantt 10:17 help 19:19,24 23:23 hereto 39:9 41:15 hesitate 8:15 higher 16:14,14 21:6,15 36:23 37:20 highs 15:11	Highway 3:17 Hill 2:10 3:12 historic 15:11 historical 15:2 22:15 23:17 history 16:21 22:12 23:14 29:7,8 37:3,15 holding 28:15 hour 9:4,5 hourly 9:2 hours 16:18 House 32:3 34:16 35:23 Hunt 11:18 12:5 Hunt's 14:16 <hr/> I ID 26:7,11,18 identification 9:23 20:14 35:23 ideology 11:10 15:5 ignores 23:14 II 1:25 2:3 13:4 14:12 39:3,12 40:3 illustrated 17:8 impact 14:23 19:4,14 21:4 23:2 36:15 implementation 12:6 important 23:1 Improving 18:2 inappropriate 21:7 including 16:13 inclusive 41:10 increase 16:5,24 27:24 28:17 36:10 increased 27:19 28:16,22 29:14 29:23 increasingly 13:4 independent 34:9 35:21,25	INDEX 5:1,7 indicates 25:7 information 20:24 37:22 initial 9:15 initially 9:17 initiate 31:24 inquired 22:3 instance 23:6 Institute 18:8,14 intent 33:23 interest 25:16 interested 41:20 introduce 6:10 investigate 32:18 34:15 investigation 34:10 35:25 invoices 9:14 involve 11:13 14:22 involved 10:21 irrelevant 24:8 24:10 isolated 27:10 27:25 issue 14:24 21:3 23:22 24:1,3 26:15,16 issues 11:17 18:15,21 24:18 24:24 25:8 26:1 30:6 32:7 33:2 34:25 35:11 <hr/> J J 4:9 James 1:25 2:3 6:4 7:9 39:3,12 40:3 Jim 11:17 12:21 16:22 19:7 jobs 16:17 Jodi 3:4 6:14 15:25 jodi.wu@kirk... 3:6 judgment 21:12 Judybeth 4:3	6:23 judybeth.gree... 4:5 jure 37:11,13,16 Justice 3:16 4:3 6:24 7:5 20:15 <hr/> K K 39:1 kinds 12:3 Kirkland 3:4 6:14 know 8:11,15 9:7 10:5 26:11 37:15,18 knowledge 32:21 <hr/> L L 1:25 2:3 3:8 39:1,3,12 40:3 lack 11:14 35:22 laid 23:15 latest 9:15 law 7:22 22:23 23:2 33:12 37:10 lawmaker 32:14 lawmakers 18:16 24:12,20 27:25 32:11,17 lawmakers' 25:16 30:2 laws 12:21 League 1:11 3:15 7:2,6 left 13:17 legacy 16:21 legal 4:14 20:22 21:10 legislation 25:21 25:25 26:17 31:22 34:11 legislative 28:21 legislature 26:21 27:16 28:4,16 29:14,23 30:3 31:1 legitimate 18:22 21:16
--	---	--	--	---

Leloudis 1:25 2:3 5:10,11,12 6:5 7:9,20,21 9:18,25 10:12 38:4 39:3,12 40:3 Let's 22:5 31:9 liberal 11:10 13:2,10 liberals 11:14 link 25:15 list 31:20,21 literature 13:1 16:12 17:14,15 17:24 20:2,8 36:3,9,14,16 little 23:12 Lloyd 1:7 6:7 40:2 logically 28:16 long 16:21 29:6 long-term 19:7 look 18:5 22:5 27:4 31:9 looked 22:11 looking 8:18 10:15 looks 18:9 lost 28:5,10,22 28:24 29:1 lower 37:20	37:9 means 28:17 meant 20:5 measure 20:5 Medicaid 19:23 Medicare 20:2 members 4:7 30:11 men 10:22 mentioned 17:5 Michael 18:7 mid 20:3 middle 1:1 10:16 23:13 mind 21:14 23:17,25 24:7 Minor 31:19 minority 14:23 16:13 19:4,10 27:25 28:7 29:5,16,25 mitigate 19:6 mitigated 16:10 16:19 modern 14:14 month 20:18 morning 7:16,17 8:19 motives 22:1,2 move 23:13 moved 13:4,8 moving 10:22 Myers 2:17 4:15 41:4,24	need 8:11,14 10:2,4 18:5 29:17 needs 8:14 neither 41:16 new 10:20,24 11:12 12:7 14:7 North 1:1,3,8,12 1:15,21 2:10 4:7 6:5,8 7:3,6 17:17 18:16 20:16 22:23 26:9 27:15 36:20,25 37:4 37:21 39:4 41:1 Notary 7:11 41:4 note 24:12 number 20:22 27:14,17,18,24 28:15 35:20,22 numbers 10:23 17:3 28:22 29:14,22	offer 12:2 office 11:18 20:17 officer 41:5 official 1:7 6:7 37:3,7 officially 14:13 OGLETREE 4:8 okay 8:4,9,10,16 8:17 9:11,17 10:6 11:9 12:5 12:11,18 13:7 18:1 19:14 21:1 22:4 23:25 26:3,19 28:5 29:12 31:9,16 33:8 34:9 35:5 once 20:17 open 14:7 15:10 opens 20:17 operates 20:17 opinion 12:18 18:20 21:5 29:12 opportunity 11:7 14:9 oppose 12:11 opposed 15:17 opposes 18:14 opposing 18:23 opposition 26:20 order 9:9 24:23 out-of-precinct 26:20 27:2 33:23 34:3 35:18 outcome 41:20 outline 18:21 OWEN 3:11	pages 39:5 41:10 paid 9:3,8 paragraph 10:4 10:15 11:16 12:13 15:9 18:13,22 20:12 20:19 22:20 24:11 26:3 27:6 32:20 part 12:22 26:16 participation 16:11,24 18:2 26:6 particular 10:15 11:23,23,25 12:1,11,12 14:2,3 18:21 20:22 21:6,15 22:15 25:25 31:23 particularly 10:22 14:8,11 17:22 parties 41:17,19 partisan 29:8 34:13,19 party 10:23,24 13:2,5,5,8 14:12 24:14 29:10,16,25 31:1 passed 24:17,23 25:8,25 27:1 32:22 33:1 Patrick 1:7 6:7 40:2 penalties 39:4 Pennsylvania 4:4 people 22:2 percent 17:3 period 33:12 41:15 perjury 39:4 perspective 22:13 Ph.D 1:25 2:3 39:3,12 40:3 Phil 6:12 7:21 PHILLIP 4:9
<hr/> M <hr/> M 39:1 majority 28:4 30:13,23 making 10:18 11:22 mark 9:18 marked 9:23 MARRIOTT 2:9,9 matter 6:5 19:12 29:3 matters 23:18 McCrary 1:7 6:7 40:2 McLaughlin 18:2 mean 11:2 30:10	<hr/> N <hr/> N 3:1 39:1,1,1,1 N.W 3:5,8 4:4 NAACP 1:3 3:3 6:6,15,18,21 9:12,13 40:2 name 7:19,21 40:2,3 NASH 4:8 nation 14:10 NC 3:12,18,19 3:21 4:10,16 nearly 24:12 necessarily 12:20	<hr/> O <hr/> O 39:1,1,1 o0o-- 4:19 5:5,14 oath 7:25 Obama 15:18,22 16:8 17:1 Object 12:23 13:12 14:19 15:19 17:19 18:25 19:21 21:9,19 22:17 23:5,20 24:2 24:25 25:9 26:22 27:21 28:8,19 30:1 30:15 32:8 33:3 35:1,12 36:5,11 37:5 objection 30:24 31:2 Obviously 10:1 occasional 8:12 occurred 26:21	<hr/> P <hr/> P 3:1,1 39:1 P.O 3:20 page 5:1,9 10:12 10:16 15:7 17:21 18:12 20:11 31:20 Page/Line 40:6	

phillip.strach... 4:11	procedure 21:6 21:15	19:12 21:18 28:11 29:9 30:6	31:25 34:17,24 35:18 36:15	research 19:25 26:15
photo 26:7,11	proceeding 41:5 41:7	racial 16:21 19:7 20:6	regular 16:18	researched 26:16,24
phrase 11:4	process 27:7,20 28:12	Raleigh 3:21 4:10,16	related 6:9 18:23 41:17	RESERVED 38:12
picked 11:24 12:1	produced 28:3	rallied 15:21	relative 41:18	respect 18:20
pieces 31:22	product 12:21	rate 9:2 16:14 21:6,15	relevant 27:23	response 8:8
plaintiff 1:19 6:6	professor 22:12	rates 16:14	relied 17:13 34:7	responsive 32:12
plaintiffs 1:5,13 3:3,15 4:2 6:15 6:21 7:2,7	programs 12:12 18:23	reaction 13:9,10	remark 15:9	restate 16:4
plaintiffs' 20:25	progressive 10:25 11:2 12:4 13:3 14:16	read 10:2,2,5 16:1 31:12,12 39:5 40:6	remedy 24:17,23 25:8,25 32:7 33:1 34:25 35:11	review 15:2 35:22 41:12
please 6:10 16:4 29:20	Project 3:7 6:18	Reads 40:6	remember 16:3	reviewed 17:15
point 11:22 16:9 16:23 20:24 21:22 25:4,6 32:9,20	pronounce 7:18	realignment 10:18,21	reminds 23:10	rhetorical 26:4
points 20:12 31:21	proposed 32:10 32:14	reason 11:24 21:17	render 21:12	right 10:14 13:18 17:5,9 24:4,22 34:12 35:21 38:5
policies 11:24,25 12:1,3 13:10 14:21 18:13 19:3,5	proud 7:21	reasons 14:17 18:22 19:1	repeal 21:8,17 35:17	Rights 14:13 20:4,4
policy 11:17 18:15	provide 16:17 20:18	recall 18:3 20:23 21:1 32:14,17	repeat 29:7 32:9	ring-fenced 30:7
political 10:17 10:20 12:9	provided 41:14	Recess 38:1	rephrase 29:17 29:19	Road 4:9,15
politics 29:8	provision 19:17	record 6:2 15:2 15:20 25:7 37:24 38:3	report 5:10,11 5:12 9:16,19 9:20,21 10:1 10:10,13 15:7 17:6,7,8,23 22:6,20 27:5 31:10,18 36:7 36:16	role 12:16,20
pools 27:11	provisional 25:23 33:17,24	recorded 39:7	Reported 4:13	roll 32:18 34:15
poverty 16:14	Public 7:11 41:5	redistricting 27:7,20 31:7	reporter 7:11 8:8 13:23 41:4 41:14	Roosevelt's 14:7
power 27:8 28:5 28:10,17,20 29:13,24 30:13 30:19,22	publication 18:3	refer 17:22 34:1	REPORTERS 4:14	RPR 2:17 4:15 41:25
powerful 29:10	pure 22:12	reference 33:8 33:20 34:1,16	reports 8:19 20:15,25 22:21 23:16	rules 8:5 31:25
practice 21:8	purport 31:6	referenced 32:19	representation 25:5	
pre-registration 35:6,10	put 22:22 23:3	referred 32:25	Republican 10:23 13:5 28:4	S
precinct 25:22 33:16	Q	refers 11:4	requested 41:13 41:13	S 3:1 40:1
precise 27:17	quality 11:8	reflect 22:14,14 22:13 39:8	require 29:6	sake 31:11
president 15:23	quantitative 17:9	reflected 22:13 39:8	required 31:23 35:23	same-day 34:17 34:24 35:18 36:15
previously 33:13	question 8:13 10:3 13:22 16:3 22:10 25:2,11,14 26:4 29:18,20 30:17 31:4	reform 15:8	requirement 26:8,11,18	saying 28:5,9 30:21,21 32:3
primaries 24:14	questions 8:6 38:5,8,11 39:7	reforms 15:10 15:17 16:7,10 16:19 17:18 19:10		says 15:21 20:15 23:11
primarily 8:18 13:9,9	R	regard 21:3 24:15		scholarly 12:25 16:12 17:13,15 20:2,8 36:3
prior 26:21 27:16	R 3:1 40:1,1 41:1	regarding 33:23 34:2,12		Schroeder 22:21
proactive 11:5	race 14:18,24 15:5 18:24	registration		scrutiny 23:10
				Sean 22:22
				seats 27:14,18 27:24 28:15
				Seawell 3:16 7:4 7:4
				second 16:23

20:12 24:11 Section 15:8 sections 31:12 see 8:21 11:19 15:13 17:5 18:18 20:21 23:1 34:4 segregation 37:13,16 Senate 32:19 33:20 34:12 sense 23:14 sentence 15:21 20:14 25:20 shaped 30:5 sharper 17:2 sheet 39:9 short 8:22 shortened 33:12 Shorthand 7:11 sick 16:16 Signature 38:12 40:25 Signed 39:10 significant 20:5 significantly 27:19 31:13 similarly 35:5 simple 26:18 simply 15:1 29:16 single 20:17 sitting 20:7,10 situated 30:5 Six 4:9,15 slightly 14:8 small 27:25 SMOAK 4:8 soar 15:11 social 3:16 7:5 11:1,3 12:4 14:16 solely 16:25 sorry 17:7 sort 12:6 19:5 sought 26:8,12 source 17:11 20:20 sources 17:20 36:6	South 14:9 Southern 3:16 7:4 spans 26:17 speak 22:1 23:22 spearheaded 24:19 specifically 19:19,24 20:23 24:15,17 speculate 21:22 21:25 speculation 21:20 25:5,17 spike 17:2 stand 23:10 start 10:8,9,12 starting 18:15 starts 18:13 state 1:3,15,21 4:7,7 6:5 10:20 11:4 23:3,18 29:8,22 31:23 39:4 41:1 stated 33:5 35:3 35:14 statement 27:6 34:7,10 statements 20:19 states 1:1,18 4:2 6:25 15:24 22:24 23:4,12 24:8,9 36:19 36:22 37:2,3 statewide 31:24 statute 31:23 33:15 Stein 3:11 6:20 6:20 step 28:13 29:9 STEWART 4:8 Strach 4:9 5:3 6:12,12 7:15 7:21 9:24 10:9 10:11 13:6,15 13:24 14:1,25 15:25 16:2 17:25 19:13,22 21:13,23 22:8	22:9,19 23:7 23:24 24:6 25:3,12 26:25 28:1,14,23 29:21 30:9,18 30:25 31:5 32:13 33:7 35:4,15 36:8 36:13 37:8,23 38:4 Street 3:5,8,12 studied 36:18 studies 17:10 study 22:13,15 35:21 submitted 8:20 8:21 9:14 Subsections 31:14,16 subsequent 17:23 27:5 suffer 16:13 Suite 3:9,17 4:10 4:16 supervision 41:9 support 11:22 supported 11:18 25:21 sure 13:21 19:1 25:1 27:22 30:16 31:3 37:6 surrebuttal 5:11 8:22 9:20 22:5 22:20 surveys 15:4 Swain 3:8 6:17 6:17 sworn 7:10 41:7	33:18,21 talking 10:16 14:3,22 tell 7:12,18 9:2 term 11:14 37:7 terms 11:18 24:7 testified 7:13 testimony 25:10 41:6,8,11 Thank 10:6 15:25 38:4,7 thereof 41:19 thing 16:23 31:10 things 16:9 think 10:2 13:13 13:16 14:6,14 14:20 17:1 20:1 21:11,24 23:1,9 24:10 25:15 33:18,21 thinking 14:4 third 33:9 Thursday 33:10 time 6:2 8:11 16:17 17:4 31:12 37:24 timeframe 14:4 times 32:25 TIN 3:11 today 7:23 20:7 20:10 27:17 Today's 6:2 topic 20:1 total 9:7 transcribed 41:9 transcript 41:13 transcription 39:6 41:11 Trende 22:22 true 41:10 truth 7:12,12,13 try 13:24 turn 18:12 31:20 turning 19:5 turnout 15:10 15:15 16:6 17:10,12,16 35:16 36:4,10 36:15	two 13:14 16:9 types 23:18 <hr/> U U.S 4:3 20:15 Uh-huh 10:19 22:25 unanimous 24:13 understand 7:24 11:21 20:20 25:1 29:12,13 30:16 31:3 37:6 understanding 23:23 undertaken 19:25 unemployed 18:17 unemployment 16:15 19:18 unilateral 19:2 United 1:1,18 4:2 6:25 15:24 unrelated 14:18 use 34:3 utilize 21:5,14 <hr/> V versus 6:7 15:5 VIDEOGRAP... 6:1 37:24 38:2 38:9 VIDEOGRAP... 4:14 VIDEOTAPED 1:24 2:1 view 15:1 virtually 31:17 virtue 19:11 vision 11:1,3,4 12:4,9 14:16 14:17 vote 16:17 32:18 33:17 34:12,14 34:20 35:6 voted 32:17 voter 7:2 15:5 18:2 26:5,18
---	---	---	---	---

31:24	37:20	<hr/> 0 <hr/>	2010 27:7,16,19	<hr/> 8 <hr/>
voters 1:11 3:15	witness 6:16,19	<hr/> 1 <hr/>	2012 15:8,11,16	800 4:5
7:6 11:13	12:24 13:13	15:10 9:18,22	16:6 17:10	834-3466 3:21
15:21 16:13	14:20 17:20	10:10 22:14,20	2014 5:10,11	8340 2:17 4:15
19:4,11 21:7	19:1 21:11,21	1:13-CV-658 1:6	9:19 10:10,13	41:25
21:16 27:11	22:18 23:6,21	1:13-CV-660	35:17	85 17:22 18:1
33:15 35:22	24:3 25:1	1:14	2015 2:6 5:12	850 3:9
votes 27:2	26:23 27:22	1:13-CV-861	6:3 9:21 39:10	879-5078 3:6
voting 20:4	28:9,20 29:19	1:20	40:4 41:22	<hr/> 9 <hr/>
24:14 26:20	30:2,16 31:3	10 20:16	202 3:6,10	9 5:10,11,12
27:8 28:5,10	32:9 33:4 35:2	10:50 37:25	20530 4:4	9:59 2:5 6:2
28:17,20 29:13	35:13 36:6,12	10:57 38:3,10,13	240-7089 3:13	91 20:21 34:16
29:23 30:13,19	37:6 38:7 40:3	100 2:9	253-3931 4:5	919 3:13,18,21
30:22 33:9,12	41:6,8	1000 4:16	27516 3:12	4:11,17
34:3 35:19	witness' 25:10	101 3:17	27609 4:10,16	950 4:4
36:4,10	witness(es)	102409-02 2:17	27611 3:21	
vs 1:6,14,20 40:2	41:11	41:25	27707 3:18	
<hr/> W <hr/>	Women 1:11	11 5:10	27th 41:22	
W 39:1	3:15 7:2,6	1100 4:10	28004 3:20	
WAKE 41:2	work 9:15 16:16	12 5:12	<hr/> 3 <hr/>	
WALKER 3:11	workday 16:18	1220 3:8	3 2:6 5:12 6:3	
want 11:21	World 13:3	133 33:21 34:13	9:19,20,23	
20:19	14:11	1415 3:17	31:9 40:4	
wanted 31:10	wouldn't 14:5	163-166.11	30 10:12 31:20	
War 13:3 14:11	wrong 33:16	33:15	300 9:4,5	
Washington 3:5	Wu 3:4 6:14,14	163-227.2 33:8	31 15:7	
3:9 4:4	10:7 12:23	1776 32:4	312 3:12	
way 2:9 8:15	13:12,21 14:19	1930s 14:6	323-3380 3:18	
15:10 27:9	15:19 17:19	1960s 20:3	33 18:12	
29:9	18:25 19:21	1992 31:22 32:4	38 39:5	
ways 30:6	21:9,19 22:7	32:22	<hr/> 4 <hr/>	
we're 14:21	22:17 23:5,20	<hr/> 2 <hr/>	4208 4:9,15	
we've 21:4	24:2,25 25:9	2 5:11,11 9:18	48- 9:10	
weekday 16:18	26:22 27:21	9:19,22 15:8	49,000 9:10	
went 33:16	28:8,19 29:17	22:7,8 24:11	<hr/> 5 <hr/>	
West 3:12,17	30:1,15,24	2000 15:8	50 17:3	
white 10:22	31:2 32:8 33:3	20005 3:5,9	54 3:17	
11:14 27:12	35:1,12 36:5	2001 24:12	568 32:19	
29:4	36:11 37:5	2002 33:8	589 35:24	
whites 10:21	38:8	2003 25:21	<hr/> 6 <hr/>	
12:11 13:4,8	<hr/> X <hr/>	2004 17:4	649-9998 4:17	
13:17 14:2,15	X 41:13	2005 27:1 33:20	655 3:5	
16:15 36:19	<hr/> Y <hr/>	2007 26:5,12,21	<hr/> 7 <hr/>	
37:19	Yeah 9:6	34:16	7 5:3	
wholly 27:23	year 8:21,24	2008 15:11,16	728-9557 3:10	
wife 23:12	years 13:3 14:11	16:6,25 17:2	787-9700 4:11	
willing 21:21	<hr/> Z <hr/>	17:10,17 26:6		
Wire 18:10		2009 35:5		
Wisconsin 37:15				



Popular

Latest

The Atlantic

Sign In

Subscribe

IDEAS

We Drew Congressional Maps for Partisan Advantage. That Was the Point.

Politics is a legal consideration, while race sometimes is not.

By Ralph Hise and David Lewis



Representative David Lewis addresses the House during a special session at the general assembly in Raleigh, North Carolina. (Gerry O'Connell / AP)

NCLCV v. Hall

21 CVS 15426

LDTX130

MARCH 25, 2019

SHARE ▾



Exhibit#:

Hise 04

12/30/21

exhibitsticker.com



Representative David Lewis addresses the House during a special session at the general assembly in Raleigh, North Carolina. (Gerry Broome / AP)

MARCH 25, 2019

SHARE ▾



*About the authors: Senator Ralph Hise chairs the N.C. Senate Committee on Redistricting. Representative David Lewis is a Republican member of the North Carolina general assembly representing the state's 53rd House district since 2002. He chaired the N.C. House of Representatives Redistricting Committee from 2011 to 2018, and he is a named defendant in *Rucho v. Common Cause*, which the U.S. Supreme Court will hear on March 26, 2019.*

"I propose that we draw the maps to give a partisan advantage to 10 Republicans and three Democrats, because I do not believe it's possible to draw a map with 11 Republicans and two Democrats," one of us said in 2016, as the North Carolina legislature drew new congressional maps.

It's a made-for-headlines statement, an apparent gaffe that reveals what everybody knows but nobody says. And on Tuesday, as the U.S. Supreme Court hears arguments in the landmark partisan gerrymandering case *Rucho v. Common Cause*, it will likely take center stage again.

EXHIBIT 5

Joint Meeting of Committees
August 18, 2021
House Committee on Redistricting
Senate Committee on Redistricting and Elections

Offered by:
Representative Harrison

Pass: _____

Fail: _____

Proposed Redistricting Process

1. **Start the Redistricting Process Immediately Upon Legacy Data Release.** The Committees should begin the redistricting process by utilizing the Legacy Format Summary File of P.L. 94-171 data. General Assembly central staff should start processing the legacy format data immediately upon release of that data by the U.S. Census Bureau.
2. **Provide Redistricting Information on the NCGA Website.** To facilitate public comment and participation, the General Assembly should maintain the existing redistricting webpage, clearly bookmarked from the home page of the NCGA website, containing all redistricting information in one location, including the following: meeting notices, livestream links, draft maps and any related data and information, and a public comment portal. This webpage should also include an up-to-date posting of the public comments received via the public comment portal.
3. **Permit Written and Oral Public Comment.** The Committees should ensure all North Carolinians have an opportunity to provide public comment to the members of the Committees regarding redistricting. The Committees should receive public comment in accordance with the following:
 - a. Through a public comment portal, email, and the U.S. Postal Service. Information about how North Carolinians can submit public input should be provided contemporaneously with any Redistricting committee meeting notices.
 - b. Before any draft maps are drawn and before final proposed maps are voted on by the Committees.
4. **Ensure Quality Video and Audio Broadcast in Public Meetings.** The Committees should strive to ensure that video and audio of Committee meetings related to map drawing are timestamped and of a quality such that the public can view relevant details of the proposed maps and hear relevant discussion. Committee notices should include a contact phone number for those observing the process to report technical issues. The Committees should halt map drawing until any technical issues that prevent public observation are resolved.
5. **Hold Accessible Public Hearings Throughout the State.** The Committees should provide live in-person hearings in areas throughout the State for community members to provide live testimony. In scheduling the public hearings, the Committees should comply with the following:
 - a. The Committees should conduct at least thirteen hearings, accounting for one from each of the 2019 Congressional districts. Consideration should be given to locations and facilities that are accessible by public transport and to those with disabilities.
 - b. The Committees should provide remote options for viewing public hearings and for providing public comment where it is technologically feasible to do so.
 - c. The Committees should endeavor to post a full schedule of public hearings at the beginning of the redistricting process, and in any event provide at least two weeks' notice of any public hearing on redistricting. Public hearings should not be scheduled during or near public holidays, such as Labor Day.

NCLCV v. Hall

21 CVS 15426

LDTX131

Exhibit#:

Hise 05

12/30/21

exhibitsicker.com

Joint Meeting of Committees

August 18, 2021

House Committee on Redistricting

Senate Committee on Redistricting and Elections

6. **Disclose All Third Parties Involved in Redistricting.** The Committees should immediately disclose all consultants and counsel to members and committees of either house of the General Assembly who are paid by State funds who will be participating in the redistricting process. Such disclosure should occur within 24 hours of adoption of this criteria or engagement, whichever occurs first.
7. **Committee Consideration of Maps.** The Committees should consider only maps that comply with all of the following:
 - a. Any criteria, systems, or data used in developing the map was disclosed to the public in advance of its use in a manner that allows the public to have a reasonable and adequate opportunity to view the information.
 - b. The map was released online for public comment, and the public had adequate time to review the map and to submit public comment on the map before it is considered by the Committee or revised by the Committee.
 - c. The map was drawn in the public view, including a live-stream of the drawing.
 - d. Written documentation justifying the districts chosen was released online with the map for public viewing.
8. **Disclose Initial Draft Maps.** After receiving and incorporating public comment, draft maps should be released online for additional public comment within 30 days of when the Committees begin drawing maps.
9. **Submit Final Proposed Maps to the General Assembly.** The final proposed maps should be publicly released online no later than 21 days after the draft maps are released. The Committees should deliver the final proposed bill containing the map to the appropriate Chamber within 10 days of the release of the final proposed maps.

Offered By: Representative Harrison

Signature: _____

EXHIBIT 8

Joint Meeting of Committees

August 12, 2021

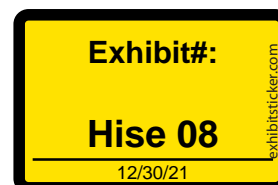
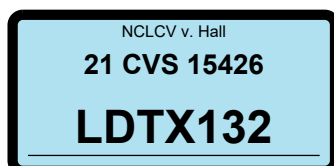
House Committee on Redistricting
Senate Committee on Redistricting and Elections

Criteria Adopted by the Committees

- **Equal Population.** The Committees will use the 2020 federal decennial census data as the sole basis of population for the establishment of districts in the 2021 Congressional, House, and Senate plans. The number of persons in each legislative district shall be within plus or minus 5% of the ideal district population, as determined under the most recent federal decennial census. The number of persons in each congressional district shall be as nearly as equal as practicable, as determined under the most recent federal decennial census.
- **Contiguity.** No point contiguity shall be permitted in any 2021 Congressional, House, and Senate plan. Congressional, House, and Senate districts shall be comprised of contiguous territory. Contiguity by water is sufficient.
- **Counties, Groupings, and Traversals.** The Committees shall draw legislative districts within county groupings as required by *Stephenson v. Bartlett*, 355 N.C. 354, 562 S.E.2d 377 (2002) (*Stephenson I*), *Stephenson v. Bartlett*, 357 N.C. 301, 582 S.E.2d 247 (2003) (*Stephenson II*), *Dickson v. Rucho*, 367 N.C. 542, 766 S.E.2d 238 (2014) (*Dickson I*) and *Dickson v. Rucho*, 368 N.C. 481, 781 S.E. 2d 460 (2015) (*Dickson II*). Within county groupings, county lines shall not be traversed except as authorized by *Stephenson I*, *Stephenson II*, *Dickson I*, and *Dickson II*.

Division of counties in the 2021 Congressional plan shall only be made for reasons of equalizing population and consideration of double bunking. If a county is of sufficient population size to contain an entire congressional district within the county's boundaries, the Committees shall construct a district entirely within that county.

- **Racial Data.** Data identifying the race of individuals or voters *shall not* be used in the construction or consideration of districts in the 2021 Congressional, House, and Senate plans. The Committees will draw districts that comply with the Voting Rights Act.
- **VTDs.** Voting districts ("VTDs") should be split only when necessary.
- **Compactness.** The Committees shall make reasonable efforts to draw legislative districts in the 2021 Congressional, House and Senate plans that are compact. In doing so, the Committee may use as a guide the minimum Reock ("dispersion") and Polsby-Popper ("perimeter") scores identified by Richard H. Pildes and Richard G. Neimi in *Expressive Harms, "Bizarre Districts," and Voting Rights: Evaluating Election-District Appearances After Shaw v. Reno*, 92 Mich. L. Rev. 483 (1993).
- **Municipal Boundaries.** The Committees may consider municipal boundaries when drawing districts in the 2021 Congressional, House, and Senate plans.



Joint Meeting of Committees

August 12, 2021

House Committee on Redistricting

Senate Committee on Redistricting and Elections

- **Election Data.** Partisan considerations and election results data *shall not* be used in the drawing of districts in the 2021 Congressional, House, and Senate plans.
- **Member Residence.** Member residence may be considered in the formation of legislative and congressional districts.
- **Community Consideration.** So long as a plan complies with the foregoing criteria, local knowledge of the character of communities and connections between communities may be considered in the formation of legislative and congressional districts.

Map 15. VTD CCSC for NC-11

EXHIBIT 11

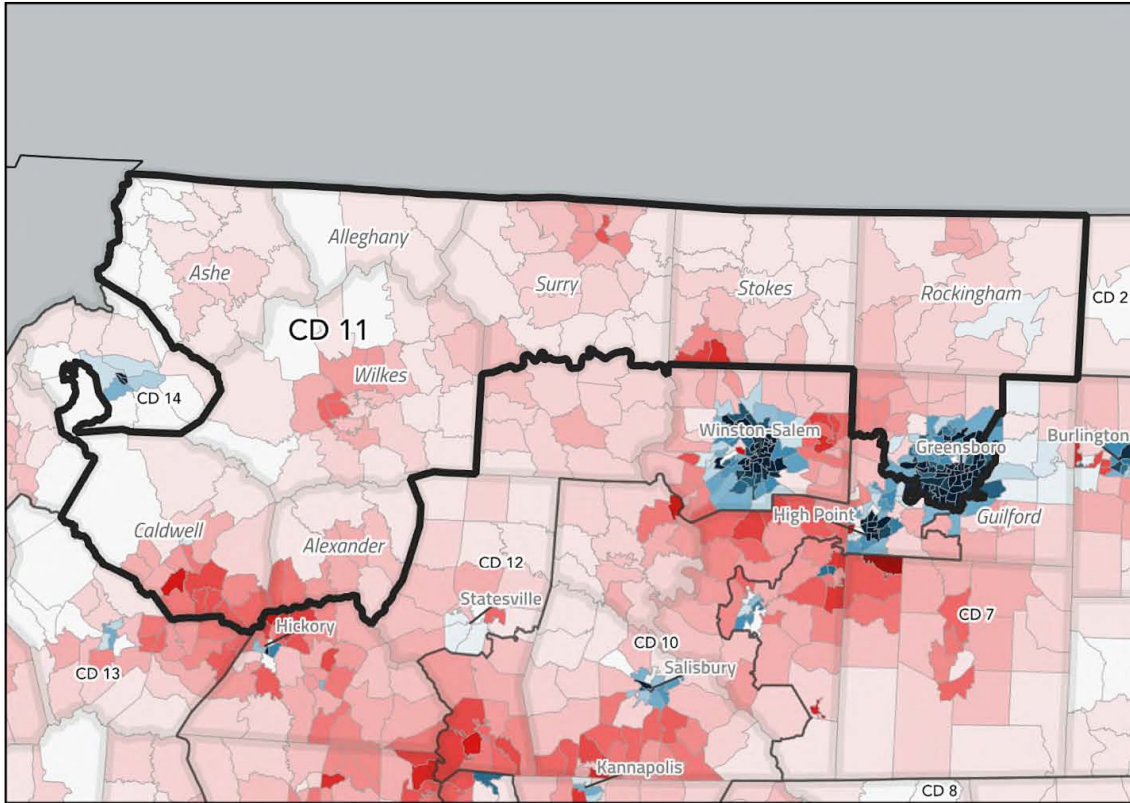


Exhibit 13

Map 19. VTD CCSC for the Granville and Wake County Cluster

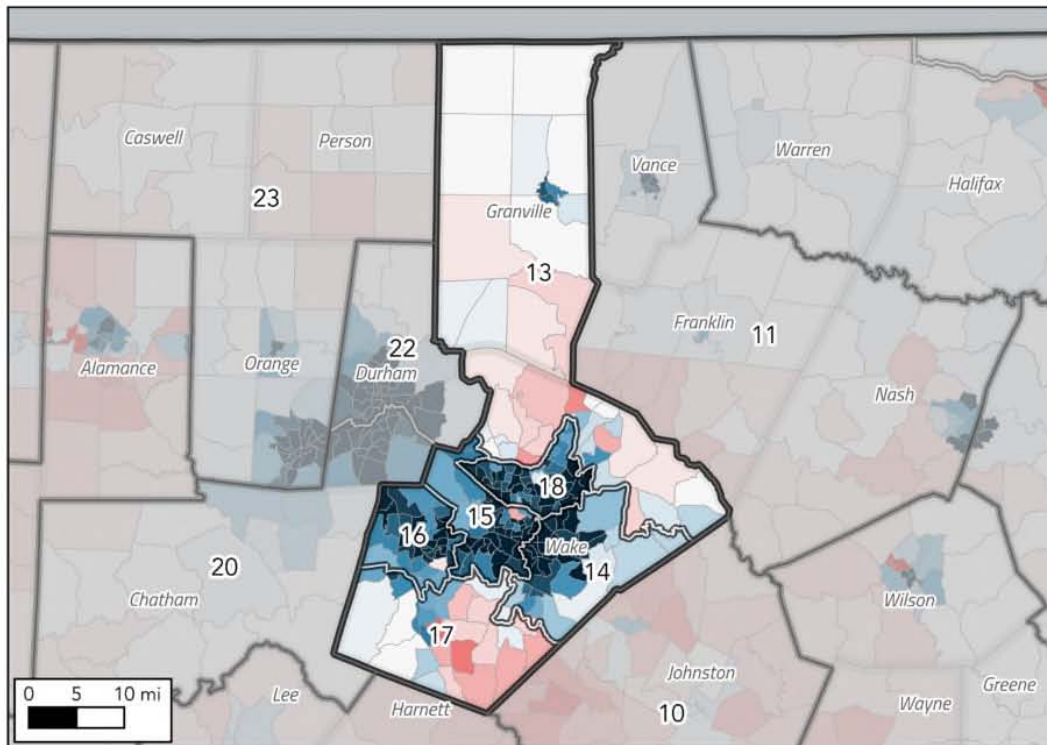
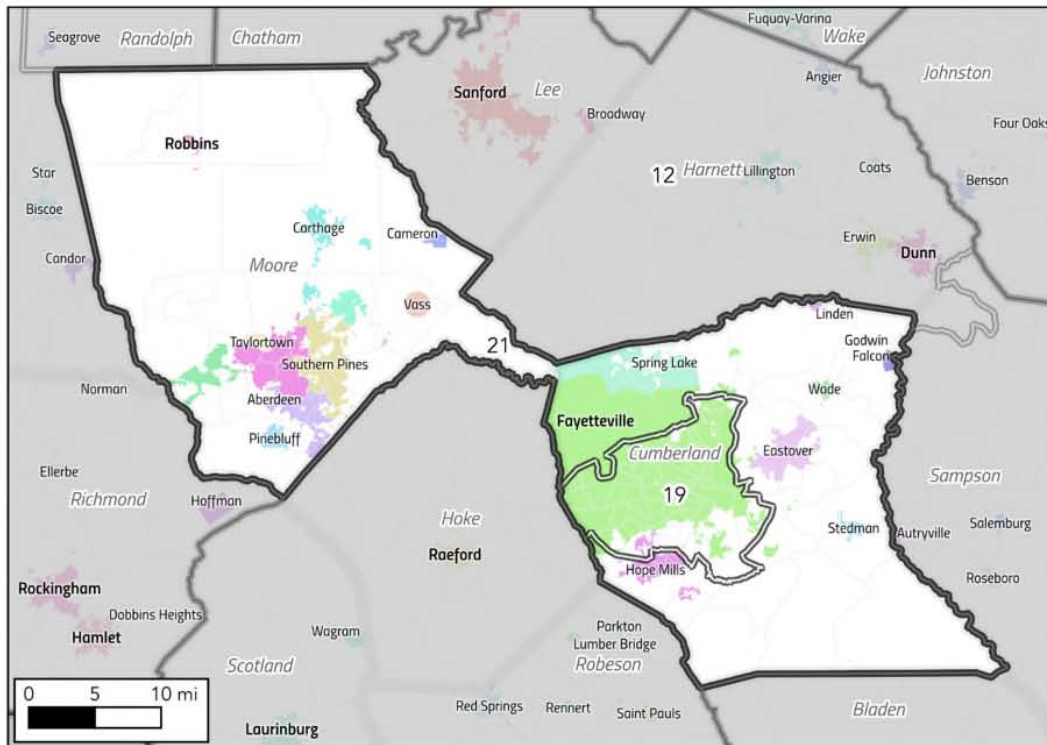


EXHIBIT 14

Map 25. Municipal Splits for the Cumberland and Moore County Cluster



Map 24. VTD CCSC for the Cumberland and Moore County Cluster

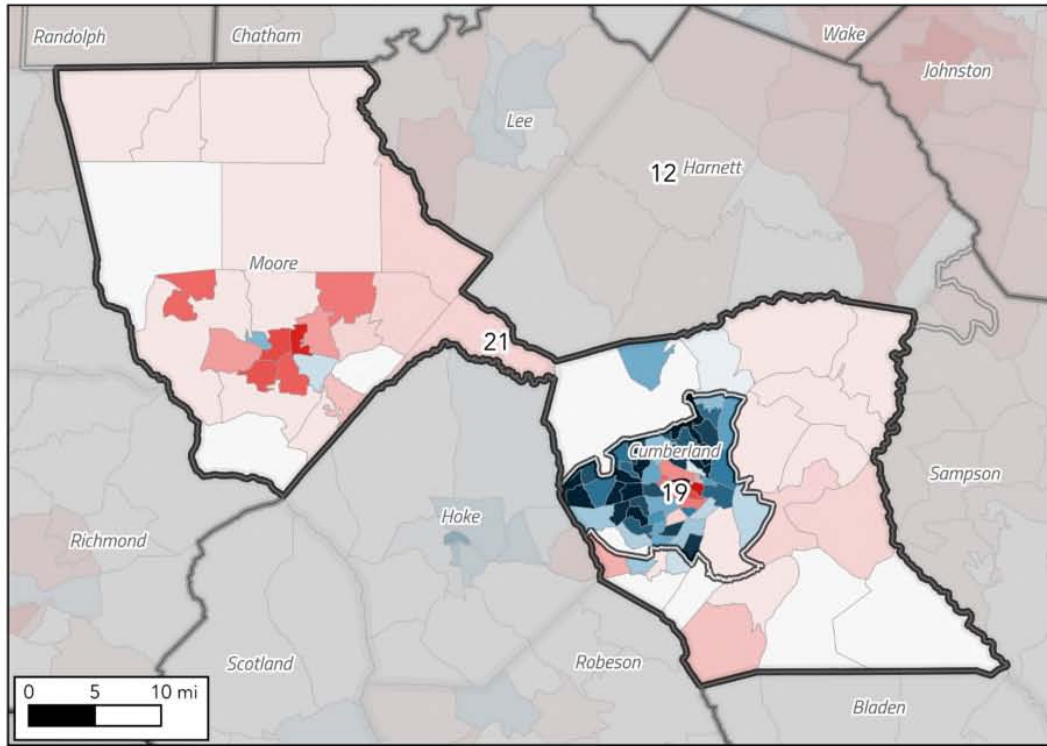


EXHIBIT 16

Map 26. VTD CCSC for the Forsyth and Stokes County Cluster

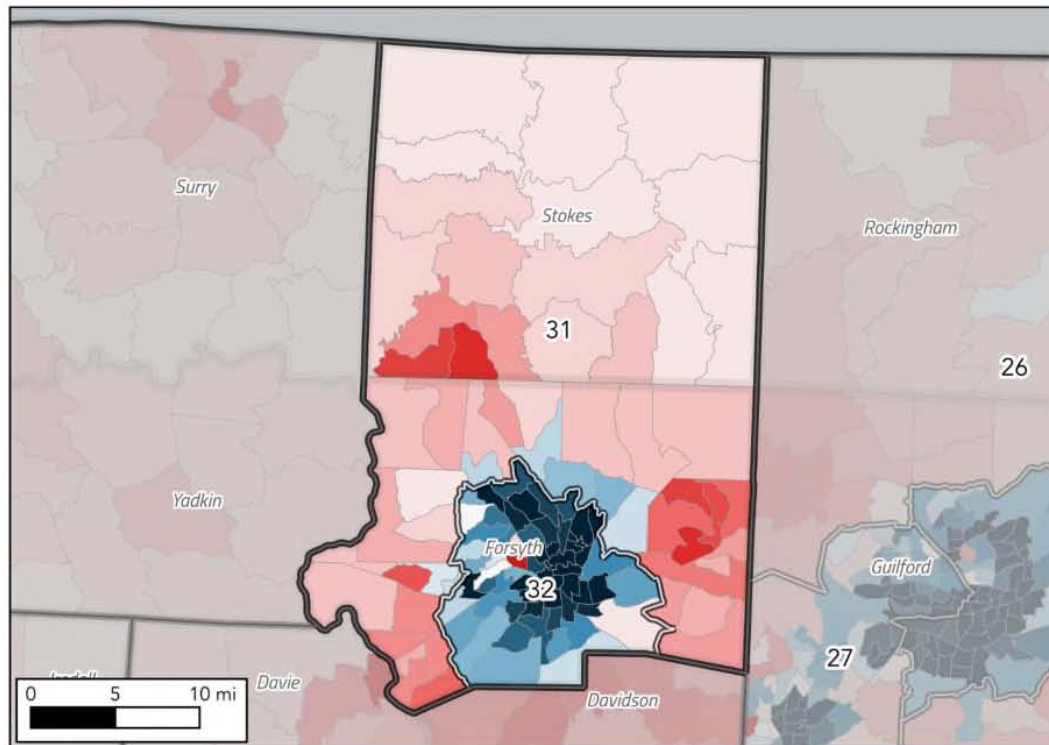
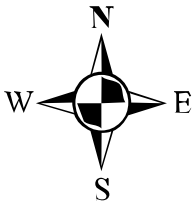
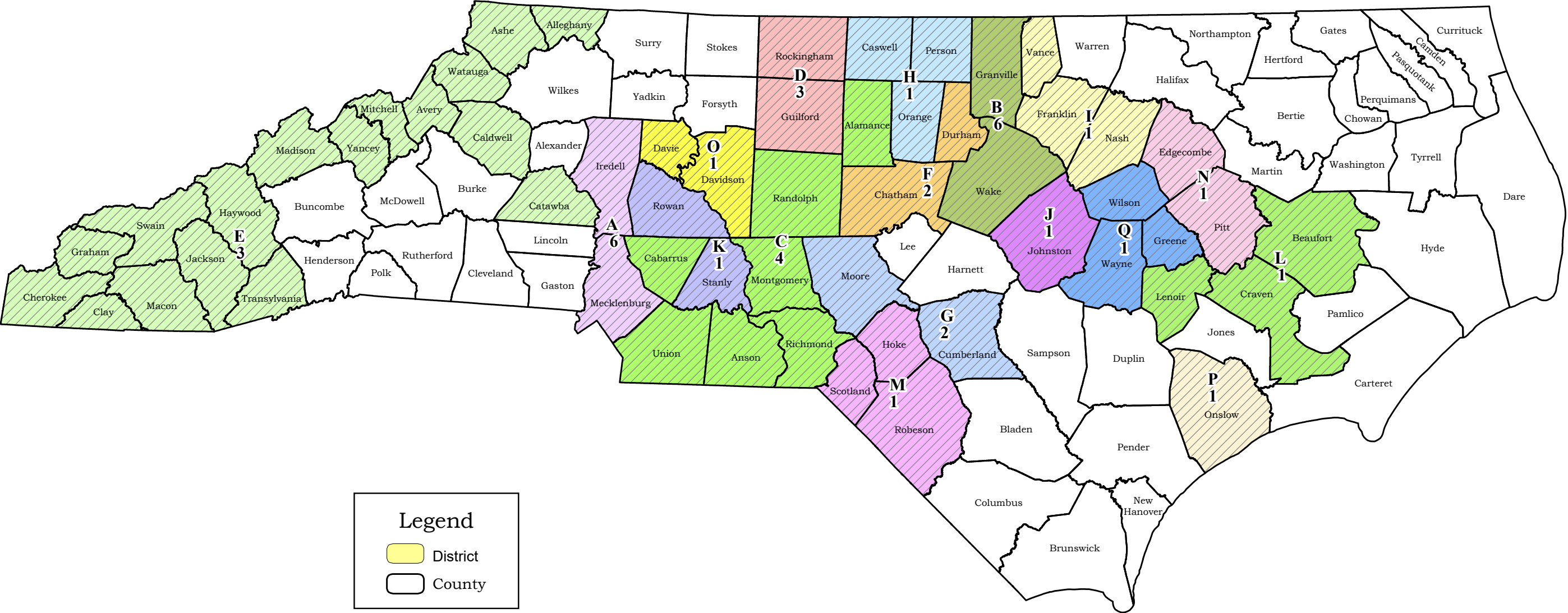
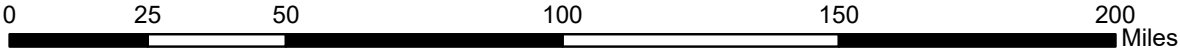


EXHIBIT 69

Duke_Senate_Fixed



Duke_Senate_Fixed



Printed by the NC General Assembly, September 30, 2021

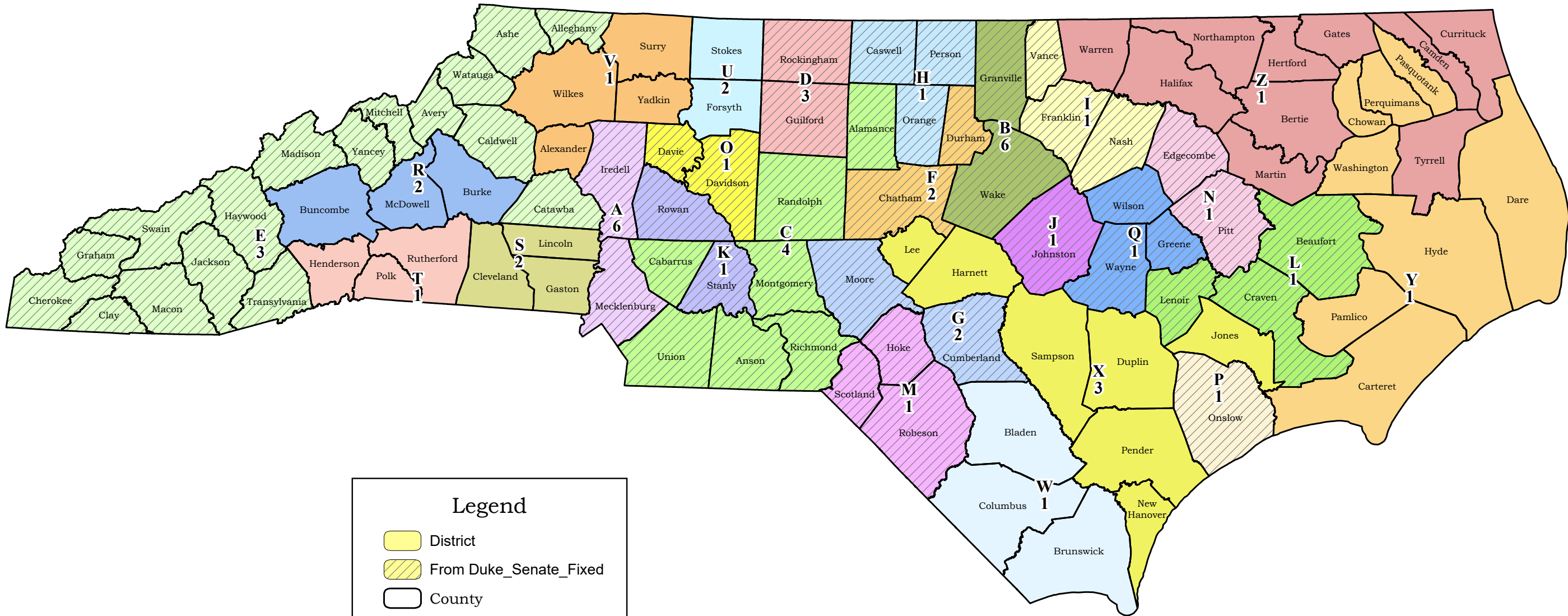
NCLCV v. Hall
21 CVS 15426
LDTX138



DUKE SENATE GROUPINGS

Plan Name	A	B	C	D
Duke_Senate 01	A1	B1	C1	D1
Duke_Senate 02	A1	B1	C1	D2
Duke_Senate 03	A1	B1	C2	D1
Duke_Senate 04	A1	B1	C2	D2
Duke_Senate 05	A1	B2	C1	D1
Duke_Senate 06	A1	B2	C1	D2
Duke_Senate 07	A1	B2	C2	D1
Duke_Senate 08	A1	B2	C2	D2
Duke_Senate 09	A2	B1	C1	D1
Duke_Senate 10	A2	B1	C1	D2
Duke_Senate 11	A2	B1	C2	D1
Duke_Senate 12	A2	B1	C2	D2
Duke_Senate 13	A2	B2	C1	D1
Duke_Senate 14	A2	B2	C1	D2
Duke_Senate 15	A2	B2	C2	D1
Duke_Senate 16	A2	B2	C2	D2

Duke_Senate 01

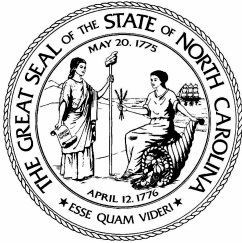
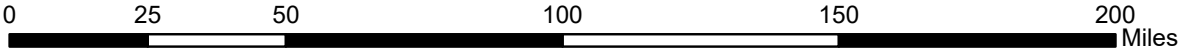
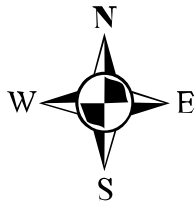


Legend

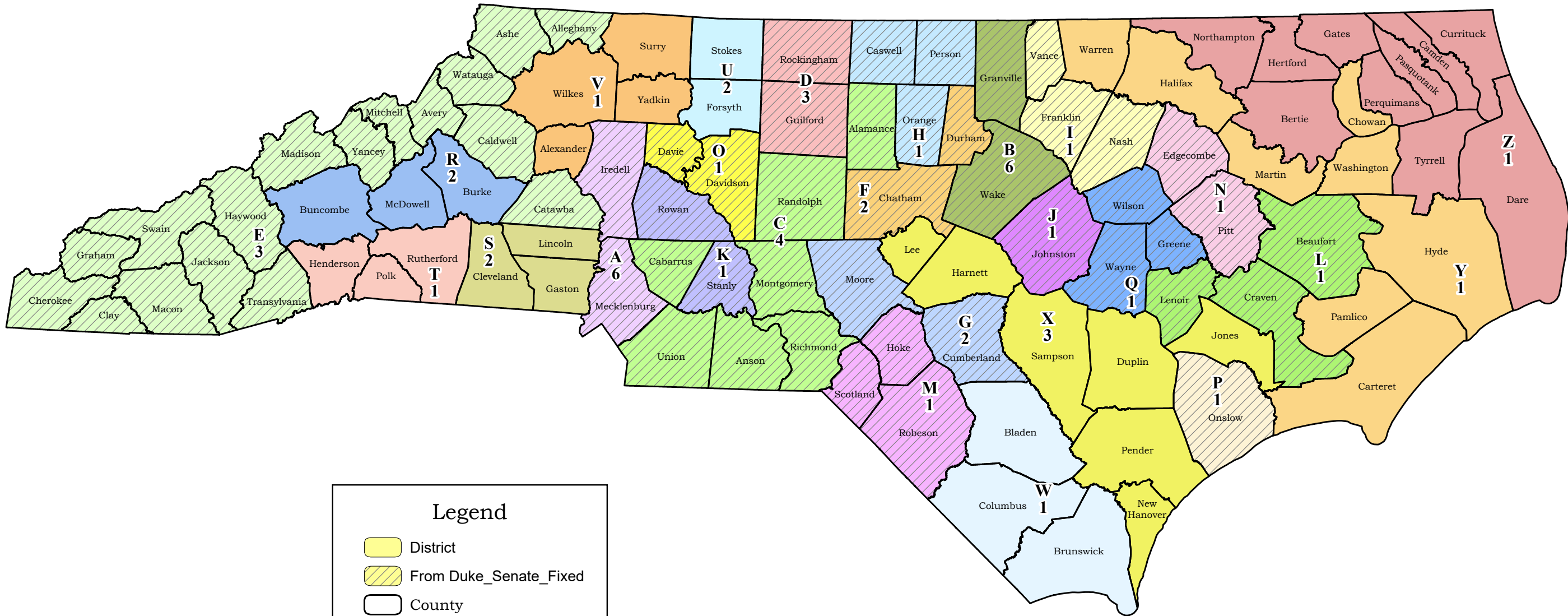
District

From Duke_Senate_Fixed

County

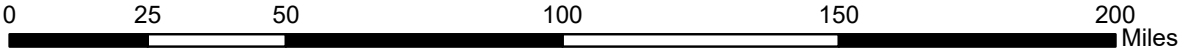
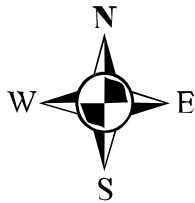


Duke_Senate 02

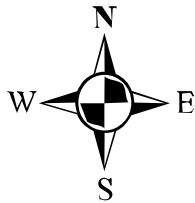
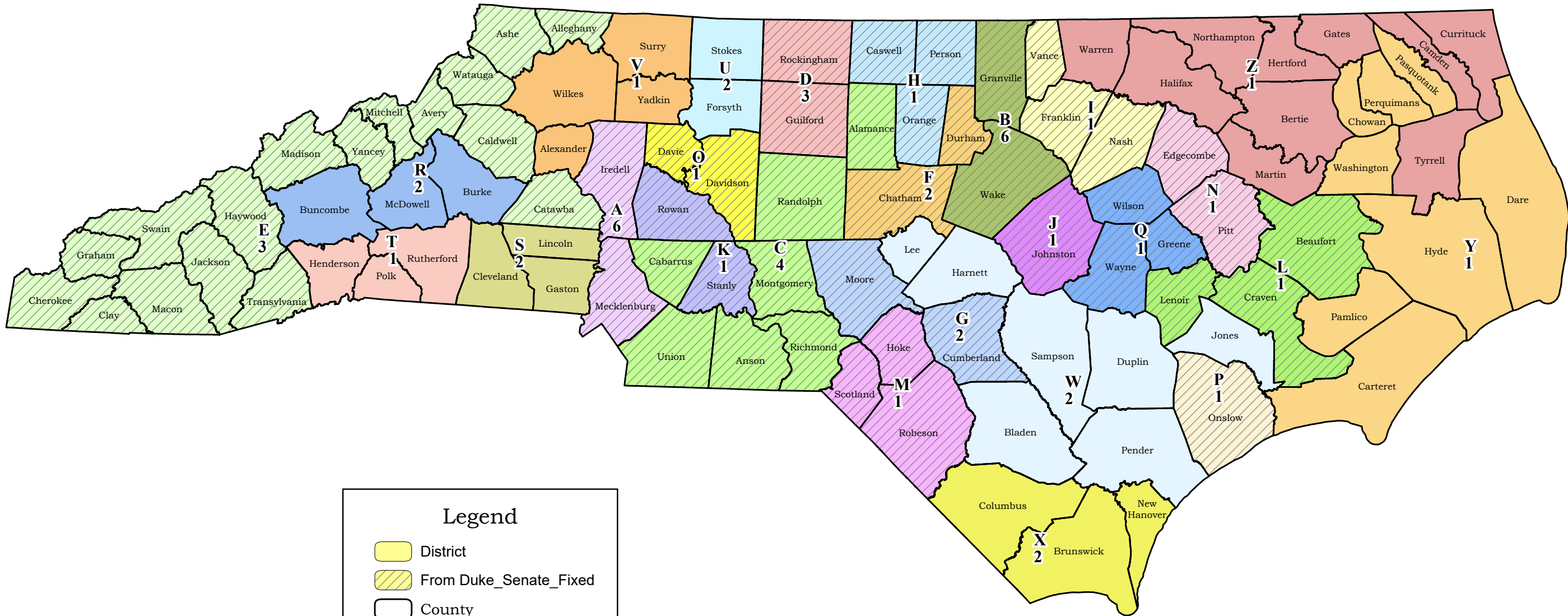


Legend

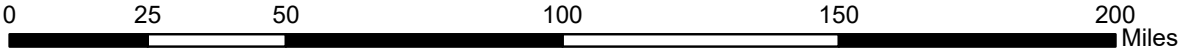
- District
- From Duke_Senate_Fixed
- County



Duke_Senate 03



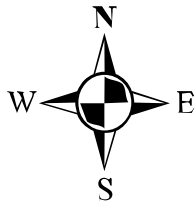
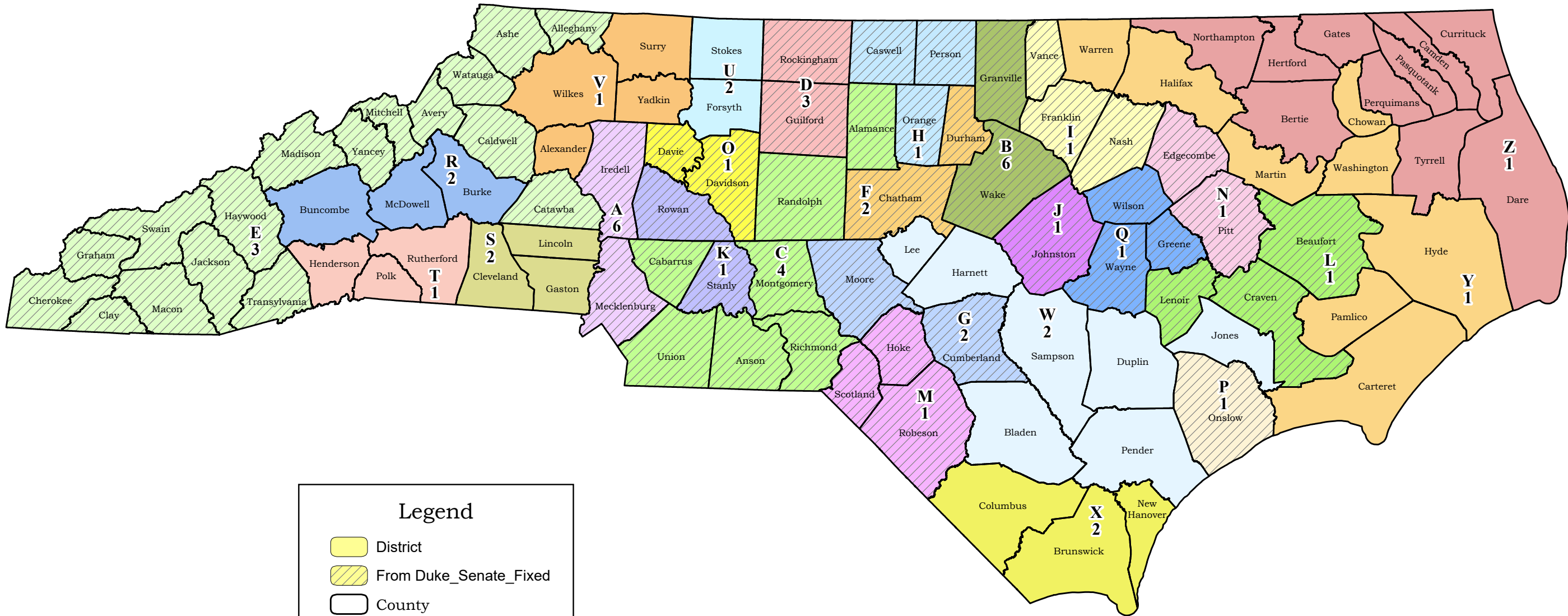
Duke_Senate 03



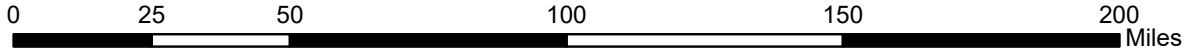
Printed by the NC General Assembly, October 1, 2021



Duke_Senate 04



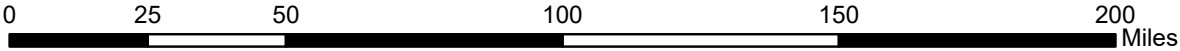
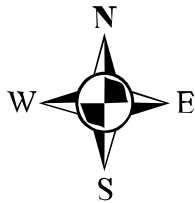
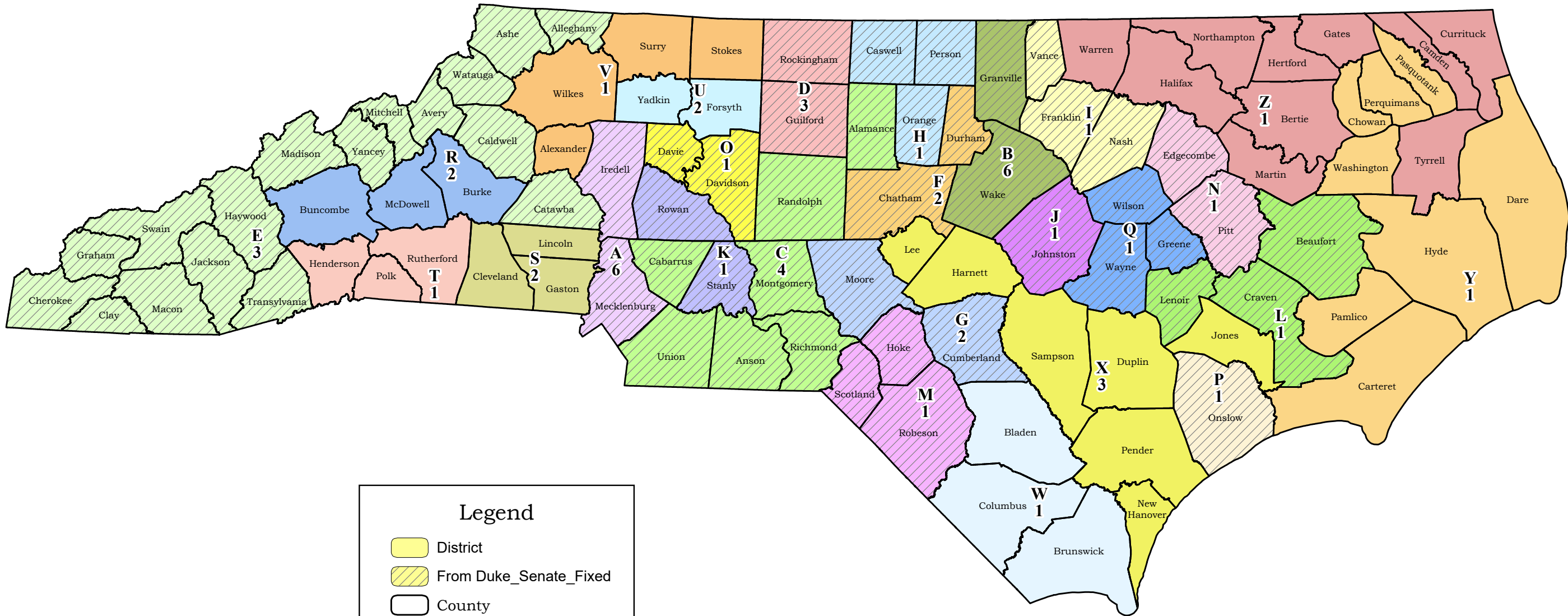
Duke_Senate 04



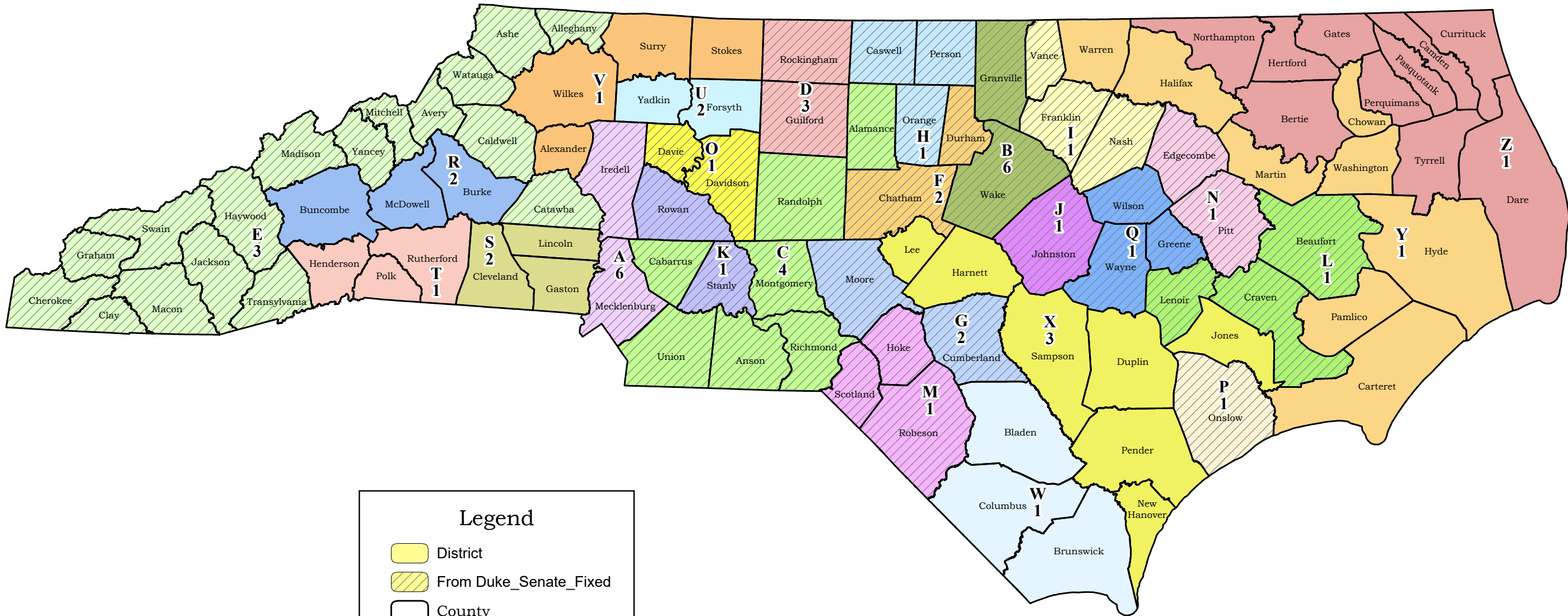
Printed by the NC General Assembly, October 1, 2021



Duke_Senate 05



Duke_Senate 06

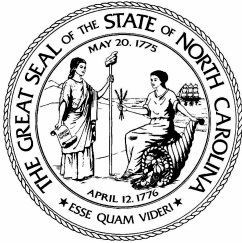
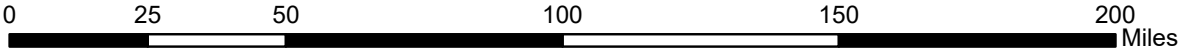
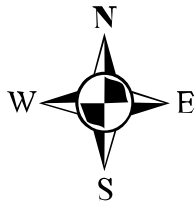


Legend

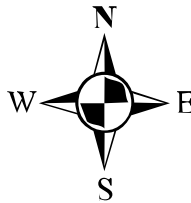
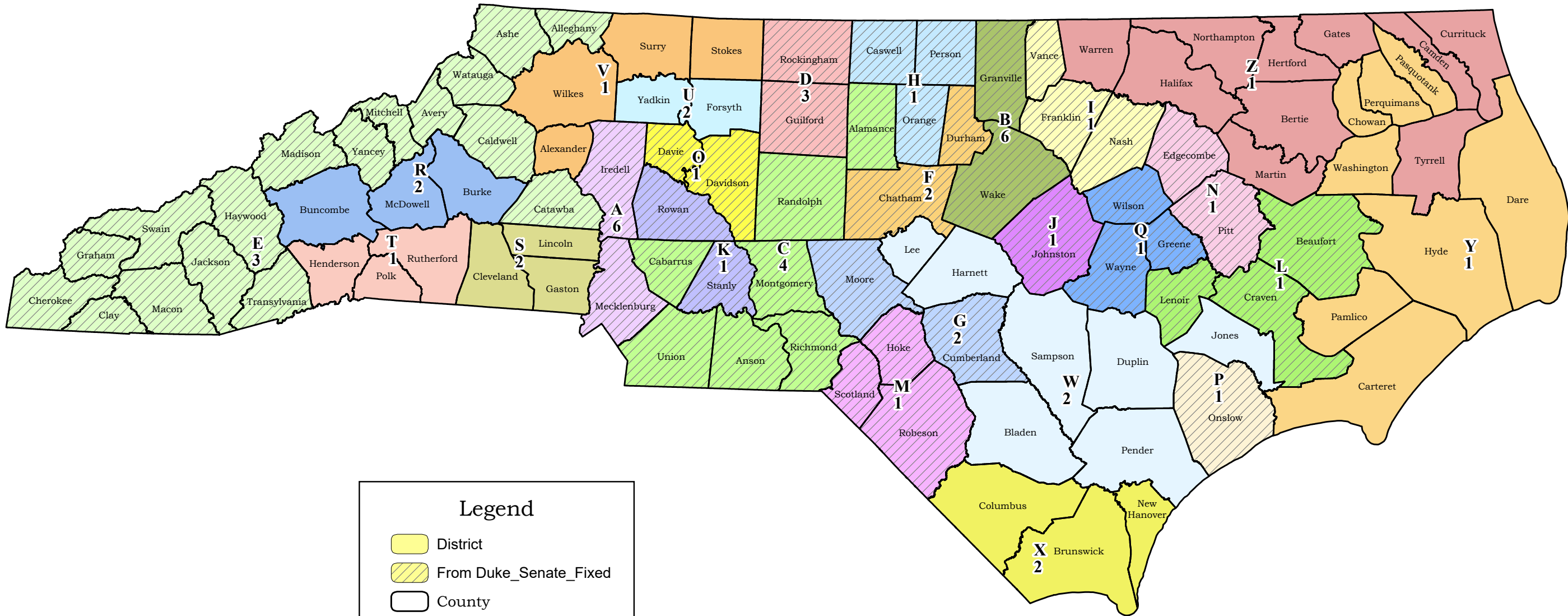
District

From Duke_Senate_Fixed

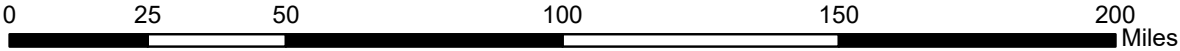
County



Duke_Senate 07



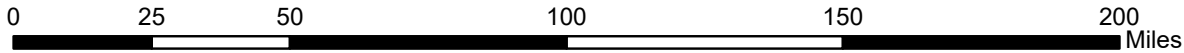
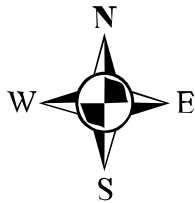
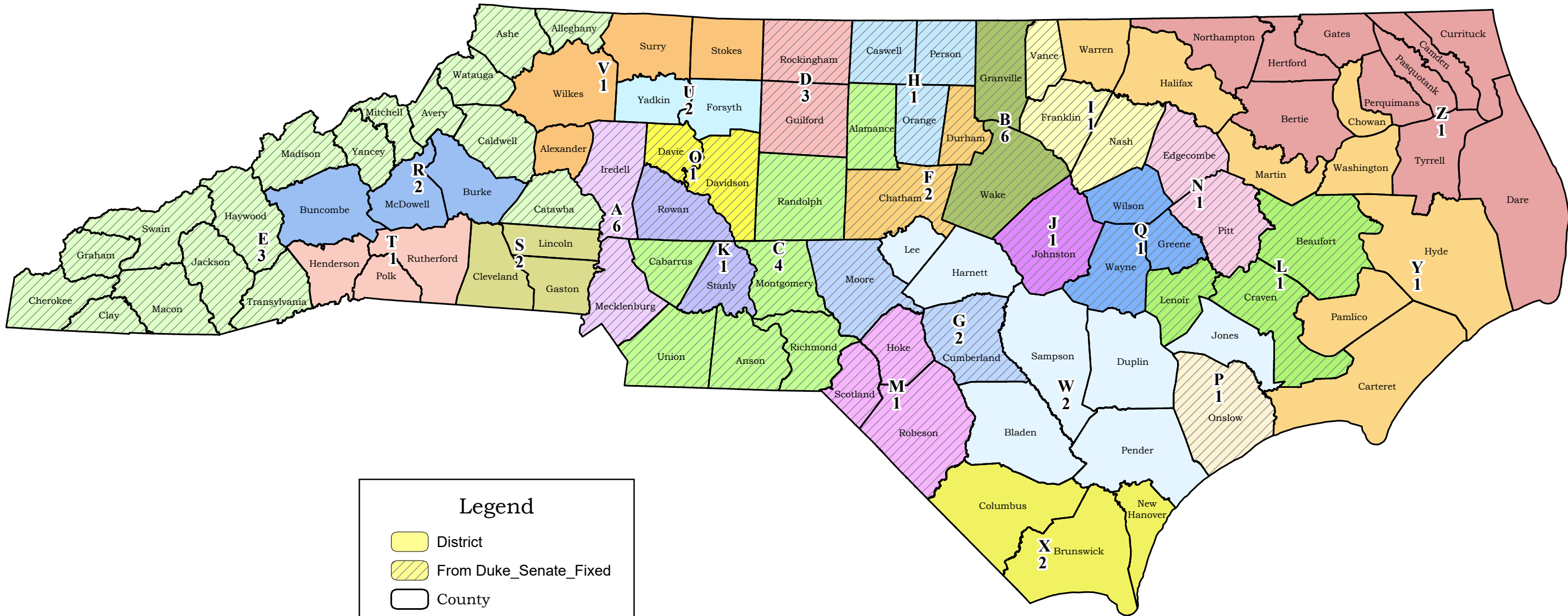
Duke_Senate 07



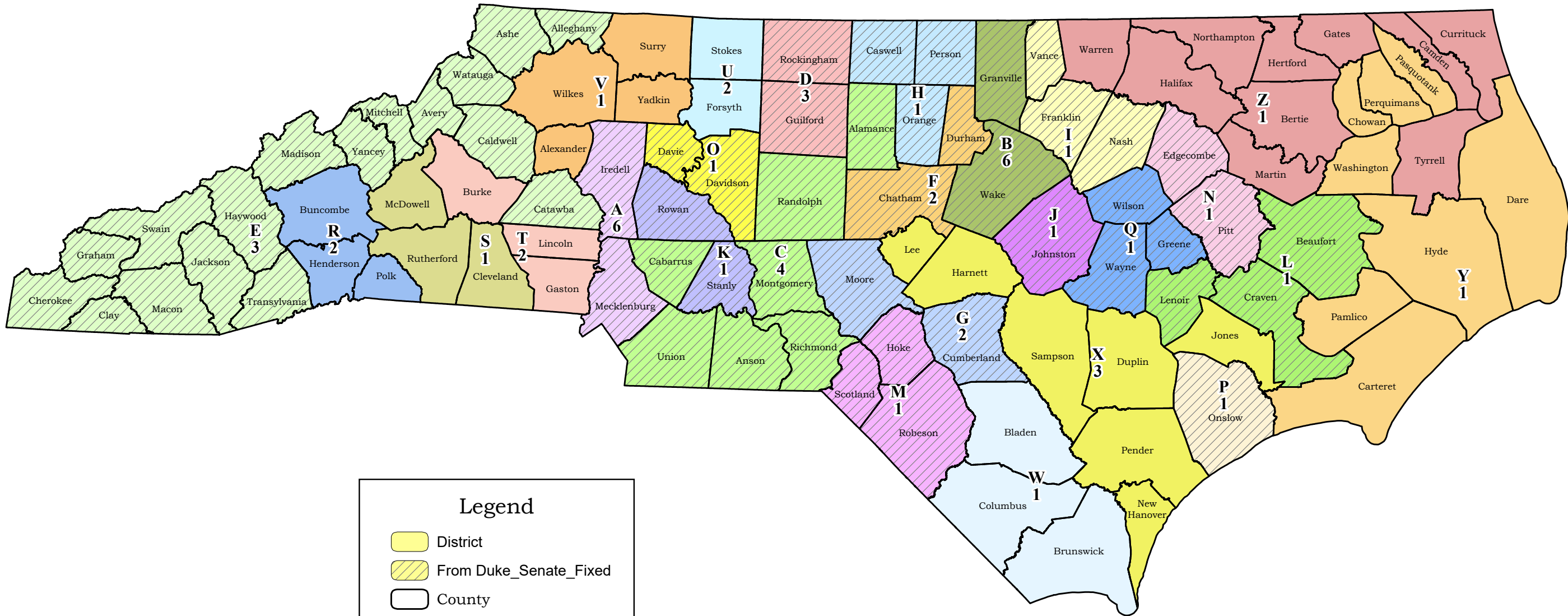
Printed by the NC General Assembly, October 1, 2021



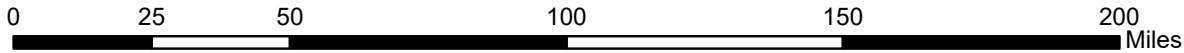
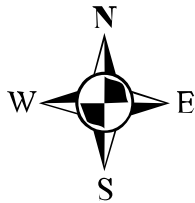
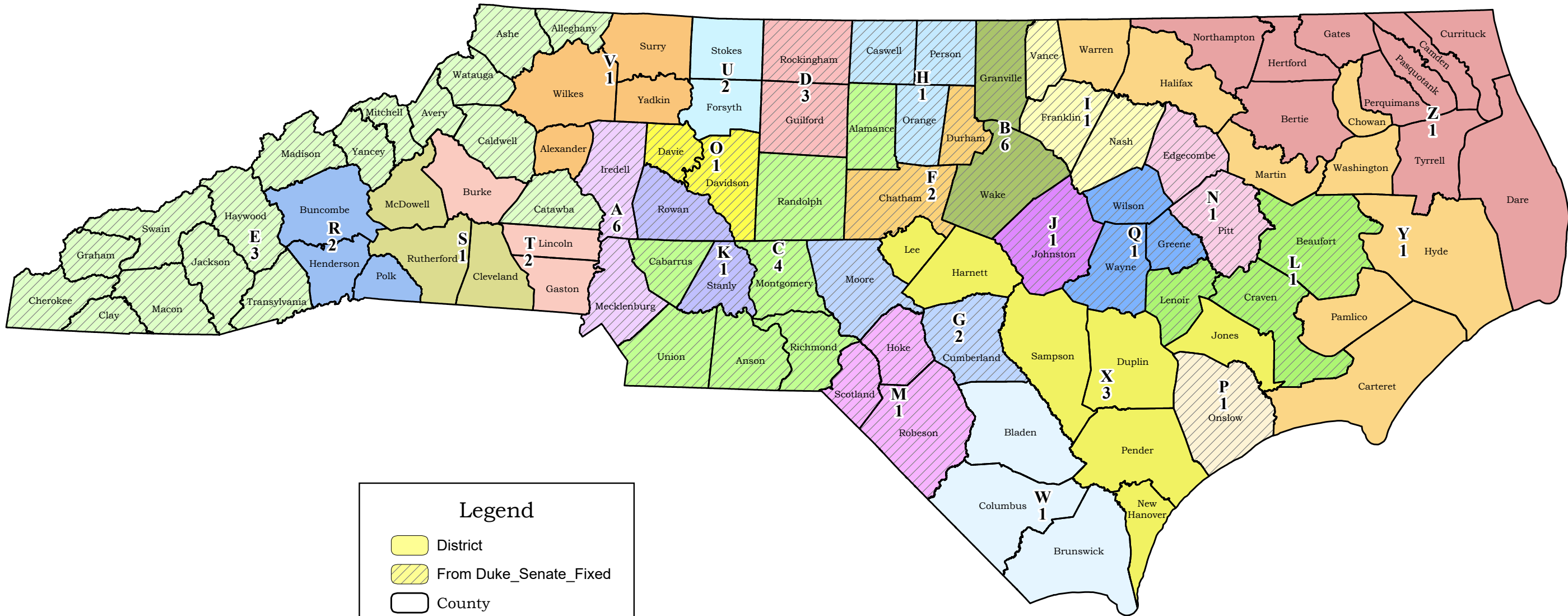
Duke_Senate 08



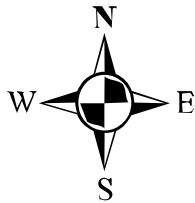
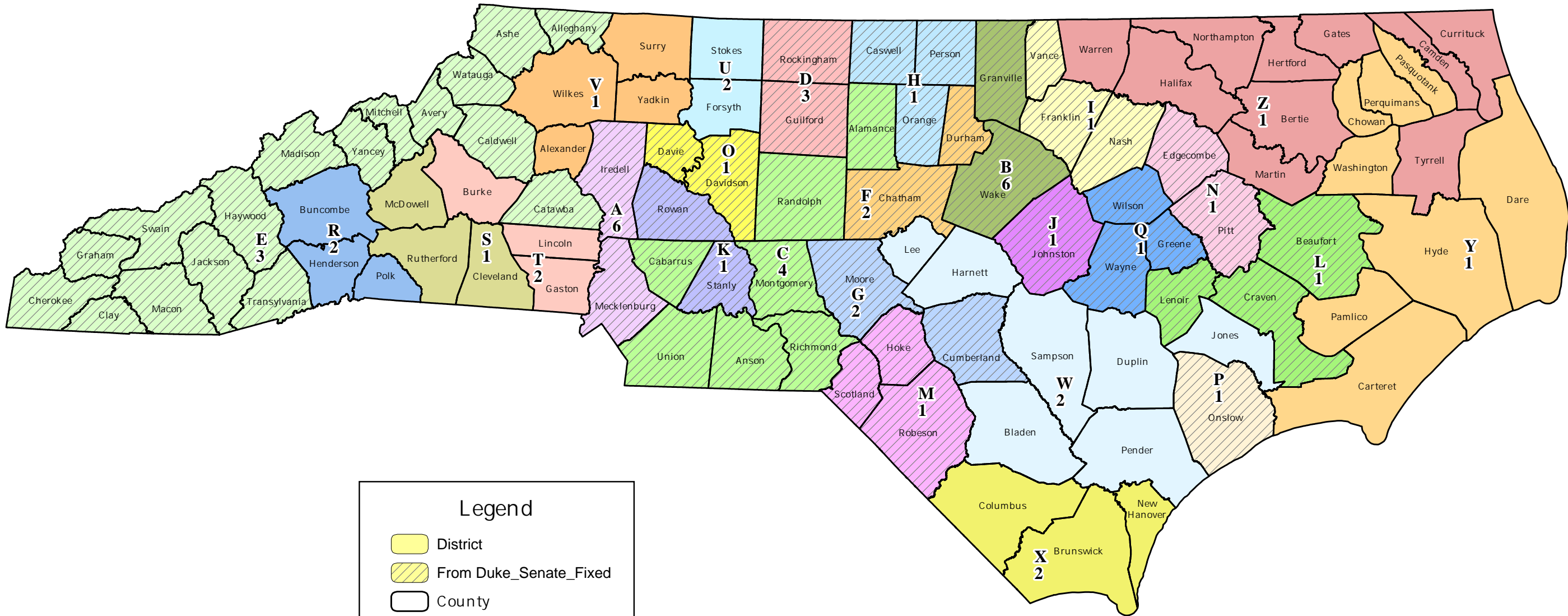
Duke_Senate 09



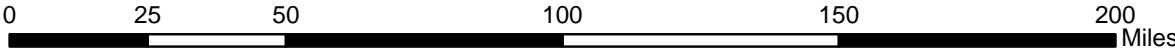
Duke_Senate 10



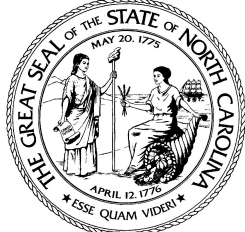
Duke_Senate 11

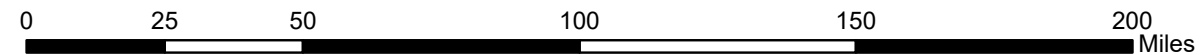
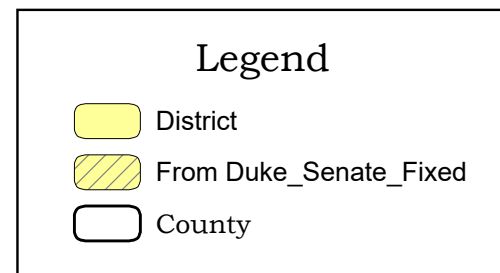


Duke_Senate 11

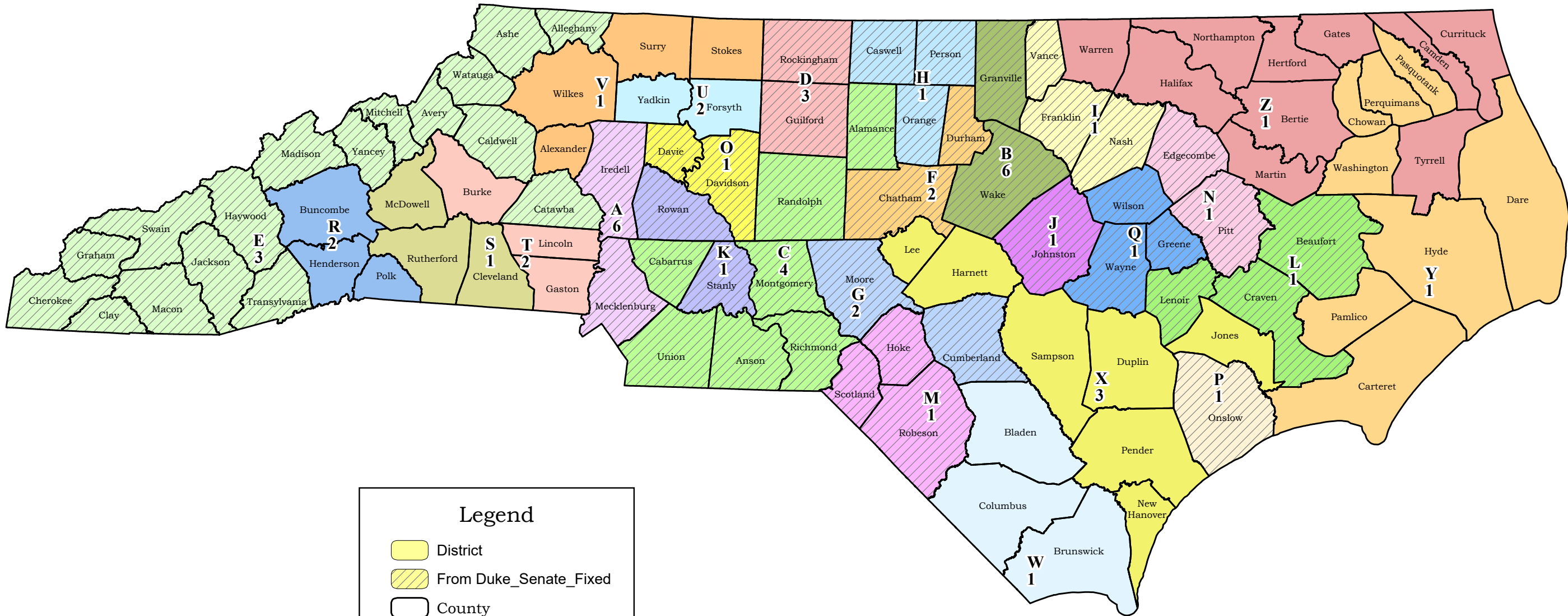


Printed by the NC General Assembly, October 1, 2021



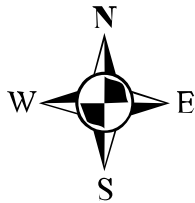


Duke_Senate 13

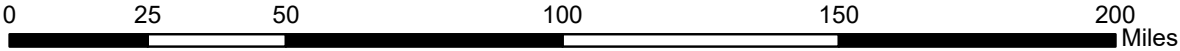


Legend

- District
- From Duke_Senate_Fixed
- County

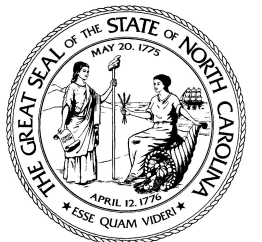
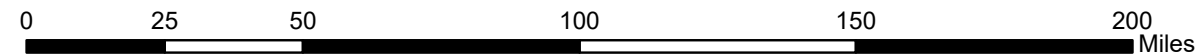
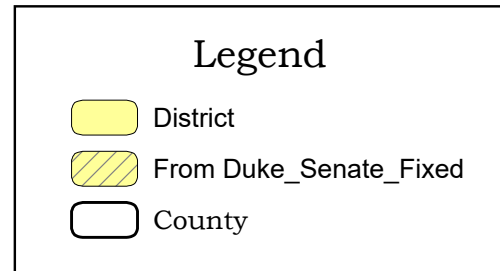


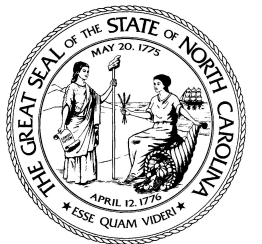
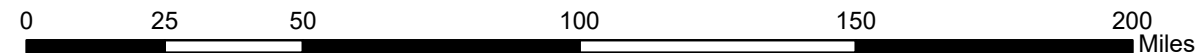
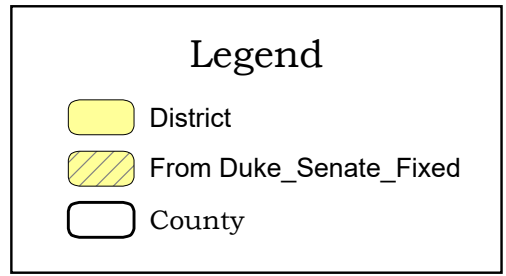
Duke_Senate 13



Printed by the NC General Assembly, October 1, 2021







Duke_Senate 16

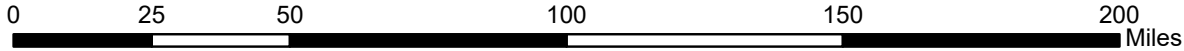
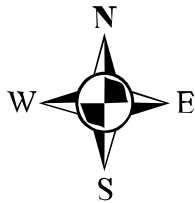
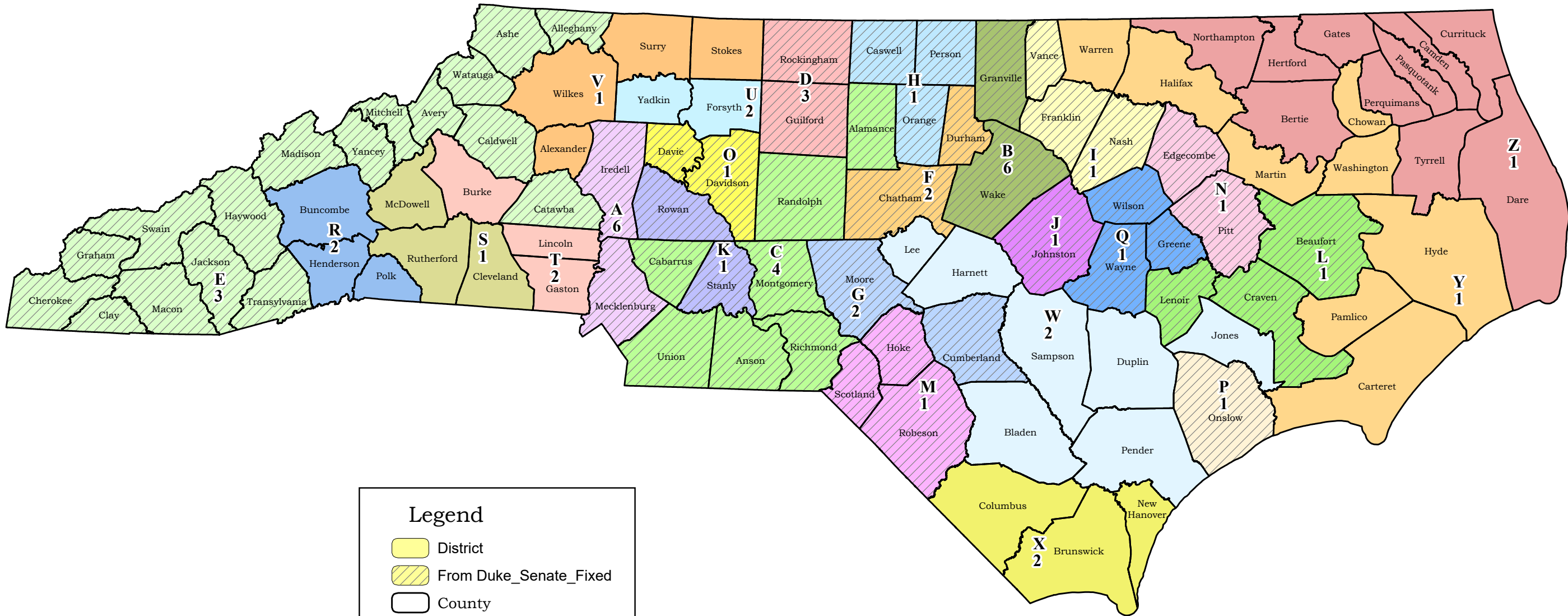


EXHIBIT 60

From: Allison Riggs
To: Phil.Berger@ncleg.gov; Robin.Braswell@ncleg.gov; Tim.Moore@ncleg.gov; Grace.Irvin@ncleg.gov; Warren.Daniel@ncleg.gov; Andy.Perrigo@ncleg.gov; Ralph.Hise@ncleg.gov; Susan.Fanning@ncleg.gov; Paul.Newton@ncleg.gov; Andrew.Stiffel@ncleg.gov; Destin.Hall@ncleg.gov; Lucy.Harrill@ncleg.gov; Dan.Blue@ncleg.gov; Bonnie.McNeil@ncleg.gov; Robert.Reives@ncleg.gov; Veronica.Green@ncleg.gov; Dan.Blue@ncleg.gov; Ben.Clark@ncleg.gov; Michael.Johnson@ncleg.gov; Don.Davis@ncleg.gov; Edwin.Woodard@ncleg.gov; Chuck.Edwards@ncleg.gov; Heather.Millett@ncleg.gov; Carl.Ford@ncleg.gov; Angela.Ford@ncleg.gov; Kathy.Harrington@ncleg.gov; Lorie.Byrd@ncleg.gov; Brent.Jackson@ncleg.gov; William.Kirkley@ncleg.gov; Joyce.Krawiec@ncleg.gov; Debbie.Lown@ncleg.gov; Paul.Lowe@ncleg.gov; Corneisha.Mitchell@ncleg.gov; Natasha.Marcus@ncleg.gov; Jessica.Bolin@ncleg.gov; Wiley.Nickel@ncleg.gov; Michael.Cullen@ncleg.gov; Jim.Perry@ncleg.gov; LeighAnn.Biddix@ncleg.gov; Bill.Rabon@ncleg.gov; Paula.Fields@ncleg.gov; William.Richardson@ncleg.gov; Leigh.Lawrence@ncleg.gov; Jason.Saine@ncleg.gov; MaryStuart.Sloan@ncleg.gov; John.Torbett@ncleg.gov; Viddia.Torbett@ncleg.gov; Cecil.Brockman@ncleg.gov; Matthew.Barley@ncleg.gov; Becky.Carney@ncleg.gov; Beth.LeGrande@ncleg.gov; Linda.Cooper-Suggs@ncleg.gov; Caroline.Enloe@ncleg.gov; Jimmy.Dixon@ncleg.gov; Michael.Wiggins@ncleg.gov; Jon.Hardister@ncleg.gov; Jayne.Nelson@ncleg.gov; Pricey.Harrison@ncleg.gov; Mary.Lee@ncleg.gov; Kelly.Hastings@ncleg.gov; Sophia.Hastings@ncleg.gov; Zack.Hawkins@ncleg.gov; Anita.Wilder@ncleg.gov; Brenden.Jones@ncleg.gov; Jeff.Hauser@ncleg.gov; Grey.Mills@ncleg.gov; Mason.Barefoot@ncleg.gov; Robert.Reives@ncleg.gov; Veronica.Green@ncleg.gov; David.Rogers@ncleg.gov; Misty.Rogers@ncleg.gov; John.Szoka@ncleg.gov; Beverly.Slagle@ncleg.gov; Harry.Warren@ncleg.gov; Cristy.Yates@ncleg.gov; Lee.Zachary@ncleg.gov; Martha.Jenkins@ncleg.gov
Cc: Hilary Harris Klein; Mitchell D. Brown; Katelin Kaiser
Subject: 2021 North Carolina redistricting - SCSJ correspondence re: process and cluster maps
Date: Friday, October 8, 2021 4:19:23 PM
Attachments: [SCSJ correspondence NCGA redistricting 2021.10.08.pdf](#)
Importance: High

Senators and Representatives and NCGA staff,

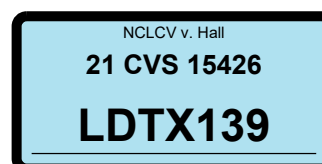
Please find attached correspondence from the Southern Coalition for Social Justice regarding the redistricting process and the cluster maps released on Tuesday. Please don't hesitate to reach out to me if you have any questions.

Sincerely,

Allison Riggs
Co-Executive Director, Programs
Chief Counsel for Voting Rights
Southern Coalition for Social Justice
1415 West Highway 54, Ste. 101
Durham, NC 27707
[919-323-3380](tel:919-323-3380) ext. 117
[919-323-3942](tel:919-323-3942) (fax)
allison@southerncoalition.org

CONFIDENTIAL & PRIVILEGED

This communication is intended solely for the addressee. Any unauthorized review, use, disclosure or distribution is prohibited. If you believe this message has been sent to you in error, please notify the sender by replying to this transmission and delete the message without disclosing it. Thank you.





1415 W. Hwy 54, Suite 101
Durham, NC 27707
919-323-3380
southerncoalition.org

October 8, 2021

VIA EMAIL

To: Sen. Phil Berger
President Pro Tempore, North Carolina Senate
Rep. Tim Moore
Speaker, North Carolina House of Representatives
Sen. Daniel, Sen. Hise, and Sen. Newton
Co-Chairs, Senate Standing Committee on Redistricting and Elections
Rep. D. Hall, Chair
House Standing Committee on Redistricting

CC: Sen. Dan Blue, Senate Democratic Leader
Rep. Robert T. Reives, II, House Democratic Leader
Members, Senate Standing Committee on Redistricting and Elections
Members, House Standing Committee on Redistricting

Senators and Representatives,

The undersigned respectfully submit this letter to bring to the attention of the legislative leadership, Members of the Senate Standing Committee on Redistricting and Elections, Members of the House Standing Committee on Redistricting, and, indeed, the entire legislative body, certain areas of concern within the county clustering option maps you introduced on Tuesday, October 5, 2021. The Committee Chairs stated that these maps represent the only legally compliant county clustering options in which ultimate district lines will be drawn. We disagree.

In *Stephenson v. Bartlett*, the North Carolina Supreme Court developed a methodology for how counties should be grouped together to form county clusters.¹ Under *Stephenson*, first, districts must be drawn to satisfy Section 2 of the Voting Rights Act (“VRA”) to ensure voters of color have an equal opportunity to participate in the political process and elect their candidates of choice. Only after that analysis is performed and those districts are drawn may any work be done to harmonize and maximize compliance with North Carolina’s Whole County Provision (“WCP”).²

¹ *Stephenson v. Bartlett*, 355 N.C. 354 (2002); *Stephenson v. Bartlett*, 357 N.C. 301 (2003).

² We do not concede that your interpretation of the *Stephenson* criteria after the first step—drawing VRA-required districts—is correct.



Although the *Stephenson* criteria outlines a process for how counties are grouped together to create districts, there is still discretion regarding the choices about how and where to group counties. Consequently, these individual choices can result in different county grouping options that directly affect political opportunities and voting power for voters of color. We will be monitoring your choices with respect to county clusters closely, as well as the impact of those choices. But even now, we can identify serious problems with your judgment being used in this redistricting process, including but not limited to gross mischaracterizations of applicable law.

I. The North Carolina General Assembly Continues to Flout Well-Established Redistricting Law

At this point, we have only seen draft district lines for the aforementioned clusters presented by your Committees, which create some (but not all) districts and thus do not constitute full maps. As a result, this letter does not and cannot address all potential violations of the North Carolina Constitution, the federal Voting Rights Act, or the North Carolina Supreme Court’s instructions in the *Stephenson* cases. Our intent here is to bring to your attention the potential problems in the county clustering maps from which you have indicated you intend to choose. We also seek to highlight, once again, the erroneous legal interpretation under which you appear to be operating, just as in last decade’s redistricting cycle. Absent a material change in direction, we may have further critiques or concerns. However, it is not too late to remedy these issues and embark on a redistricting process that will comply with applicable law.

1. The North Carolina Legislature Is Already Violating the *Stephenson* Instructions

Because this body is erroneously avoiding the use of all racial data, you per se cannot comply with *Stephenson*. Without that data, you cannot assess what districts are required under the VRA and draw those districts first as required. The failure to consider racial data is deeply problematic for other legal and policy grounds, but in this letter, we focus on the potential county clusters where it is unlikely that a district that will provide voters of color an equal opportunity to elect their preferred candidates can be produced by the county cluster.

The North Carolina Supreme Court has been unequivocal: *Stephenson* mandates that “districts required by the VRA be drawn first.”³ Indeed, the Supremacy Clause of the United States Constitution requires federal law compliance be prioritized. In order to determine whether it is necessary to draw VRA districts, the Legislature must determine the level of racially polarized voting in the relevant geographical area.⁴ Without any analysis of racial voting data, you are making it impossible to assess whether VRA districts are required and violating the plain rule in *Stephenson*. Thus, to comply with *Stephenson* and the VRA, we believe the Legislature must conduct a regionally-focused racially polarized voting (“RPV”) study to determine if there is legally significant racially polarized voting. If there is that level of racially polarized voting,

³ *Stephenson v. Bartlett*, 355 N.C. 354, 383 (2002).

⁴ *Thornburg v. Gingles*, 478 U.S. 30, 55 (1986).



and if any cluster which you claim is required under strict compliance with *Stephenson* produces a district in which voters of color would not be able to elect their preferred candidate, then you must draw a VRA district first and only then engage in developing clusters around that district.⁵ As discussed below, your claims that RPV studies done in 2011 and the *Covington* court’s ruling in 2016⁶ somehow negate the possibility that any VRA districts may be necessary today, in 2021, is plainly wrong.

2. The North Carolina General Assembly Is Grossly Misinterpreting *Covington v. North Carolina* and Other Precedent from Last Cycle

Sen. Hise and Rep. Hall are factually incorrect in representing that courts last decade ruled that racially polarized voting in North Carolina does not exist. In the most relevant case, *Covington v. North Carolina*, the federal court that invalidated 28 North Carolina legislative districts as unconstitutional racial gerrymanders in fact stated the opposite.⁷ The court acknowledged that there were two reports before the Legislature indicating there was statistically significant racially polarized voting in the state⁸, but the bipartisan panel of federal judges excoriated the Legislature for “failing to evaluate whether there was a strong basis of evidence for the third *Gingles* factor in any potential VRA district.”⁹ That is, the court acknowledged the “general finding regarding the existence of [] racially polarized voting,” but said the Legislature had to do a deeper inquiry, which “is exactly what Defendants did not do.”¹⁰ This body seems bound and determined to make the same legal mistake again this redistricting cycle by once again abdicating its responsibility to do the analysis it is required by law to do. If this Legislature declines to meet its obligations under *Stephenson* to determine and draw districts required by the VRA first, it should be prepared for a court to ultimately draw the maps needed for elections next year.

Second, no case from the last redistricting cycle overturns or otherwise renders null *Stephenson*’s requirement that the Legislature draw VRA districts first. In a meeting of the Joint Redistricting and Elections Committee on August 12, 2021, the Committee Chairs, in response to Senator Clark’s question about complying with the VRA, stated that RPV analysis was not necessary due to “the 2019 decisions.”¹¹ The 2019 Superior Court decision *Common Cause v. Lewis* found that compliance with the VRA was not a plausible excuse to a charge of partisan

⁵ *Stephenson v. Bartlett*, 355 N.C. 354 (2002) (holding legislative districts required by the VRA be formed prior to the creation of non-VRA districts to ensure redistricting plans “ha[ve] no retrogressive effect upon minority voters.”).

⁶ *Covington v. North Carolina*, 316 F.R.D. 117 (M.D.N.C. 2016).

⁷ *Id.* at 169-170 (finding that Defendants’ “reports conclude that there is evidence of racially polarized voting in North Carolina [.]”).

⁸ *Id.*

⁹ *Id.* at 167.

¹⁰ *Id.* at 167-68.

¹¹ NCGA Redistricting, 2021-08-12 Committee (Joint), YOUTUBE (Aug. 13, 2021), <https://www.youtube.com/watch?v=gSm2OhE7Slk&t=718s>.



gerrymandering.¹² It did *not* hold that the General Assembly may completely ignore racial voting data when drawing districts following the release of U.S. Census data. As a result, *Lewis* in no way alters *Stephenson*’s mandate that the Legislature first draw VRA districts with the assistance of racial voting data analysis.

Lastly, no other federal law or Supreme Court decision compels or even allows this body to ignore racial data in drawing district lines. The Supreme Court decision *Cooper v. Harris* explains that states *can* use racial data in redistricting to comply with the VRA.¹³ In 2017, the Supreme Court found that the creation of two North Carolina congressional districts violated the federal Constitution because map drawers had used racial data in ways *not required* by the VRA.¹⁴ *Cooper* found that map drawers were using the VRA as an excuse to pack far more Black voters into a district than was necessary for VRA compliance; it did not state that the use of racial data is unconstitutional in every circumstance.¹⁵ In fact, *Cooper* demonstrates the very necessity of using racial voting data. It is impossible to determine what demographic configuration is sufficient for VRA compliance without analyzing racial voting data.

With these legal deficiencies in your approach explained, we now turn to areas of concern in the county cluster maps introduced on Tuesday. We note at the outset that the authors of the paper presenting possible county clusters explicitly did not look at the first step in *Stephenson* – drawing VRA districts.¹⁶ Thus, while this paper and methodology may be informative, they cannot substitute for the legislative analysis required by North Carolina and federal law. Indeed, it would not be algorithmically possible to do the kind of “intensely local appraisal”¹⁷ necessary to determine whether a district was required under Section 2 of the VRA.

II. Certain Areas in the North Carolina Senate Cluster Maps Require Examination for VRA Compliance

a. Cluster in Greene/Wayne/Wilson

One of the Senate county clusters that you designate as required under an “optimal” county grouping map for the Senate districts appears to violate the VRA. Cluster “Q1” is a district comprised of three counties that would likely deprive voters of color of the opportunity to elect their candidate of choice. In the current Senate map, Senate District 4 is comprised of Halifax, Edgecombe and Wilson Counties, and the Black voting age population (“BVAP”) in

¹² *Common Cause v. Lewis*, No. 18 CVS 014001, at *345 (N.C. Sup. Ct. Sept. 3, 2019).

¹³ *Cooper v. Harris*, 137 S. Ct. 1455, 1464 (2017).

¹⁴ *Id.* at 1472.

¹⁵ *Id.* at 1470-71.

¹⁶ Christopher Cooper, et al., *NC General Assembly County Clusterings from the 2020 Census*, QUANTIFYING GERRYMANDERING (Aug. 17, 2021),

<https://sites.duke.edu/quantifyinggerrymandering/files/2021/08/countyClusters2020.pdf> (last visited Oct. 7, 2021).

¹⁷ *Thornburg v. Gingles*, 478 U.S. 30, 79 (1986).



that district is 47.46% using benchmark data. Black voters have the ability to elect their candidate of choice in this district.

In a county group analysis where race is not considered at all, we are concerned that you will propose that Senate District 4 be comprised going forward of Green, Wayne, and Wilson Counties. A district comprised of those 3 counties would be only 35.02% BVAP. If Section 5 were still in place, we are certain that such a change to that district would constitute impermissible retrogression and not be approved. We have done some initial analysis of racially polarized voting in those 3 new counties that would comprise Senate District 4. Examining racially contested statewide elections¹⁸ in these counties shows two things: using a number of different analytic approaches, the Black candidate is overwhelmingly supported by Black voters and white voters offer very little support for Black candidates. That is, voting is racially polarized. And most importantly, in those counties, were the electoral outcomes to be determined just by voting there, the Black candidates would have been defeated. Thus, the racially polarized voting is legally significant. We urge you to perform a formal RPV analysis in these counties before dictating that the Senate district must be comprised of these 3 counties.

Moreover, knowing as you do (or certainly do now) that there is a concentration of Black voters who, in concert with a small number of non-Black voters in the original configuration of the district (Wilson, Edgecombe and Halifax) are able to elect their candidate of choice, “if there were a showing that a State intentionally drew district lines in order to destroy otherwise effective crossover district[,],” you would likely be subjecting the State to liability under the Fourteenth and Fifteenth Amendments.¹⁹

b. Cluster in Hoke/Robeson/Scotland

We are also concerned that in the absence of racial data analysis, the proposed Senate district comprised of Hoke, Robeson, and Scotland Counties may not be in compliance with the Voting Rights Act. This county cluster would create a new District 21 out of what were previously sections of Senate Districts 13, 21, and 25. In North Carolina’s current map, District 21 is 42.15% BVAP using benchmark data, and Black voters in that district have the ability to elect their candidate of choice.

A district composed of Hoke, Robeson, and Scotland counties would be only 29.63% BVAP. Our initial review of recent racially-contested elections suggests that voting in these counties is highly racially polarized. Drawing a district with such a low BVAP might deprive

¹⁸ We examined the 2020 race for Chief Justice of the North Carolina Supreme Court involving a Black candidate, Cheri Beasley, and a white candidate, Paul Newby. We examined the 2020 race for Commissioner of Labor involving a Black candidate, Jessica Holmes, and a white candidate, Joshua Dobson. We examined the 2016 race for Treasurer involving a Black candidate, Dan Blue III, and a white candidate, Dale Folwell. And we examined the 2016 race for Lieutenant Governor, involving a Black candidate, Linda Coleman, and two white candidates, Dan Forest and Jacki Cole.

¹⁹ *Bartlett v. Strickland*, 556 U.S. 1, 24 (2009).



Black voters the opportunity to elect a candidate of their choice. We urge you to perform a formal RPV analysis for these three counties to determine if a VRA-compliant district is required for the new district in this area.

III. Certain Areas in the North Carolina House Cluster Maps Require Examination for VRA Compliance

a. Cluster in Sampson/Wayne

Our preliminary data analysis shows that a new House District 21 may be created out of a cluster composed of either Sampson and Wayne counties (“LL2”) or Duplin and Wayne counties (“KK2”). Our initial analysis indicates that the LL2 configuration is particularly problematic. Neither Sampson nor Wayne Counties individually have a high enough population to compose a single district under one person, one vote jurisprudence. However, the North Carolina General Assembly could create two House districts from a Wayne and Sampson County cluster.

Current House District 21 is composed of only portions of both Wayne and Sampson Counties. It is 39.00% BVAP using benchmark data and provides Black voters the opportunity to elect their candidate of choice. Our preliminary analysis was fairly conclusive – based on the statewide elections examined, voting in Sampson and Wayne Counties, together, is highly racially polarized and the Black candidates in statewide elections would not have won had the elections been determined in those counties alone. Thus, we believe this presents substantial evidence that there is legally significant racially polarized voting, and there may be a VRA district required to be drawn in this cluster; or if that is not possible under one-person, one-vote principles, this cluster cannot be used – it would not be compliant with Section 2 of the Voting Rights Act or *Stephenson*.

b. Cluster in Camden/Gates/Hertford/Pasquotank

One of the proposed multi-county single House districts in your proposed clusters is composed of Camden, Gates, Hertford, and Pasquotank Counties (Cluster “NN1” in “Duke_House_01,” “Duke_House_03,” “Duke_House_05” and “Duke_House_07”). The current district for this area, House District 5, is 44.32% BVAP using benchmark data, and Black voters have the opportunity to elect a candidate of their choice. A House district composed of Camden, Gates, Hertford, and Pasquotank Counties would be only 38.59% BVAP. Our analysis indicates that white voters are voting in bloc there and may be doing so in a way that would prevent a Black-preferred candidate from winning (and, thus, legally significant). More analysis must be done on this cluster to determine whether there is legally significant racially polarized voting, and, if so, a district composed of this county cluster might eliminate the ability of Black voters to elect a candidate of their choice and thus violate federal and state law.



IV. Conclusion

To be clear, in this letter, we are raising issues with the clusters you released on Tuesday, October 5, 2021. We can identify potential VRA issues where districts are dictated by groupings of whole counties or where, in a small 2-district cluster, we can observe voting patterns with sufficient certainty to identify a potential problem. However, we do not yet know how district lines will be drawn within counties or within multi-county, multi-district clusters. For example, we suspect that the way district lines are drawn in a Nash/Wilson House county grouping or Granville/Vance/Franklin House county grouping could be problematic. In short, this is a non-exhaustive list of concerns, particularly given the lack of draft maps at this moment. But this body should consider itself on notice for the need to perform RPV analysis in certain regions of the state and the need to examine racial data to ensure VRA compliance.

Importantly, we are not saying conclusively that VRA districts are required in the above county groupings; however, it cannot be ascertained without conducting an intensely local appraisal of voting conditions and a targeted RPV analysis, which you are required by law to undertake.²⁰ Without conducting any RPV analysis prior to grouping counties, the Legislature is departing from the requirements of the *Stephenson* criteria and may ultimately deny voters of color an equal opportunity to participate in North Carolina's elections. Therefore, by allegedly engaging in race-blind drawing, you violate not only the VRA but also *Stephenson* and our State's case precedent. It is neither appropriate nor required to draw districts race-blind. Rather, your current path ensures redistricting will once again be a tool used to harm voters of color, and we implore you to reconsider this path immediately.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Allison J. Riggs

Co-Executive Director for Programs and Chief Counsel for Voting Rights

Hilary Harris Klein

Senior Counsel, Voting Rights

Mitchell Brown

Counsel, Voting Rights

Katelin Kaiser

Counsel, Voting Rights

²⁰ *Id.*



EXHIBIT 61

From: Allison Riggs
To: Phil.Berger@ncleg.gov; Robin.Braswell@ncleg.gov; Tim.Moore@ncleg.gov; Grace.Irvin@ncleg.gov; Warren.Daniel@ncleg.gov; Andy.Perrigo@ncleg.gov; Ralph.Hise@ncleg.gov; Susan.Fanning@ncleg.gov; Paul.Newton@ncleg.gov; Andrew.Stiffel@ncleg.gov; Destin.Hall@ncleg.gov; Lucy.Harrill@ncleg.gov; Dan.Blue@ncleg.gov; Bonnie.McNeil@ncleg.gov; Robert.Reives@ncleg.gov; Veronica.Green@ncleg.gov; Dan.Blue@ncleg.gov; Bonnie.McNeil@ncleg.gov; Ben.Clark@ncleg.gov; Michael.Johnson@ncleg.gov; Don.Davis@ncleg.gov; Edwin.Woodard@ncleg.gov; Chuck.Edwards@ncleg.gov; Heather.Millett@ncleg.gov; Carl.Ford@ncleg.gov; Angela.Ford@ncleg.gov; Kathy.Harrington@ncleg.gov; Lorie.Byrd@ncleg.gov; Brent.Jackson@ncleg.gov; William.Kirkley@ncleg.gov; Joyce.Krawiec@ncleg.gov; Debbie.Lown@ncleg.gov; Paul.Lowe@ncleg.gov; Corneisha.Mitchell@ncleg.gov; Natasha.Marcus@ncleg.gov; Jessica.Bolin@ncleg.gov; Wiley.Nickel@ncleg.gov; Michael.Cullen@ncleg.gov; Jim.Perry@ncleg.gov; LeighAnn.Biddix@ncleg.gov; Bill.Rabon@ncleg.gov; Paula.Fields@ncleg.gov; William.Richardson@ncleg.gov; Leigh.Lawrence@ncleg.gov; Jason.Saine@ncleg.gov; MaryStuart.Sloan@ncleg.gov; John.Torbett@ncleg.gov; Viddia.Torbett@ncleg.gov; Cecil.Brockman@ncleg.gov; Matthew.Barley@ncleg.gov; Becky.Carney@ncleg.gov; Beth.LeGrande@ncleg.gov; Linda.Cooper-Suggs@ncleg.gov; Caroline.Enloe@ncleg.gov; Jimmy.Dixon@ncleg.gov; Michael.Wiggins@ncleg.gov; Jon.Hardister@ncleg.gov; Jayne.Nelson@ncleg.gov; Pricey.Harrison@ncleg.gov; Mary.Lee@ncleg.gov; Kelly.Hastings@ncleg.gov; Sophia.Hastings@ncleg.gov; Zack.Hawkins@ncleg.gov; Anita.Wilder@ncleg.gov; Brenden.Jones@ncleg.gov; Jeff.Hauser@ncleg.gov; Grey.Mills@ncleg.gov; Mason.Barefoot@ncleg.gov; Robert.Reives@ncleg.gov; Veronica.Green@ncleg.gov; David.Rogers@ncleg.gov; Misty.Rogers@ncleg.gov; John.Szoka@ncleg.gov; Beverly.Slagle@ncleg.gov; Harry.Warren@ncleg.gov; Cristy.Yates@ncleg.gov; Lee.Zachary@ncleg.gov; Martha.Jenkins@ncleg.gov
Cc: Hilary Harris Klein; Mitchell D. Brown; Katelin Kaiser
Subject: 2021 North Carolina redistricting - SCSJ correspondence re: proposed Senate map
Date: Monday, October 25, 2021 8:14:02 PM
Attachments: [SCSJ Letter Senate Map 10 25 21 FINAL.pdf](#)

Senators and Representatives and NCGA staff,

Please find attached correspondence from the Southern Coalition for Social Justice regarding the proposed Senate map that we understand will be the subject of public comment tomorrow. Please don't hesitate to reach out to me if you have any questions.

Sincerely,

Allison Riggs
Co-Executive Director, Programs
Chief Counsel for Voting Rights
Southern Coalition for Social Justice
1415 West Highway 54, Ste. 101
Durham, NC 27707
[919-323-3380](tel:919-323-3380) ext. 117
[919-323-3942](tel:919-323-3942) (fax)
allison@southerncoalition.org

CONFIDENTIAL & PRIVILEGED

This communication is intended solely for the addressee. Any unauthorized review, use, disclosure or distribution is prohibited. If you believe this message has been sent to you in error, please notify the sender by replying to this transmission and delete the message without disclosing it. Thank you.

NCLCV v. Hall
21 CVS 15426
LDTX140

Exhibit#:
Hise 61
12/30/21

exhibitstickr.com



1415 W. Hwy 54, Suite 101
Durham, NC 27707
919-323-3380
southerncoalition.org

October 25, 2021

VIA EMAIL

To: Sen. Phil Berger
President Pro Tempore, North Carolina Senate
Rep. Tim Moore
Speaker, North Carolina House of Representatives
Sen. Daniel, Sen. Hise, and Sen. Newton
Co-Chairs, Senate Standing Committee on Redistricting and Elections
Rep. D. Hall, Chair
House Standing Committee on Redistricting
CC: Sen. Dan Blue, Senate Democratic Leader
Rep. Robert T. Reives, II, House Democratic Leader
Members, Senate Standing Committee on Redistricting and Elections
Members, House Standing Committee on Redistricting

Senators and Representatives,

It is disappointing that the State Senate map, “SST-4,” that has been drafted, and apparently will be offered to the committees, has completely ignored important racial considerations. As we raised in our October 8, 2021 letter, the rejection of all racial data in drafting these maps raises serious legal concerns that are illustrated by SST-4.

The selections from clusters that you offered on October 5, 2021 as legal options for county clustering appear to raise further concerns. There were two cluster options for the Senate district in northeastern North Carolina, both of which you asserted were legal clusters. This body appears to be poised to select the map within SST-4 that is obviously worse for Black voters, the “Z1” cluster “Duke_Senate 02.”

Even without considering racial data, it would have been painfully obvious to anyone with a passing familiarity with North Carolina’s political geography that excluding Warren, Halifax, and Martin from a cluster where the incumbent is the candidate of choice of Black voters – and herself Black – will be fatal to the ability of Black voters to continue electing their candidate of choice. We will provide you the data to confirm that.

The cluster that obviously does not interfere with the ability of Black voters to elect their candidate of choice is comprised of Warren, Halifax, Martin, Bertie, Northampton, Hertford, Gates, Camden, Currituck, and Tyrell. The Black Voting Age Population (“BVAP”) in that

About Us: The Southern Coalition for Social Justice partners with communities of color and economically disadvantaged communities in the South to defend and advance their political, social, and economic rights through the combination of legal advocacy, research, organizing, and communications.



district is 42.33%. It is a district where the Democratic candidate, in the last two presidential elections and last two gubernatorial elections, would have won. While there is racially polarized voting in these counties, collectively, using reconstituted election results, this one-district cluster would have elected the Black-preferred candidate in each of the statewide, racially contested elections we mentioned in our October 5 letter. That is, racially polarized voting is not legally significant in this cluster, and therefore, it is the obvious choice unless one wanted to undermine Black voting strength.

The cluster that the committee chair and presumably legislative leadership selected in SST-4 is comprised of Northampton, Hertford, Bertie, Gates, Perquimans, Pasquotank, Camden, Currituck, Tyrell, and Dare, and most certainly destroys the ability of Black voters to elect their candidate of choice. While Senate District 3 is not majority-Black in its current form, it is an effective crossover district that is electing the candidate of choice of Black Voters. The BVAP in District 1 (the analog to SD 3 in the current map) with the cluster you have chosen is only 29.49%. It is a district where the Republican candidate won in the last two presidential elections, the last two gubernatorial elections, and the 2020 state supreme court election. Not only is there racially polarized voting in the counties comprising this district, collectively, using reconstituted election results, this one-district cluster would not have elected the Black-preferred candidate in any of the statewide, racially contested elections we mentioned in our October 5 letter. That is, racially polarized voting is legally significant. The selection of this cluster, therefore, is inexplicable absent discriminatory intent.

This letter is being submitted as an addendum to our October 5 letter. To our understanding, none of the concerns raised in our October 5 letter have been addressed in any capacity. If the North Carolina General Assembly proceeds with the SST-4 proposed map, this body will ensure that two of the three representatives of choice of Black voters in northeastern North Carolina will not be re-elected, nor any candidate of choice of Black voters within those two districts. This extremely discriminatory result—especially in the face of the information being provided to this body—strongly suggests that such a result is intentional. Once again, we urge you to reconsider your actions and to enact a redistricting plan that is legal and fair to all voters of North Carolina.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Allison J. Riggs

Co-Executive Director for Programs and Chief Counsel for
Voting Rights

Hilary Harris Klein

Senior Counsel, Voting Rights

Mitchell Brown

Counsel, Voting Rights

Katelin Kaiser

Counsel, Voting Rights



From: Bob Phillips <bphillips@commoncause.org>
Subject: RPV Analysis for proposed SD9 and SD1 in member submitted map “SST-4”
Date: October 26, 2021 at 11:54:06 AM EDT
To: "Tim.Moore@ncleg.gov" <Tim.Moore@ncleg.gov>, "Grace.Irvin@ncleg.gov" <Grace.Irvin@ncleg.gov>, "Phil.Berger@ncleg.gov" <Phil.Berger@ncleg.gov>, "Robin.Braswell@ncleg.gov" <Robin.Braswell@ncleg.gov>, "Warren.Daniel@ncleg.gov" <Warren.Daniel@ncleg.gov>, "Andy.Perrigo@ncleg.gov" <Andy.Perrigo@ncleg.gov>, "Ralph.Hise@ncleg.gov" <Ralph.Hise@ncleg.gov>, "Susan.Fanning@ncleg.gov" <Susan.Fanning@ncleg.gov>, "Paul.Newton@ncleg.gov" <Paul.Newton@ncleg.gov>, "Andrew.Stiffel@ncleg.gov" <Andrew.Stiffel@ncleg.gov>, "Destin.Hall@ncleg.gov" <Destin.Hall@ncleg.gov>, "Lucy.Harrill@ncleg.gov" <Lucy.Harrill@ncleg.gov>, "Dan.Blue@ncleg.gov" <Dan.Blue@ncleg.gov>, "Bonnie.McNeil@ncleg.gov" <Bonnie.McNeil@ncleg.gov>, "Robert.Reives@ncleg.gov" <Robert.Reives@ncleg.gov>, "Veronica.Green@ncleg.gov" <Veronica.Green@ncleg.gov>, "Ben.Clark@ncleg.gov" <Ben.Clark@ncleg.gov>, "Michael.Johnson@ncleg.gov" <Michael.Johnson@ncleg.gov>, "Don.Davis@ncleg.gov" <Don.Davis@ncleg.gov>, "Edwin.Woodard@ncleg.gov" <Edwin.Woodard@ncleg.gov>, "Chuck.Edwards@ncleg.gov" <Chuck.Edwards@ncleg.gov>, "Heather.Millett@ncleg.gov" <Heather.Millett@ncleg.gov>, "Carl.Ford@ncleg.gov" <Carl.Ford@ncleg.gov>, "Angela.Ford@ncleg.gov" <Angela.Ford@ncleg.gov>, "Kathy.Harrington@ncleg.gov" <Kathy.Harrington@ncleg.gov>, "Lorie.Byrd@ncleg.gov" <Lorie.Byrd@ncleg.gov>, "Brent.Jackson@ncleg.gov" <Brent.Jackson@ncleg.gov>, "William.Kirkley@ncleg.gov" <William.Kirkley@ncleg.gov>, "Joyce.Krawiec@ncleg.gov" <Joyce.Krawiec@ncleg.gov>, "Debbie.Lown@ncleg.gov" <Debbie.Lown@ncleg.gov>, "Paul.Lowe@ncleg.gov" <Paul.Lowe@ncleg.gov>, "Corneisha.Mitchell@ncleg.gov" <Corneisha.Mitchell@ncleg.gov>, "Natasha.Marcus@ncleg.gov" <Natasha.Marcus@ncleg.gov>, "Jessica.Bolin@ncleg.gov" <Jessica.Bolin@ncleg.gov>, "Wiley.Nickel@ncleg.gov" <Wiley.Nickel@ncleg.gov>, "Michael.Cullen@ncleg.gov" <Michael.Cullen@ncleg.gov>, "Jim.Perry@ncleg.gov" <Jim.Perry@ncleg.gov>, "LeighAnn.Biddix@ncleg.gov" <LeighAnn.Biddix@ncleg.gov>, "Bill.Rabon@ncleg.gov" <Bill.Rabon@ncleg.gov>, "Paula.Fields@ncleg.gov" <Paula.Fields@ncleg.gov>, "William.Richardson@ncleg.gov" <William.Richardson@ncleg.gov>, "Leigh.Lawrence@ncleg.gov" <Leigh.Lawrence@ncleg.gov>, "Jason.Saine@ncleg.gov" <Jason.Saine@ncleg.gov>, "MaryStuart.Sloan@ncleg.gov" <MaryStuart.Sloan@ncleg.gov>, "John.Torbett@ncleg.gov" <John.Torbett@ncleg.gov>, "Viddia.Torbett@ncleg.gov" <Viddia.Torbett@ncleg.gov>, "Cecil.Brockman@ncleg.gov" <Cecil.Brockman@ncleg.gov>, "Matthew.Barley@ncleg.gov" <Matthew.Barley@ncleg.gov>, "Becky.Carney@ncleg.gov" <Becky.Carney@ncleg.gov>, "Beth.LeGrande@ncleg.gov" <Beth.LeGrande@ncleg.gov>, "Linda.Cooper-Suggs@ncleg.gov" <Linda.Cooper-Suggs@ncleg.gov>, "Caroline.Enloe@ncleg.gov" <Caroline.Enloe@ncleg.gov>, "Jimmy.Dixon@ncleg.gov" <Jimmy.Dixon@ncleg.gov>, "Michael.Wiggins@ncleg.gov" <Michael.Wiggins@ncleg.gov>, "Jon.Hardister@ncleg.gov" <Jon.Hardister@ncleg.gov>, "Jayne.Nelson@ncleg.gov" <Jayne.Nelson@ncleg.gov>, "Pricey.Harrison@ncleg.gov" <Pricey.Harrison@ncleg.gov>, "Mary.Lee@ncleg.gov" <Mary.Lee@ncleg.gov>, "Kelly.Hastings@ncleg.gov" <Kelly.Hastings@ncleg.gov>, "Sophia.Hastings@ncleg.gov" <Sophia.Hastings@ncleg.gov>, "Zack.Hawkins@ncleg.gov" <Zack.Hawkins@ncleg.gov>, "Anita.Wilder@ncleg.gov" <Anita.Wilder@ncleg.gov>, "Brenden.Jones@ncleg.gov" <Brenden.Jones@ncleg.gov>, "Jeff.Hauser@ncleg.gov" <Jeff.Hauser@ncleg.gov>, "Grey.Mills@ncleg.gov" <Grey.Mills@ncleg.gov>, "Mason.Barefoot@ncleg.gov" <Mason.Barefoot@ncleg.gov>, "David.Rogers@ncleg.gov" <David.Rogers@ncleg.gov>, "Misty.Rogers@ncleg.gov" <Misty.Rogers@ncleg.gov>, "John.Szoka@ncleg.gov" <John.Szoka@ncleg.gov>, "Beverly.Slagle@ncleg.gov" <Beverly.Slagle@ncleg.gov>, "Harry.Warren@ncleg.gov" <Harry.Warren@ncleg.gov>, "Cristy.Yates@ncleg.gov" <Cristy.Yates@ncleg.gov>, "Lee.Zachary@ncleg.gov" <Lee.Zachary@ncleg.gov>, "Martha.Jenkins@ncleg.gov" <Martha.Jenkins@ncleg.gov>

Subject: RPV Analysis for proposed SD9 and SD1 in member submitted map “SST-4”

Dear Senators and Representatives,

Attached are analyses of recent state-wide election results in the proposed SD9 and SD1 as drawn in the member submitted map “SST-4” that we believe are indicative of racially polarized voting in these jurisdictions. We strongly urge the House and Senate Redistricting Committees to consider this information, and to take care this redistricting cycle to ensure that House and Senate maps do not dilute the voting power of voters of color, particularly for voters in Northeast North Carolina.

NCLCV v. Hall

21 CVS 15426

LDTX141

Exhibit#:

Hise 62

12/30/21

exhibiticker.com

RPV in SD1 in SST4 Bertie-Camden-Currituck-Dare-Gates-Hertford-Northampton-Pasquotank-Perquimans-Tyrrell (Ernestine Bazemore)

Beasley vs. Newby - NC Supreme Court 2020GEN									
	Homogeneous Precinct Analysis		Bivariate Ecological Regression		King's Iterative EI		RxC EI		Percent Vote
	≥ 90% Black Precincts (0)	≥ 90% White Precincts (18)	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	
Beasley		34.58%	90.74%	27.00%	98.71%	21.02%	95.80%	23.69%	46.55%
Newby		65.42%	9.26%	73.00%	1.86%	78.94%	4.20%	76.31%	53.45%

Holmes vs. Dobson - NC Commissioner of Labor 2020GEN									
	Homogeneous Precinct Analysis		Bivariate Ecological Regression		King's Iterative EI		RxC EI		Percent Vote
	≥ 90% Black Precincts (0)	≥ 90% White Precincts (18)	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	
Holmes		33.59%	91.96%	26.15%	98.61%	20.31%	96.41%	22.50%	46.40%
Dobson		66.41%	8.04%	73.85%	0.98%	79.73%	3.59%	77.50%	53.60%

Blue vs. Folwell - NC Treasurer 2016GEN									
	Homogeneous Precinct Analysis		Bivariate Ecological Regression		King's Iterative EI		RxC EI		Percent Vote
	≥ 90% Black Precincts (1)	≥ 90% White Precincts (25)	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	
Blue	93.86%	34.11%	93.41%	26.70%	98.79%	24.05%	97.19%	25.73%	48.07%
Folwell	6.14%	65.89%	6.59%	73.31%	0.79%	75.90%	2.81%	74.27%	51.93%

Coleman vs. Forest vs. Cole - Lt. Governor 2016GEN									
	Homogeneous Precinct Analysis		Bivariate Ecological Regression		King's Iterative EI		RxC EI		Percent Vote
	≥ 90% Black Precincts (1)	≥ 90% White Precincts (25)	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	
Coleman	93.69%	33.83%	91.15%	25.49%	98.16%	22.79%	90.05%	27.98%	46.58%
Forest	5.74%	62.71%	8.85%	74.51%	1.16%	74.73%	9.13%	70.36%	50.98%
Cole	0.56%	3.47%			0.57%	3.42%	0.82%	1.66%	2.44%

– Ex. 10018 –

RPV in SD9 in SST-4 Greene-Wayne-Wilson (Milton "Toby" Fitch Jr.)

Beasley vs. Newby - NC Supreme Court 2020GEN									
	Homogeneous Precinct Analysis		Bivariate Regression		King's Iterative EI		RxC EI		Percent Vote
	≥ 90% Black Precincts (1)	≥ 90% White Precincts (0)	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	
Beasley	94.90%		99.31%	18.74%	98.69%	8.57%	97.28%	10.60%	48.28%
Newby	5.10%		0.69%	81.26%	1.13%	91.40%	2.72%	89.40%	51.72%

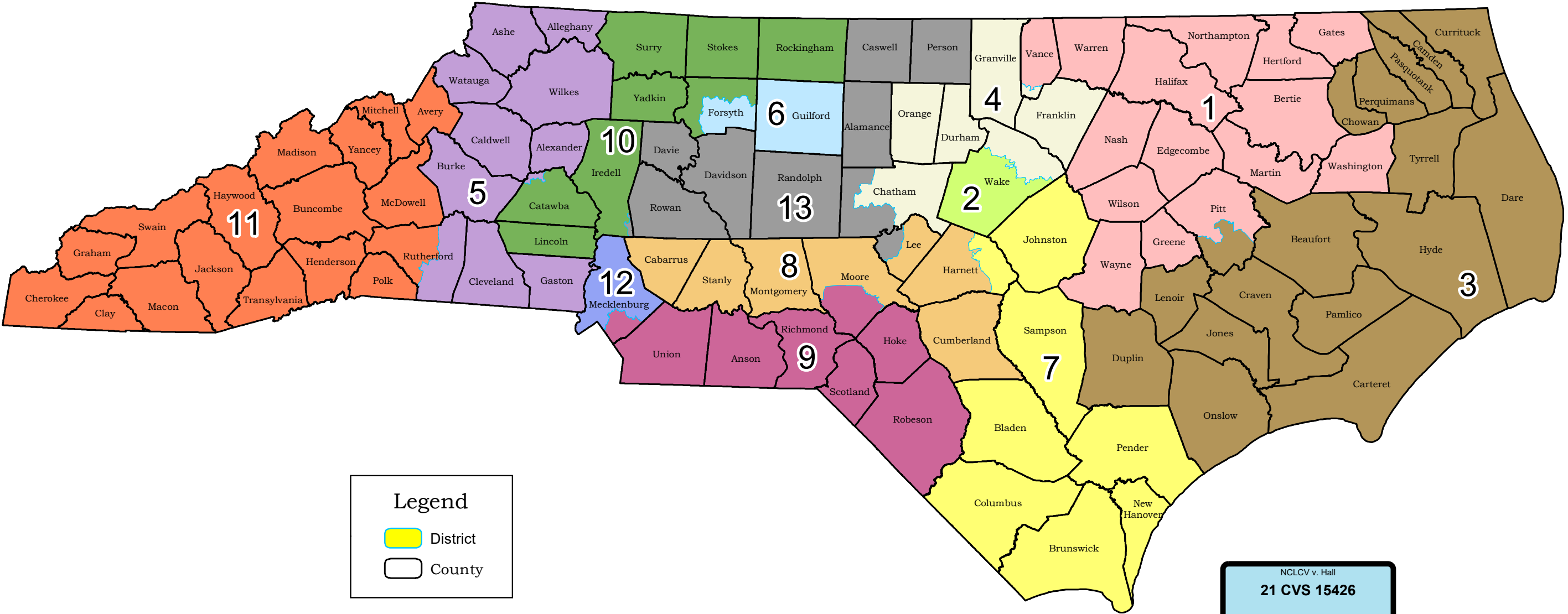
Holmes vs. Dobson - NC Commissioner of Labor 2020GEN									
	Homogeneous Precinct Analysis		Bivariate Regression		King's Iterative EI		RxC EI		Percent Vote
	≥ 90% Black Precincts (1)	≥ 90% White Precincts (0)	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	
Holmes	95.87%		100.00%	16.96%	99.11%	7.29%	97.89%	8.67%	47.68%
Dobson	4.13%		0.00%	83.04%	0.02%	92.70%	2.11%	91.33%	52.32%

Blue vs. Folwell - NC Treasurer 2016GEN									
	Homogeneous Precinct Analysis		Bivariate Regression		King's Iterative EI		RxC EI		Percent Vote
	≥ 90% Black Precincts (2)	≥ 90% White Precincts (1)	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	
Blue	96.55%	15.82%	100.00%	17.62%	99.02%	13.55%	97.40%	15.83%	48.71%
Folwell	3.45%	84.18%	0.00%	82.38%	0.84%	86.28%	2.60%	84.17%	51.29%


Coleman vs. Forest vs. Cole - Lt. Governor 2016GEN									
	Homogeneous Precinct Analysis		Bivariate Regression		King's Iterative EI		RxC EI		Percent Vote
	≥ 90% Black Precincts (2)	≥ 90% White Precincts (1)	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	Support from Black Voters	Support from White Voters	
Coleman	96.76%	13.79%	99.86%	14.28%	99.19%	9.91%	83.13%	22.97%	46.32%
Forest	2.19%	84.90%	0.14%	85.72%	0.90%	87.47%	16.19%	76.55%	51.96%
Cole	1.05%	1.31%			1.68%	1.80%	0.67%	0.48%	1.72%


EXHIBIT 64

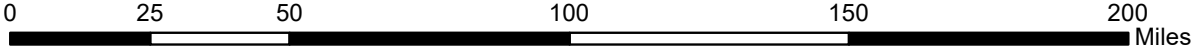
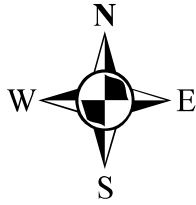
HB1029 3rd Edition



Legend

 District

 County



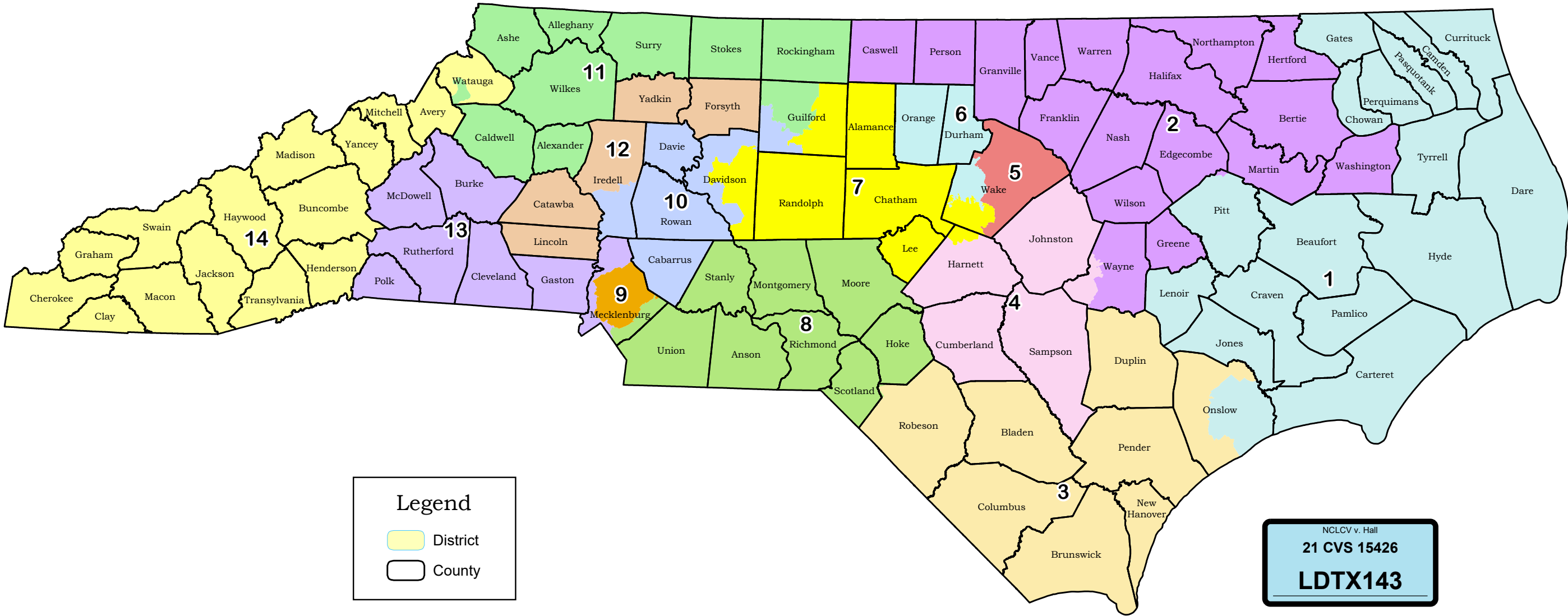
NCLCV v. Hall
21 CVS 15426
LDTX142

Exhibit#:
Hise 64
12/30/21



EXHIBIT 66

S.L. 2021-174 Congress



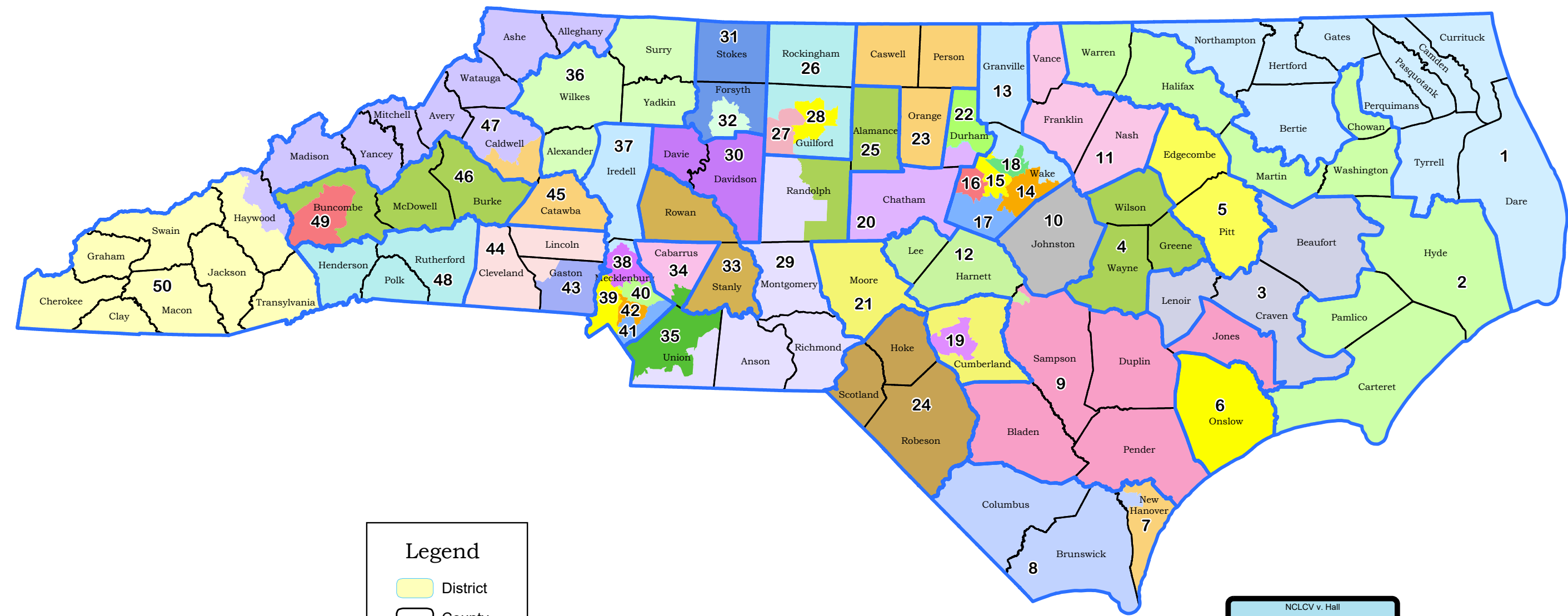
NCLCV v. Hall
21 CVS 15426
LDTX143

Exhibit#:
Hise 66
12/30/21



EXHIBIT 67

S.L. 2021-173 Senate

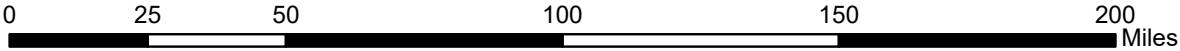
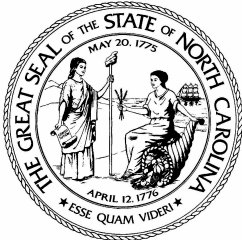


Legend

- District
- County
- Groupings

NCLCV v. Hall
21 CVS 15426
LDTX144

Exhibit#:
Hise 67
12/30/21



Source: SL 2021-173 Senate

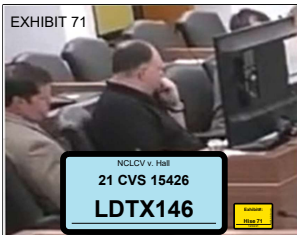
Printed by the NC General Assembly, November 4, 2021

– Ex. 10022 –

EXHIBIT 70



– Ex. 10023 –



– Ex. 10024 –

EXHIBIT 72



NCLCV v. Hall

21 CVS 15426

LDTX147

Exhibit:

Hise 72

10/10/21

– Ex. 10025 –

EXHIBIT 73



– Ex. 10026 –

EXHIBIT 74



NCLCV v. Hall

21 CVS 15426

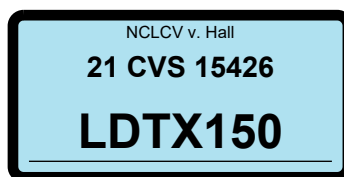
LDTX149

Exhibit:

Hise 74

An Evaluation of North Carolina's Congressional, State Senate, and State House District Maps

Daniel B. Magleby, Ph.D



Contents

1	Introduction	3
1.1	Data	3
2	Methods and Data	5
2.1	Computer-Drawn Maps	5
2.2	Measuring Gerrymanders	7
3	Findings: Partisan Bias	10
3.1	State House Districts	11
3.2	State Senate Districts	16
3.3	Congressional Districts	21
4	Conclusion	25
A	A Description of the Magleby-Mosesson Algorithm	26

1 Introduction

I am an Associate Professor in the Department of Political Science at Binghamton University, SUNY where I also hold a courtesy appointment in the Department of Economics. At Binghamton, I am also the director of the Center for the Analysis of Voting and Elections at Binghamton University. In 2007, I received an M.S. in Mathematical Methods in the Social Sciences from Northwestern University. I hold an M.A. in political science from the University of Michigan, Ann Arbor where I also received a Ph.D in political science in 2011. I have published academic papers on legislative districting and political geography in several political science journals, including *Political Analysis*, the *Election Law Journal*, *American Politics Research*, and *Social Science Quarterly*. My academic areas of expertise include legislative elections, geographic information systems (GIS) data, redistricting, voting rights, legislatures, and political geography. I have expertise in analyzing political geography, elections, and redistricting using computer simulations and other techniques. I have been retained by plaintiff Common Cause to perform the analysis described below at a rate of \$250 an hour. My compensation is not predicated on arriving at any particular opinion.

1.1 Data

My opinions follow from analysis of the following data:

- VTD boundaries provided as ESRI Shapefiles by the US Census Bureau available on at the following URL <https://www.census.gov/geographies/mapping-files/time-series/geo/tiger-line-file.html>
- Census block boundaries and population data provided by the US Census Bureau. These are collected as part of the constitutionally mandated decennial census that most recently concluded in 2020.
- County boundaries as reported by the US Census Bureau.

- County clusterings provided by Christopher Cooper, Blake Esselstyn, Gregory Herschlag, Jonathan Mattingly, and Rebecca Tippet in a report that may be accessed at the following URL. <https://sites.duke.edu/quantifyinggerrymandering/files/2021/08/countyClusters2020.pdf>
- Election returns as reported by the Voting and Election Science Team¹ group and aggregated to Census-provided VTD boundaries and provided on the Redistricting Data Hub² website. I aggregate statewide elections returns from 2016 and 2020 to the set of legislature drawn districts and to the districts in each of the hypothetical alternative maps. In my analysis, I set aside election returns from 2018 because the only statewide races held that year were judicial elections which follow very different patterns compared to elections for other offices.
- 1,000 alternative, hypothetical maps of North Carolina’s congressional, Senate, and House districts generated by a neutral, partisan-blind computer algorithm. The redistricting algorithm I use in my analysis was developed by me and a collaborator, Daniel Mosesson (consultant in private practice), in a paper that is forthcoming in *Political Analysis*. In our published work, we show that the algorithm produces a large number of unique maps of legislative districts without any indication of bias.
- Legislature-drawn boundaries of districts intended to elect representatives to Congress, the North Carolina Senate, and the North Carolina House of Representatives. These data are available on the North Carolina General Assembly website and may be accessed at the following URLs. <https://www.ncleg.gov/Redistricting>

¹<https://dataverse.harvard.edu/dataverse/electionscience>

²<https://redistrictingdatahub.org>

2 Methods and Data

In this section I inform my analysis of North Carolina’s map using computer-simulated redistricting methods. I discuss the data I use to analyze the maps, and describe the methods for measuring partisan bias in electoral maps. The purpose of these methods is to assess and describe potential biases that arise from the legislature-drawn electoral maps. In particular, I will describe how computer simulations may be used to evaluate alternative, hypothetical scenarios that are free of bias that human mapmakers may incorporate into a system of electoral districts. For the purposes of this report, I will define bias to mean a party receiving more representation than it should given underlying patterns of partisan support. Critically, I will not measure bias as an absolute deviation from proportionality, but rather as a deviation from patterns of representation we would expect if an electoral map were drawn in a neutral manner.

2.1 Computer-Drawn Maps

The purpose of my analysis is to determine if the legislature intended to discriminate against a particular group in North Carolina, or if the dilution of one group’s influence arises for other more benign reasons. For example, political scientists have observed that even in systems that award representation in an unbiased manner, political parties receive a representational “bonus” for votes they receive over the majoritarian threshold of 50%. That is, a 1% increase in votes produces an increase of more than 1% in representation. As a result, parties that receive a little more than a majority of the votes may receive much more than a majority of seats in a legislature (see Edgeworth 1898; Butler 1952, 1951; Niemi and Deegan 1978). Likewise, electoral advantages may arise out of the geographic distribution of voters. For example, one group of voters may be evenly distributed across a jurisdiction that must be divided into multiple districts. If the distribution is even enough, it may be that it is impossible for a neutral process to draw a single-member district in which that group consti-

tutes a majority. Alternatively, it may be that voters of one particular type are concentrated in an area or region. If that is the case, even a neutral process may collect those voters into a district in which they form a large majority leaving likeminded voters in neighboring districts in which they form a modest minority. My academic work focuses on developing tools to account for natural sources of bias through dilution and over-concentration of voters as a result of residential geography (Magleby and Mosesson 2018).

One way to evaluate a districting plan’s bias is to compare a set of districts to an alternative set that we know to be unbiased. If the enacted plan is similar to the unbiased alternative, we may conclude that the enacted plan is also unbiased. Alternatively, if the enacted plan differs significantly from the alternative we know to be unbiased, we may conclude that the enacted plan is biased.

For this report, I used a computer algorithm I developed as part of my academic research to generate a large set of fair, hypothetical alternatives against which we may compare the North Carolina’s legislature-drawn maps. The algorithm has been subject to peer review (see Magleby and Mosesson 2018) and has formed an important part of the analysis for several other peer reviewed articles (see e.g. Best et al. 2017; Krasno et al. 2018). The algorithm simulates a redistricting process constrained to draw districts that are contiguous and contain roughly equal population.³ For the purposes of this report, I have constrained the algorithm to prioritize maintaining VTDs, roughly voting precincts, in North Carolina whole. The algorithm builds districts using data provided by the US Census Bureau. Census data include information about the number of people who reside within a geographic units and the geographies to which blocks are adjacent. Critically, the algorithm is blind to partisanship and race, so it does not consider the political preferences or race of residents as it constructs various hypothetical districts.

I use the algorithm to generate large sets (between 20,000 and 100,000) of maps from which I take a random sample of 1,000 maps that meet the set of redistricting criteria

³For a more technical discussion of the algorithm please see Appendix A

announced by the North Carolina legislature in advance of the last round of redistricting there. Each iteration of the computer algorithm combines geographies in different ways, so the result is 1,000 maps that contain unique combinations of contiguous districts that meet the legislature’s announced criteria. This large set of maps constitutes a sample of the larger set of possible maps that mapmakers could have drawn. Each map represents a distinct, hypothetical example of a map of North Carolina’s congressional, Senate, or House districts that was produced by a neutral process.

The maps generated by the computer are examples of outcomes we would expect if mapmakers were not motivated by partisan goals. Since each map is slightly different, the set of maps represents a range of possible outcomes from a neutral redistricting process. If the partisan characteristics of the enacted plan of congressional, Senate, and House districts in North Carolina falls outside the normal range of neutral outcomes generated by the algorithm, we can conclude that the map represents a significant deviation from a fair outcome.

This approach to evaluating districting plans is common in academic settings. Advances in computers made it possible for scholars to implement methods for developing a neutral, unbiased counterfactual of a jurisdiction’s legislative districts (see Chen and Cottrell 2014; Chen and Rodden 2013; Tam Cho and Liu 2016; Cirincione, Darling and O’Rourke 2000; Engstrom and Wildgen 1977; Fifield et al. 2015; McCarty, Poole and Rosenthal 2009; O’Loughlin and Taylor 1982). Recently, courts have also relied upon maps generated by computer algorithms to determine the presence of dilution in enacted plans of legislative districts.

2.2 Measuring Gerrymanders

Measuring Partisanship in the Simulated Districts

To assess the partisanship of the maps produced by the computer algorithm, I use election returns from the 2016 and 2020 general election in North Carolina aggregated to the VTD-level. For each hypothetical map, I determine which simulated district a precinct would fall

into, and assign the votes cast in that precinct to that district. If a precinct falls in more than one simulated district, I assign the the votes in that precinct to a simulated district according to the proportion of the precinct’s population that falls inside that district.

I use statewide races (as opposed to congressional races) because scholars have shown those data to be reliable predictors of future behavior (Meier 1975). Moreover, a focus on statewide races serves to avoid problems of endogeneity that could be a problem with data from congressional elections. That is, differences in partisan performance in congressional elections can arise for many reasons besides the location of district boundaries. For example, incumbency, quality of challengers, campaign contributions, and campaign organization have all been shown to influence election outcomes, and those can vary widely across districts. By contrast, all those factors are held constant in statewide elections.

Statewide races have an additional advantage: the candidates on the ballot in statewide races appear in every precinct across the state. For this reason, returns from statewide contests are imperative when analyzing the computer generated, hypothetical maps. The computer frequently assigns precincts that fall in different districts in North Carolina’s legislature-drawn map to the same district in a hypothetical map. In such a scenario, voters considered different candidates for Congress, and comparing a vote for Democratic candidate for Congress in one district to a Democrat running for Congress in another district requires that we assume away possible differences between contests and candidates. On the other hand, these factors are held constant when if we consider statewide contests.

For robustness, I use returns from multiple statewide contests. For each district in the legislature-drawn map and algorithm drawn maps I calculate a composite partisan score based the election results from the 2016 and 2020 election cycles. In those elections North Carolina held statewide contests for President, US Senate, Governor, Lieutenant Governor, Attorney General, Treasurer, Secretary of State, Auditor, Agriculture Commissioner, Insurance Commissioner, Labor Commissioner, and Superintendent of Public Instruction. To calculate the composite score, I take the sum the votes cast for Republican candidates

for statewide office in 2016. I likewise sum the votes cast for Democratic candidates for statewide office. Then I determine the proportion of votes cast for the Democratic candidates by dividing the total votes cast for the Democratic candidates by the sum of the total votes cast for Republicans and total votes cast for Democrats. The result, the Democratic proportion of total votes cast in that district, is a composite measure of underlying support of for Democrats for voters living that district.

Using precinct-level returns for statewide races, I can determine the partisanship of the hypothetical districts drawn by the computer algorithm. The vast majority of VTDs are wholly contained within one district; however, I allow the computer algorithm to “break” VTDs into census blocks. It is therefore possible for the districts drawn by the algorithm to split existing VTDs. When that happens, I presume that the votes are distributed across blocks according to the proportion of a VTD’s voting age population (VAP) that resides within a block. For example, suppose a precinct has a VAP of 100, and that voters cast 20 votes for a Republican candidate and 30 votes for a Democratic candidate. If a block within that precinct has a VAP of 10 people, I calculate that 2 votes for the Republican and 3 votes for the Democrat came from that block.

Districts Carried

I use the composite partisanship to calculate the number of districts carried in each map. I presume that districts in which the Democratic proportion of the composite votes exceeds 0.5 is a district that is more likely to elect a Democrat than a Republican. Conversely, if the Democratic proportion of the composite vote falls below 0.5, I presume that Republicans carried the district. For example, suppose Democrats received proportions of the composite vote equaling 0.47, 0.58, and 0.52 in a three-district jurisdiction. In such a scenario, I say that Democrats “carried” the second and third district and failed to carry the first. In this analysis I consider three jurisdictions, a 14-district congressional map, a 50-district Senate map, and a 120-district House map.

Median-Mean Difference

I also use the proportion of the composite partisan vote to calculate the median-mean difference metric. Consider the same example districts in which Democrats received proportions of the voted equaling 0.47, 0.58, and 0.52. To find the mean, we divide the sum of the Democratic proportions by the number of districts. In this case, $(0.47+0.58+0.52)/3 = 1.57/3 = 0.52$. To find the median we sort the Democratic proportions so that they are ordered from smallest to largest. The median is the proportion for which number of proportions that are larger is equal to the number of proportions that are smaller. In this example, we would order 0.47, 0.52, 0.58. Here, the median is 0.52 because there is one proportion that is larger and one that is smaller. Of course, in my analysis in this report, I take the number of districts in the map as the denominator in each map I analyze.

3 Findings: Partisan Bias

In this section, I describe the results of 1000 simulations of the redistricting process for North Carolina’s congressional districts, Senate districts, and House districts. I show that the legislature drawn map of electoral districts for Congress, the Senate, and the House show significant bias against Democratic voters and that bias goes beyond anything we would expect based on the patterns of electoral geography in North Carolina. I begin by discussing the results of my simulations of the House map and comparing those results to the characteristics of the map drawn by the legislature. Next, I present the results of computer simulated redistricting for the North Carolina Senate electoral map and show that the legislature-drawn map exhibits more bias than we would expect based on chance alone. Finally, I repeat the analysis focused on the electoral map used to elected North Carolina’s congressional delegation. I show that, as with the other maps, the legislature-drawn map shows bias above and beyond what we would expect had the legislature used a neutral process, free from an intent to produce a partisan bias, to determine district boundaries.

3.1 State House Districts

To draw a set neutral and partisan-blind maps of North Carolina’s House districts, I take the following steps.

1. Build a map consisting of VTDs that are appropriate to the electoral map.
2. Divide that map into House-specific clusters as described by Cooper et. al.
3. Determine which VTDs are adjacent to each other in the cluster by cluster maps.
4. Run simulations for up to 40,000 maps per cluster.
5. For each cluster, I aggregate the characteristics of each VTD to the district to which it is assigned in each hypothetical map.
6. Aggregate the characteristics of each hypothetical map to ascertain its demographic and partisan characteristics. At this point, I subset the resulting maps to remove any maps in which the population of each district does not fall within 1.5% of constitutional requirements that districts contain equal population.⁴ For the purposes of exposition, I randomly sample remaining maps and focus my analysis on 1000 of those randomly sampled.
7. Finally, I combine the data from each of the clusters and describe the partisan characteristics of the full set of maps.

The result of this process is a set of maps that approximate the legislatures announced districting criteria. Each systemwide map is a unique combination of North Carolina’s geography. At no point in developing the sample of 1000 maps upon which I base my analysis do I consider any factors besides population and the geographic characteristics of

⁴Because of the compressed time available, a few counties posed coding problems because the average population deviation within clusters abutted the constitutional limit. Thus I allowed the algorithm slightly more flexibility. The algorithm draws maps randomly, there is no reason to believe this slight deviation from exact population parity should create an advantage for either Democrats or Republicans.

units of geography upon which the maps are based. Thus, taken together, the maps represent the distribution of outcomes we might expect from a neutral redistricting process.

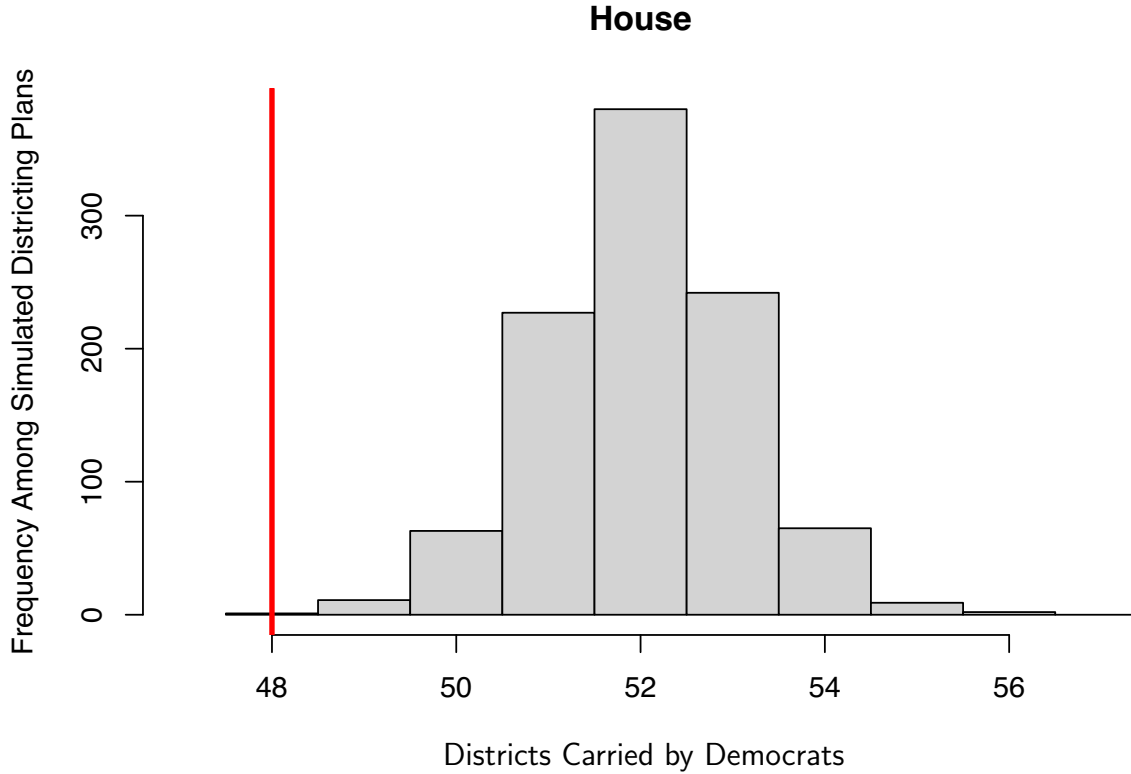


Figure 1: Distribution of outcomes from 1000 simulations of the redistricting process used to draw North Carolina’s House districts. The x-axis represents the number of districts carried (out of 120) by Democrats using the partisan composite score. The vertical red line corresponds to the number of districts carried by Democrats in the legislature-drawn map. Democrats carried in 48/120 districts in the legislature-drawn map. Democrats carried just one of the 1000 sampled algorithm-drawn maps ($p = 0.001$).

Figure 1 summarizes the partisan characteristics of the set of algorithm-drawn maps and compares the distribution of those characteristics to the characteristics of the Legislature-drawn map of House districts. Here, I summarize the number of districts carried by Democrats. Recall that I say a Democrats carry a district if Democrats received more votes in that district in statewide contests during the 2016 and 2020 elections. Along the x -axis, numbers correspond to the number of districts favoring Democrats in a particular map. The y -axis describes the frequency with which I observe maps that exhibit a particular set of partisan characteristics. Thus, the relative height of the bars corresponds to the relative frequency with which I observe maps with particular characteristics in the set of Algorithm-drawn maps I analyzed.

In the sample of maps represented here, Democrats carried as few as 48 (out of 120) and as many as 56. In the sample, the most common outcome was one in which Democrats carried in 52/120 districts. By contrast, Democrats carried just 48 of the legislature-drawn districts. The algorithm drew just one map in which Democrats carried so few districts. Thus, based on this sample of maps, I may say that there is about a 1 in 1000 chance of drawing a map in which Democrats carried as few or fewer districts. In short, it is highly unlikely that the legislature-drawn map was developed through a process that treated partisanship of voters neutrally.

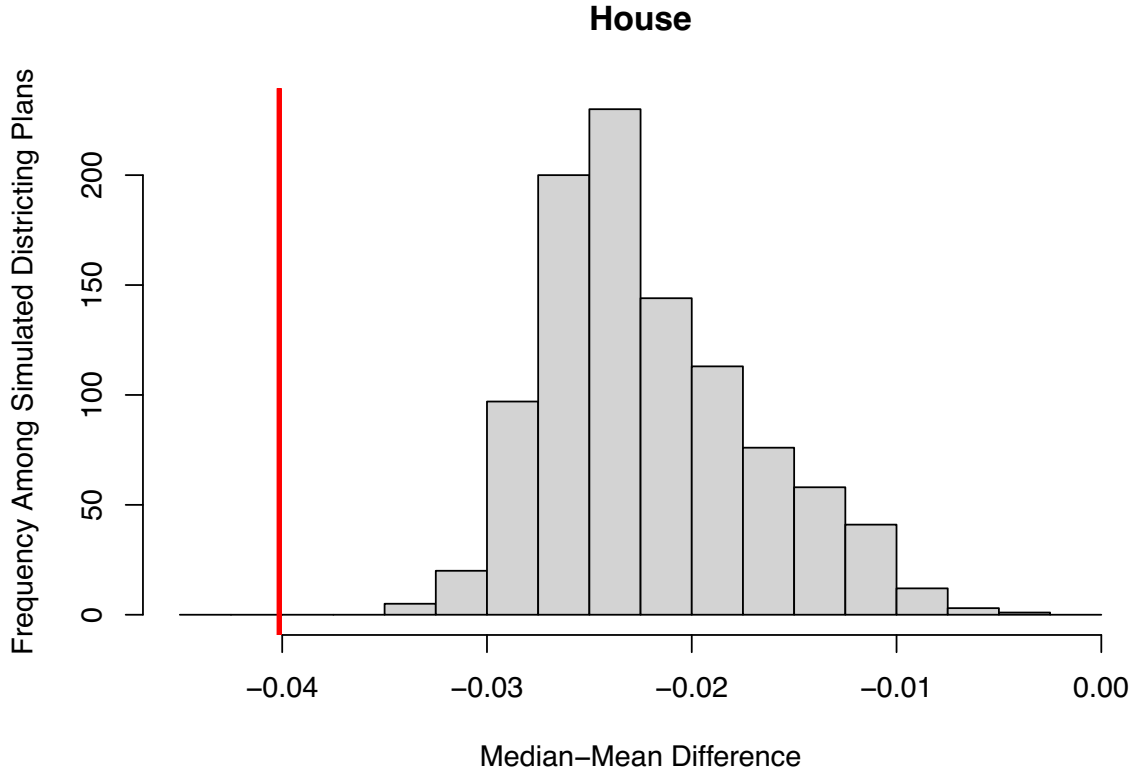


Figure 2: Distribution of outcomes from 1000 simulations of the redistricting process used to draw North Carolina’s House districts. The x-axis represents the difference in the median Democratic vote share and the mean Democratic vote share calculated using the partisan composite score. The vertical red line corresponds to the difference in the median Democratic vote share and mean of Democratic vote share in the legislature-drawn map. The legislature drawn map has a median-mean difference of -0.04 . None of the algorithm-drawn maps had a median-mean difference that extreme ($p = 0.0$).

The degree to which Democrats are disadvantaged by the legislature drawn map is even more stark when I consider the median-mean difference. Figure 4 summarizes the partisan characteristics of the set of algorithm-drawn maps and compares the distribution of those characteristics to the characteristics of the Legislature-drawn map. Here, I summarize the median-mean difference in the algorithm-drawn map and the legislature-drawn map. Recall that the median-mean difference is found by taking the map-level median and the map-level mean of Democratic share of the two-party vote. If the difference takes a negative number, the map is biased against Democrats. If the difference takes a positive value, the map is biased in favor of Democrats. If the difference equals 0, then the map is neither biased in

favor nor biased against Democrats. Along the x -axis, numbers correspond to the number of districts carried by Democrats in a particular map. Maps are sorted into bins depending on whether the median-mean difference exhibited in the map falls into the interval the bar covers on the x -axis. The y -axis describes the frequency with which I observe maps that exhibit a particular set of partisan characteristics. Thus, the relative size of the bars corresponds to the relative frequency with which I observe maps with particular characteristics in the set of algorithm-drawn maps I analyzed.

In the sample of maps represented in my analysis, the most common median-mean difference in Democratic vote share fell between -0.0225 and -0.025 . The lowest median-mean difference in the sample of maps I analyze here was -0.034 , and the highest median-mean difference was -0.005 . By contrast, the legislature-drawn map has a median-mean difference of -0.04 . No map in the sample of algorithm drawn maps showed a degree of bias as extreme as the bias I observe in the legislature-drawn map. The data indicate that there is less than a 1 in 1000 chance that we would observe a map as extreme as the map drawn by the legislature if the legislature was following a neutral, party-blind process.

3.2 State Senate Districts

To draw a set neutral and partisan-blind maps of North Carolina’s House districts, I take follow the same steps I took to develop maps for the House.

1. Build a map consisting of VTDs that are appropriate to the electoral map.
2. Divide that map into Senate-specific clusters as described by Cooper et. al.
3. Determine which VTDs are adjacent to each other in the cluster by cluster maps
4. Run simulations for up to 40,000 maps per cluster
5. For each cluster, I aggregate the characteristics of each VTD to the district to which it is assigned in each hypothetical map.

6. Aggregate the characteristics of each hypothetical map to ascertain its demographic and partisan characteristics. At this point, I subset the resulting maps to remove any maps in which the population of each district does not fall within 1.5% of constitutional requirements that districts contain equal population.⁵ For the purposes of exposition, I randomly sample remaining maps and focus my analysis on the 1000 randomly sampled maps.
7. Finally, I combine the data from each of the clusters and describe the partisan characteristics of the full set of maps.

The result of this process is a set of maps that approximate the legislatures announced districting criteria. Each systemwide map is a unique combination of North Carolinas geography. At no point in developing the sample of 1000 maps upon which I base my analysis do I consider any factors besides population and the geographic characteristics of units of geography upon which the maps are based. Thus, taken together, the maps represent the distribution of outcomes we might expect from a neutral redistricting process.

⁵As described in an earlier footnote, we allow the algorithm more leeway to account for highly constrained average population deviations in some clusters.

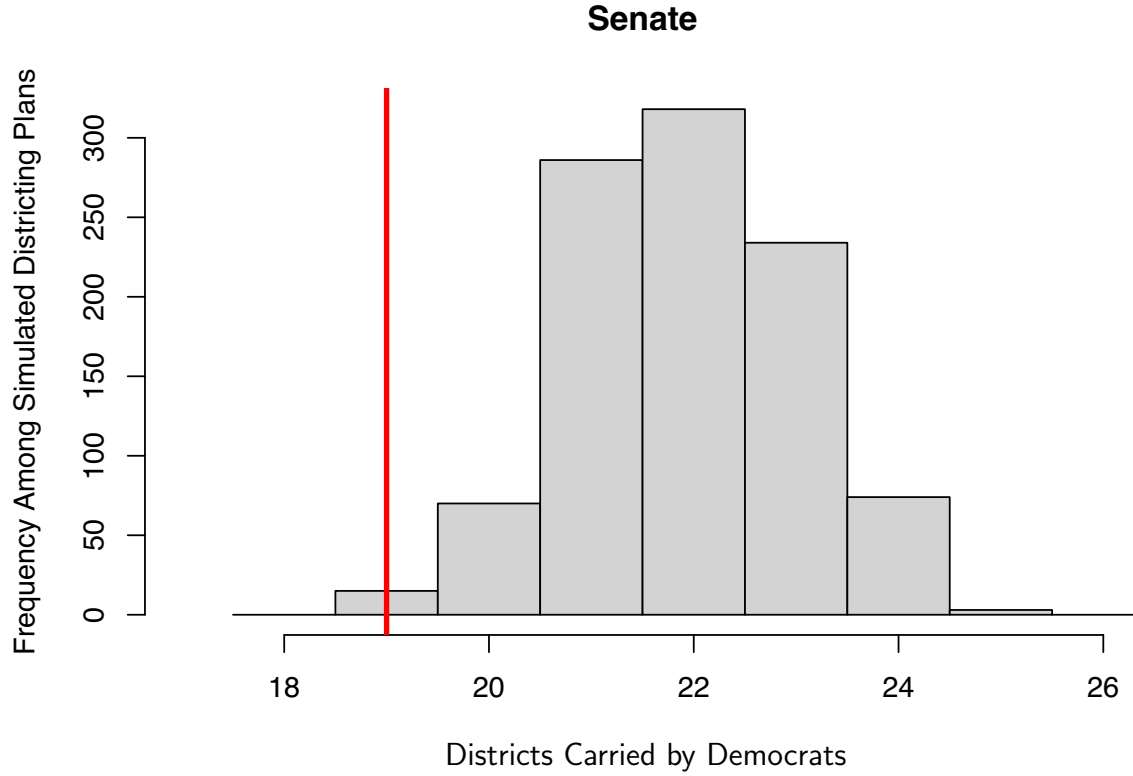


Figure 3: Distribution of outcomes from 1000 simulations of the redistricting process used to draw North Carolina’s Senate districts. The x-axis represents the number of districts carried (out of 50) by Democrats using the partisan composite score. The vertical red line corresponds to the number of districts carried by Democrats in the legislature-drawn map. Democrats carried 19/50 districts in the legislature-drawn map. Just 15 out of 1000 of the algorithm-drawn maps had so few districts carried by Democrats ($p = 0.015$).

Figure 3 summarizes the partisan characteristics of the set of algorithm-drawn maps and compares the distribution of those characteristics to the characteristics of the Legislature-drawn map of Senate districts. Here, I summarize the number of districts carried by Democrats. Recall that I say Democrats carry a district if Democrats received more votes in that district in statewide contests during the 2016 and 2020 elections. Along the x -axis, numbers correspond to the number of districts carried by Democrats in a particular map. The y -axis describes the frequency with which I observe maps that exhibit a particular set of partisan characteristics. Thus, the relative size of the bars corresponds to the relative frequency with which I observe maps with particular characteristics in the set of algorithm-drawn maps I analyzed.

In the sample of maps represented here, Democrats carried as few as 19 (out of 50) and as many as 25. In the sample, the most common outcome was one in which Democrats carried 22/50 districts. By contrast, Democrats carried just 18 of the legislature-drawn districts. The algorithm drew 15 maps in which Democrats carried so few districts. Thus, based on this sample of maps, I may say that there is about a 1.5 in 100 chance of drawing a map in which Democrats carried as few or fewer districts. In short, it is highly improbable that the legislature-drawn map was developed through a process that treated partisanship of voters neutrally.

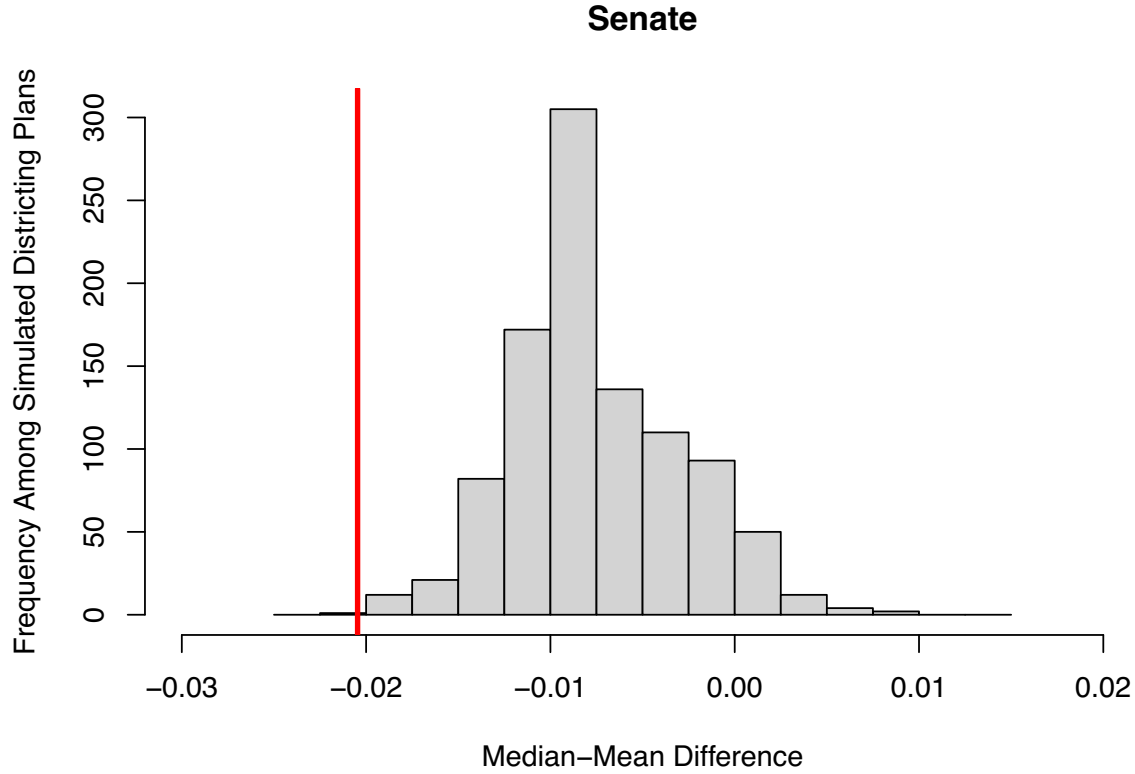


Figure 4: Distribution of outcomes from 1000 simulations of the redistricting process used to draw North Carolina’s Senate districts. The x-axis represents the difference in the median Democratic vote share and the mean Democratic vote share calculated using the partisan composite score. The vertical red line corresponds to the difference in the median Democratic vote share and mean of Democratic vote share in the legislature-drawn map. The legislature drawn map has a median-mean difference of -0.0204 . None of the algorithm-drawn maps had a median-mean difference that extreme ($p = 0.0$).

The degree to which Democrats are disadvantaged by the legislature drawn map is even more stark when I consider the median-mean difference. Figure 4 summarizes the partisan characteristics of set of algorithm-drawn maps of Senate districts and compares the distribution of those characteristics to the characteristics of the Legislature-drawn map in terms of median-mean difference. Recall that the median-mean difference is found by taking the map-level median and the map-level mean of Democratic share of the two-party vote. If the difference takes a negative number, the map is biased against Democrats. If the difference takes a positive value, the map is biased in favor of Democrats. If the difference equals 0, then the map is neither biased in favor nor biased against Democrats. Along the x -axis, numbers correspond to the number of districts carried by Democrats in a particular map. Maps are sorted into bins depending on whether the median-mean difference exhibited in the map falls into the interval the bar covers on the x -axis. The y -axis describes the frequency with which I observe maps that exhibit a particular set of partisan characteristics. Thus, the relative size of the bars corresponds to the relative frequency with which I observe maps with particular characteristics in the set of algorithm-drawn maps I analyzed.

In the sample of maps represented in my analysis, the most common median-mean difference in Democratic vote share fell between -0.0075 and -0.01 . The lowest median-mean difference in the sample of maps I analyze here was -0.0201 , and the highest median-mean difference was -0.005 . By contrast, the legislature-drawn map has a median-mean difference of -0.009 . No map in the sample of algorithm-drawn maps showed a degree of bias as extreme as the bias I observe in the legislature-drawn map. The data indicate that there is less than a 1 in 1000 chance that the legislature would arrive a map as biased as their map of Senate districts if they followed a neutral, party-blind process.

3.3 Congressional Districts

To draw a set neutral and partisan-blind maps of North Carolina’s House districts, I follow the same steps I took to develop maps for the House.

1. Build a map consisting of VTDs that are appropriate to the electoral map. In the case of the congressional map, I maintained whole all counties that the legislature did not break in their map.
2. Divide that map into Senate-specific clusters as described by Cooper et. al.
3. Determine which VTDs are adjacent to each other in the cluster by cluster maps.
4. Run simulations for 100,000 maps.
5. For each cluster, I aggregate the characteristics of each VTD to the district to which it is assigned in each hypothetical map.
6. Aggregate the characteristics of each hypothetical map to ascertain its demographic and partisan characteristics. At this point, I subset the resulting maps to remove any maps in which the population of each district does not fall within 0.01 of constitutional requirements that districts contain equal population. For the purposes of exposition, I randomly sample remaining maps and focus my analysis on 1000.
7. Finally, I combine the data from each of the clusters and describe the partisan characteristics of the full set of maps.

The result of this process is a set of maps that approximate the legislature’s announced districting criteria. Each systemwide map is a unique combination of North Carolinas geography. At no point in developing the sample of 1000 maps upon which I base my analysis do I consider any factors besides population and the geographic characteristics of units of geography upon which the maps are based. Thus, taken together, the maps represent the distribution of outcomes we might expect from a neutral redistricting process.

Figure 5 presents a histogram summarizing findings from 1000 simulations of the redistricting process in North Carolina. The x-axis corresponds the possible number of districts that Democrats could carry by the composite partisan vote. The y-axis corresponds to the

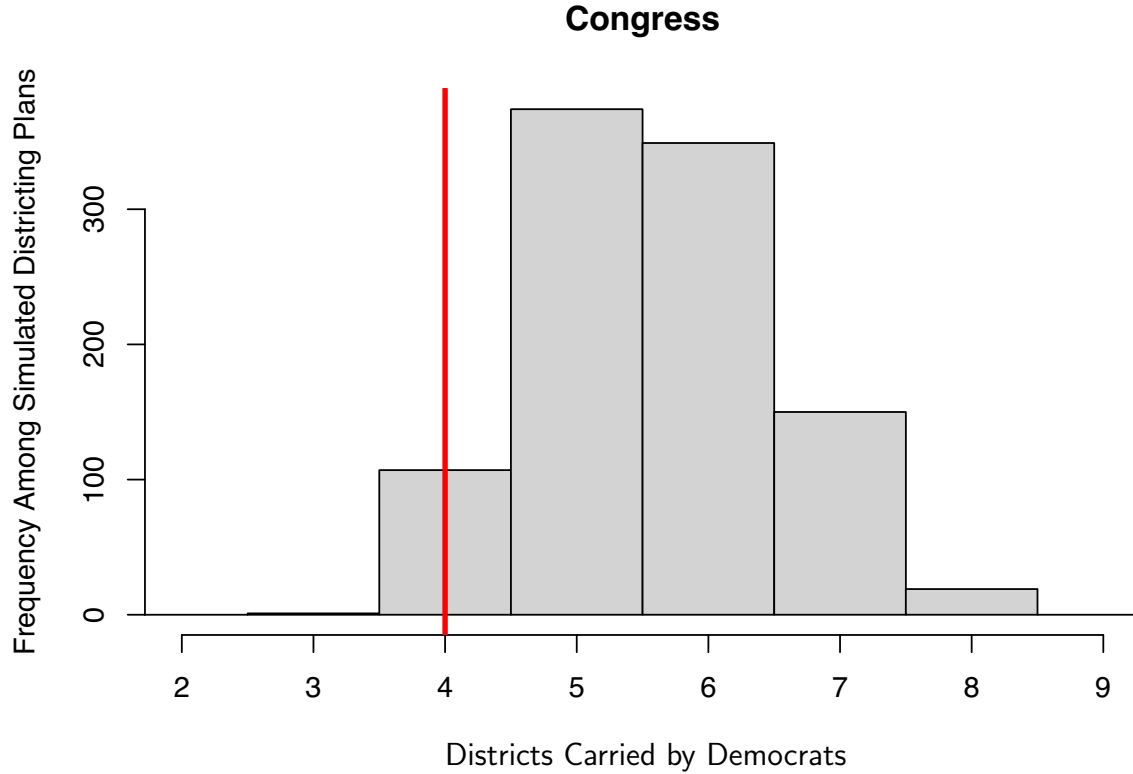


Figure 5: Distribution of outcomes from 1000 simulations of the redistricting process used to draw North Carolina’s congressional districts. The x-axis represents the number of districts carried (out of 14) by Democrats using the partisan composite score. The vertical red line corresponds to the number of districts carried by Democrats in the legislature-drawn map.

frequency with which maps with a particular count of districts carried appear in the set of simulated maps. Higher bars correspond to outcomes that occurred more often in the set of simulated maps. The simulations produced maps with as few as 3 and as many as 8 districts that would favor a Democratic candidate. The most common outcome, occurring in 374/1000 simulations, in the simulation was Democrats carrying 5/14 districts based on the composite partisan score. Democrats carried 6/14 districts in nearly as many districts (349/1000 simulations). Democrats carried 7/10 and 8/10 districts in 150/1000 and 19/1000 maps respectively. In the enacted map, we would expect Democrats to carry 4 districts by the composite partisan index. In 108/1000, Democrats carried 4 or fewer districts. Thus the legislature drawn map shares characteristics with roughly 1/10 of the maps drawn by the algorithm.

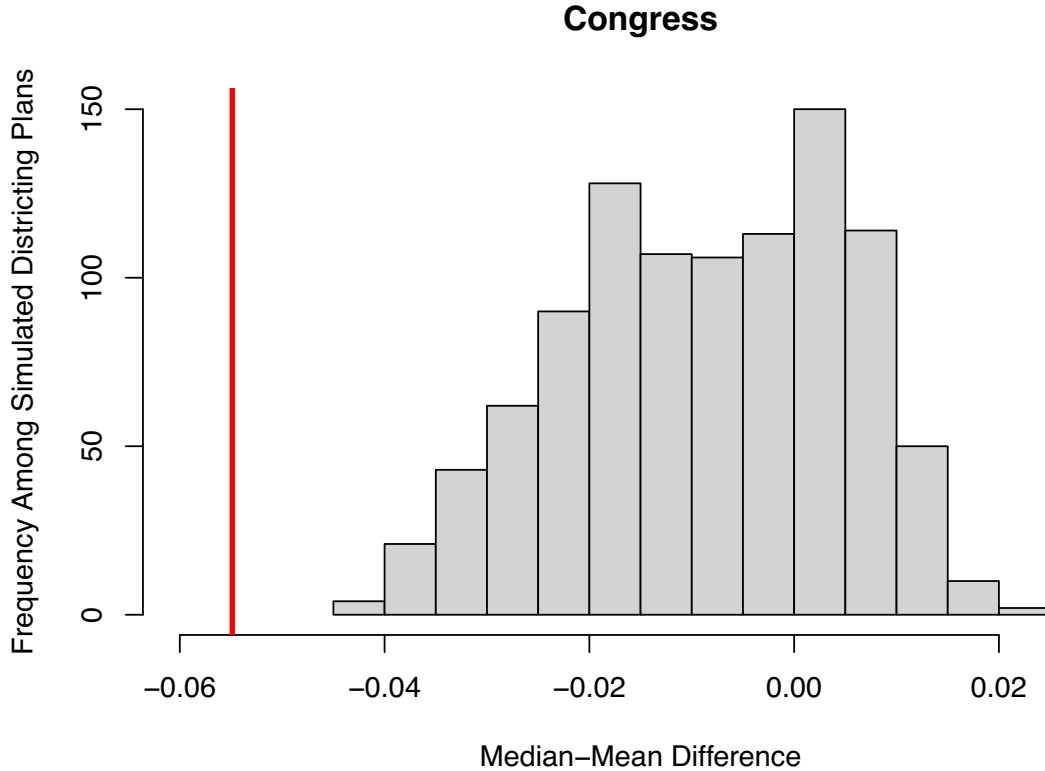


Figure 6: Distribution of outcomes from 1000 simulations of the redistricting process used to draw North Carolina’s congressional districts. The x-axis represents the difference in the median Democratic vote share and the mean Democratic vote share calculated using the partisan composite score. The vertical red line corresponds to the difference in the median Democratic vote share and mean of Democratic vote share in the legislature-drawn map.

Figure 6 presents a histogram that summarizes the difference in median composite partisan vote share and mean composite partisan vote share for 1000 simulated maps of North Carolina’s Congressional districts. Here the x-axis corresponds to possible values that the median-mean difference may take. The y-axis corresponds to frequency with which particular values appear in the algorithm-drawn map. As before, the vertical red line corresponds to the median-mean difference in the legislature-drawn map.

In the simulated maps, the median-mean difference ranged from -0.042 to 0.025 . the distribution is bimodal with two peaks at just greater than -0.02 and another peak at a little above 0.0 . The fact that simulations regularly show median-mean differences of greater than 0.0 which corresponds to no votes being weighted roughly equally in the system of districts.

In fact, 326/1000, just shy of a third of the simulations, corresponds to maps that were not skewed against Democrats. The legislature drawn map showed a median-mean score of -0.055 . Not a single algorithm-drawn map was more extreme than the map drawn by the legislature. By contrast, the minimum median-mean difference observed in the simulated maps was just -0.041 .

4 Conclusion

Each legislature-drawn map represents a significant deviation from unbiased alternatives produced by the computer algorithm I describe here. Based on the simulations, there is less than a 1 in 1000 chance that a neutral process produced the House map. There is less than a 2 in 100 chance that a neutral process led to the Senate map. The odds of arriving at a congressional map as biased as the legislature-drawn map are similarly long.

As independent events, the emergence of these three maps would be cause for concern that partisan biased actions were taken in the construction. Taken together, concern compounds. The computer simulations that I described in this report suggest that the legislature drew three maps that represent gerrymanders in favor of Republicans.

A A Description of the Magleby-Mosesson Algorithm

The process we use to develop a large set of neutral counterfactuals draws maps in a four-step process. For a more technical representation along with evaluations of the authors’ claims of neutrality (see Magleby and Mosesson 2018).

Step 1: Convert map into a graph

We reduce the map to a connected graph where each geographic unit, a VTD in this setting, is a vertex of the graph. Two vertices are connected by edges if the units of geography share more than a single point of their boundary (thus, the resulting districts will be “rook” contiguous).

Step 2: Divide the graph randomly

The algorithm randomly collects connected vertices into groups and joins them into a new vertex that aggregates the demography of each of its constituent vertices and preserves the connectedness with any vertex with which a constituent vertex was adjacent. It continues to randomly join groups of vertices until the number of groups is equal to the number of districts in the state.

Step 3: Refine the divided graph

In order to achieve balance (population parity between districts), Magleby and Mosesson use an algorithm proposed by Kernigan and Lin to switch constituent vertices between groups of vertices. If it is not possible to achieve balance with a moderate number of switches, then we discard the map and start over. If balance is possible after a fixed number of switches, then we record the map for future analysis.

Step 4: Repeat

Repeat steps 1, 2, and 3 until we find a large sample maps that contain roughly equal district populations.

References

- Best, Robin E, Shawn J Donahue, Jonathan Krasno, Daniel B Magleby and Michael D McDonald. 2017. “Considering the Prospects for Establishing a Packing Gerrymandering Standard.” *Election Law Journal: Rules, Politics, and Policy* .
- Butler, David E. 1951. Appendix. In *The British General Election of 1950*, ed. H.G. Nicholas. London, UK: Oxford University Press pp. 306–333.
- Butler, David E. 1952. *The British General Election of 1951*. London, UK: Oxford University Press.
- Chen, Jowei and David Cottrell. 2014. “Evaluating Partisan Gains from Congressional Gerrymandering: Using Computer Simulations to Estimate the Effect of Gerrymandering in the US House.”.
- Chen, Jowei and Jonathan Rodden. 2013. “Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures.” *Quarterly Journal of Political Science* 8(3):239–269.
- Cirincione, Carmen, Thomas A. Darling and Timothy G. O’Rourke. 2000. “Assessing South Carolina’s 1990s congressional districting.” *Political Geography* 19(2):189–211.
- Edgeworth, F. Y. 1898. “Miscellaneous Applications of the Calculus of Probabilities.” *Journal of the Royal Statistical Society* 61(3):534–544.
- Engstrom, Richard L. and John K. Wildgen. 1977. “Pruning Thorns from the Thicket: An Empirical Test of the Existence of Racial Gerrymandering.” *Legislative Studies Quarterly* 2(4):465–479.
- Fifield, Benjamin, Michael Higgins, Kosuke Imai and Alexander Tarr. 2015. “A New Automated Redistricting Simulator Using Markov Chain Monte Carlo.”.

- Krasno, Jonathan, Daniel B. Magleby, Michael D. McDonald, Shawn Donahue and Robin E. Best. 2018. “Can Gerrymanders Be Detected? An Examination of Wisconsin’s State Assembly.” *American Politics Research* 0(0).
- Magleby, Daniel B. and Daniel B. Mosesson. 2018. “A New Approach for Developing Neutral Redistricting Plans.” *Political Analysis* 26(2):147–167.
- McCarty, Nolan, Keith T. Poole and Howard Rosenthal. 2009. “Does gerrymandering cause polarization?” *American Journal of Political Science* 53(3):666–680.
- Niemi, Richard G and John Deegan. 1978. “A theory of political districting.” *American Political Science Review* 72(4):1304–1323.
- O’Loughlin, John and Anne-Marie Taylor. 1982. “Choices in redistricting and electoral outcomes: the case of Mobile, Alabama.” *Political Geography Quarterly* 1(4):317–339.
- Tam Cho, Wendy K and Yan Y Liu. 2016. “Toward a talismanic redistricting tool: A computational method for identifying extreme redistricting plans.” *Election Law Journal* 15(4):351–366.

I declare under penalty of perjury under the laws of NC that the foregoing is true and correct

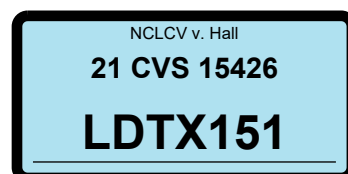
Daniel B. Magleby

Daniel B. Magleby, Ph.D.

Date: 12/29/21

A Rebuttal to Michael J. Barber, Ph.D.'s Expert Report

Daniel B. Magleby, Ph.D.



Contents

1	Introduction	3
2	Research Question and Summary of Findings	3
2.1	Data	4
3	Mechanics of Gerrymandering	5
4	County-Based Clusters	8
5	Conclusion	12

1 Introduction

I am an Associate Professor in the Department of Political Science at Binghamton University, SUNY where I also hold a courtesy appointment in the Department of Economics. At Binghamton, I am also the director of the Center for the Analysis of Voting and Elections at Binghamton University. In 2007, I received an M.S. in Mathematical Methods in the Social Sciences from Northwestern University. I hold an M.A. in political science from the University of Michigan, Ann Arbor where I also received a Ph.D in political science in 2011. I have published academic papers on legislative districting and political geography in several political science journals, including *Political Analysis*, the *Election Law Journal*, *American Politics Research*, and *Social Science Quarterly*. My academic areas of expertise include legislative elections, geographic information systems (GIS) data, redistricting, voting rights, legislatures, and political geography. I have expertise in analyzing political geography, elections, and redistricting using computer simulations and other techniques. I have been retained by plaintiff Common Cause to perform the analysis described below at a rate of \$250 an hour. My compensation is not predicated on arriving at any particular opinion.

2 Research Question and Summary of Findings

In Dr. Barber’s report, he engages in a cluster-by-cluster analysis of the legislature-drawn plan. He compares the legislature’s plan to a large set of simulations he conducted using a computer-based redistricting algorithm. He concludes that the deviations he observes are not sufficient to deem the legislature-drawn maps “an extreme partisan gerrymander.” In this report, I will explain how Dr. Barber’s solely cluster-based analysis and his exclusive focus on seats carried does not provide a sufficient basis to reach the conclusion he makes in his report.

The legislature-drawn maps are partisan gerrymanders because they exhibit significant partisan bias, and the bias is likely to persist when Democrats increase their vote share in

North Carolina. Bias is present in cluster-by-cluster analysis; however, the consequences of the cluster-level bias are more pronounced when we consider the aggregate effect of cluster-level bias statewide. Finally, because Democrats are capable of carrying a majority of the vote statewide, the legislature drawn map will likely entrench Republicans in power even if only a minority of North Carolina voters support them.

2.1 Data

My opinions follow from analysis of the following data:

- Results of computer simulations reported by Michael J. Barber, Ph.D. in his Expert Report dated December 22, 2021.
- VTD boundaries provided as ESRI Shapefiles by the US Census Bureau available on at the following URL. <https://www.census.gov/geographies/mapping-files/time-series/geo/tiger-line-file.html>
- Census block boundaries and population data provided by the US Census Bureau. These are collected as part of the constitutionally mandated decennial census that most recently concluded in 2020.
- County boundaries as reported by the US Census Bureau.
- County clusterings provided by Christopher Cooper, Blake Esselstyn, Gregory Herschlag, Jonathan Mattingly, and Rebecca Tippet in a report that may be accessed at the following URL. <https://sites.duke.edu/quantifyinggerrymandering/files/2021/08/countyClusters2020.pdf>
- Election returns as reported by the Voting and Election Science Team¹ group and aggregated to Census-provided VTD boundaries and provided on the Redistricting

¹<https://dataverse.harvard.edu/dataverse/electionscience>

Data Hub² website. I aggregate statewide elections returns from 2016 and 2020 to the set of legislature drawn districts and to the districts in each of the hypothetical alternative maps. In my analysis, I set aside election returns from 2018 because the only statewide races held that year were judicial elections which follow very different patterns compared to elections for other offices. I prefer to use all statewide elections because it ensures that my analysis captures lower-profile elections in which voters will rely on their partisan preferences rather than the personal appeal of candidates. Thus in all of my analyses, the Democratic two-party vote share is 48.8% in my composite partisan score. This makes my analysis a more conservative evaluation of the legislature-drawn maps, and adds confidence that when I observe a gerrymander it is in fact a gerrymander.

- 1,000 alternative, hypothetical maps of North Carolina’s congressional, Senate, and House districts generated by a neutral, partisan-blind computer algorithm. The redistricting algorithm I use in my analysis was developed by me and a collaborator, Daniel Mosesson (consultant in private practice), and published in *Political Analysis* in 2018. In our published work, we show that the algorithm produces a large number of unique maps of legislative districts without any indication of bias.
- Legislature-drawn boundaries of districts intended to elect representatives to Congress, the North Carolina Senate, and the North Carolina House of Representatives. These data are available on the North Carolina General Assembly website and may be accessed at the following URLs. <https://www.ncleg.gov/Redistricting>

3 Mechanics of Gerrymandering

Professor Barber evaluates his simulations relying solely on estimates of the number of seats carried under a composite partisan score that makes the unusual choice to include an election

²<https://redistrictingdatahub.org>

from 2014. A deviation from the number of seats carried compared to a neutral counterfactual can be indicative of a gerrymander. It is just one indicator of a gerrymander and by only examining the expected seats carried, Professor Barber misses the dynamics by which the maps drawn by the state legislature effectuate their cumulative and durable gerrymander.

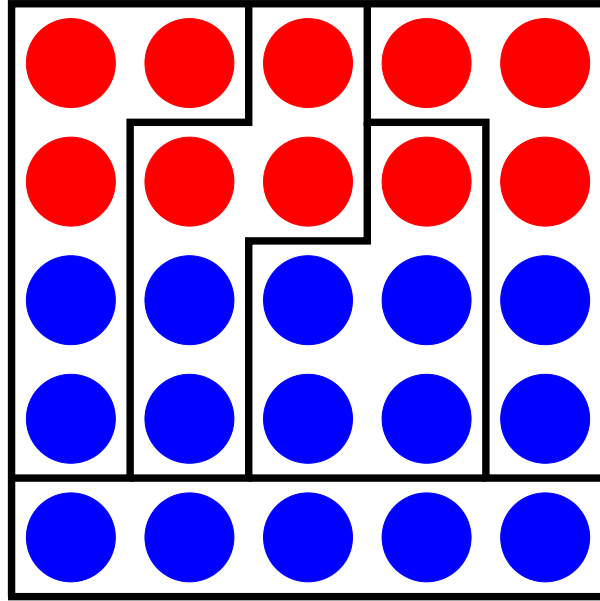


Figure 1: An example of a packing gerrymander in a hypothetical jurisdiction with 25 voters divided into 5 districts.

To understand why it can be problematic to focus exclusively on seats carried, it is helpful to review how gerrymanders work. Consider the example included in Figure 1. For simplicity, suppose each dot corresponds to one voter and that these voters are distributed in “geographic space” as represented in the figure. The voters have preferences that correspond to their voting preference. As I have drawn it, blues constitute a majority and reds are a minority. If a mapmaker was required to divide this space into five districts each with five voters he could do it in a number of ways. Suppose that the mapmaker’s goal was to maximize the number of districts carried by red voters. In this instance, a mapmaker might draw a map with district boundaries that look like those in Figure 1 in which there are three districts carried by reds and two blues. We call this a packing gerrymander.

Packing gerrymanders distort representation. In packed systems, one party receives more representation than they should as in the example of the packing gerrymander in Figure 1. In addition, packing gerrymanders can potentially entrench a group in power even when they receive a minority of votes. In the example I provide in Figure 1, the reds are a minority, yet they carry a majority of seats.

The mechanics by which a packing gerrymander accomplishes distortion in representation reveals the shortcomings of relying solely on seats carried as the metric. Observe that in addition to denying representation, packing gerrymanders serve to underweight the votes of one group of voters. In the example I provide here, blues cast more than 50% of the voters, but they carry fewer than 50% of the seats. The reverse is true for reds in the example I provide in Figure 1. This contrast in outcomes is significant because it indicates a significant difference in the ways that blue and red votes are weighted, with each red vote effectively counting for more than each blue vote. In practical terms, a packing gerrymander accomplishes this differential vote weighting by over-concentrating one group of voters, the blues in the example I provide in Figure 1. Thus, it is not enough to only consider the seats carried in a plan of legislative districts, but it is necessary to consider the margins by which districts are carried (as I did in my median-mean difference analysis).

One way to conceive of the effect of a packing gerrymander is that it treats parties asymmetrically. That is, for a given proportion of the vote, two parties receive different shares of representation. For example, suppose Republicans receive 52% of the vote and receive 54% of the seats. A map treats Democrats symmetrically if Democrats receive 54% of the seats with 52% of the vote. Note that symmetry does not require proportionality. Parties can receive more (or less) than $x\%$ of the seats when they receive $x\%$ of the vote so long as the opposing party receives the same number of seats at that voter percentage.

One of the simplest measures of symmetry we can apply to redistricting scenarios is the median-mean difference (see Katz, King and Rosenblatt 2020; McDonald and Best 2015; Best et al. 2017). The median-mean difference is a way of evaluating whether the distribution of

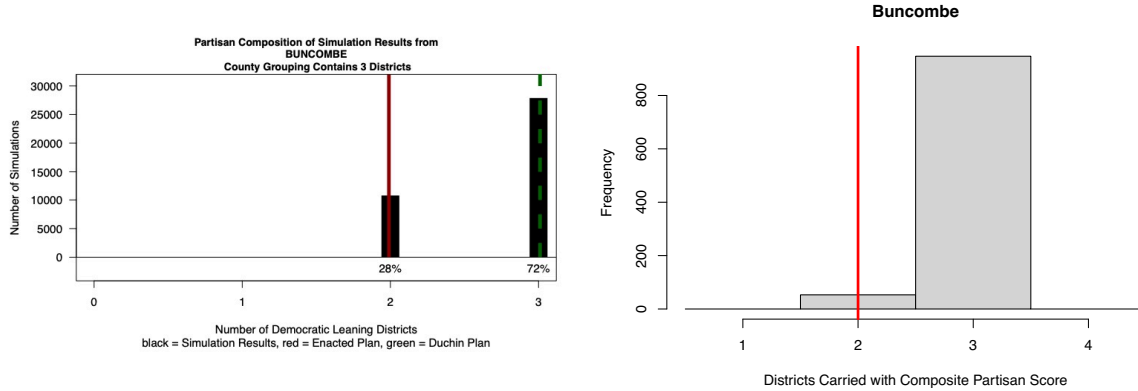
districts in a map is symmetrical. We find it by taking the mean (average) of the district-level vote share and comparing it to the median district-level vote-share, the district-level vote share for which there are an equal number of districts with higher vote shares as there are districts with lower vote shares. When the median and mean are equal, the distribution of districts is symmetrical and the map will treat the parties with symmetry. If the median-mean difference is not zero, it means that map will not treat votes cast for the parties equally.

4 County-Based Clusters

In order “to minimize the overall number of county splits while maintaining population balance in the redistricting process” the legislature adopted a set of county clusterings described Cooper et al (2021). One effect of the clustering is that each cluster represents a separate redistricting scenario. In effect, it turned North Carolina into a series of smaller “states” that all needed to be redistricted separately. Barber considers each of these clusters separately. He finds the legislature frequently deviates from most common outcomes of the simulations he conducted, but that the deviations most often fall “often within the range of the non-partisan simulated maps” (Barber, 269).

Barber is not always clear in what he means by “range.” In many places, he seems to mean that the legislature-drawn map is consistent with at least one of the simulations he produced; however, that is an unusual standard to use in statistical analysis. At one point, in evaluating the Cumberland map, he seems to adopt a new standard arguing that the optimal map “falls outside of the 50% range of simulation results and is thus classified as a partisan outlier result” (110).

An example from Professor Barber’s analysis is illustrative of why the legislature-drawn plan is problematic. For clarity, I provide a copy of a histogram of Professor Barber’s results in Figure 2. In Buncombe, 72% of Dr. Barber’s simulations have 3 Democratic leaning



Barber Simulations

Magleby Simulations

Figure 2: A copy of Dr. Barber’s summary of simulations of Buncombe copied from his report dated December 22, 2021 and a summary of 1000 simulations using the algorithm proposed by Magleby and Mosesson (2018).

districts, but the legislature only drew 2. Here, the outcome is consistent with some of the simulations produced by Dr. Barber, but most of his simulations suggest that Democrats should carry 3 of Buncombe County’s districts. In 72% of the simulated maps, Democrats made up a majority in all 3 of the districts. In contrast to the large majority of Dr. Barber’s simulations, the legislature managed to draw a single district carried by Republicans. In order to draw a Republican-majority district, they had to concentrate Democrats in fewer districts than Democrats would naturally carry. As a result, the district carried by Republicans is insulated against any wave in which Democrats might receive more votes than expected based on Dr. Barber’s partisan vote index.

Figure 2 also provides a summary of the 1000 cluster-level redistricting simulations I conducted in Buncombe County as part of my analysis of the House map. The patterns are broadly consistent with what Barber found; however, in the set of simulations I conducted

it was more likely that Democrats carry 3 as opposed to 2 districts. Where Dr. Barber finds that there is a 28% chance that Democrats carry just two districts, I find that Democrats carry 2 districts in 5.3% of the simulations. A shortage of time does not allow me to explore exactly what drives the difference in Barber’s estimates and my estimates, but it is noteworthy that the simulations are broadly similar and show the same outcome is most likely when following a neutral process.

The legislature-drawn map repeats this pattern in several clusters analyzed by Dr. Barber. He finds that in the Forsyth, Stokes cluster, 67% of his simulated maps have 3 or more Democratic districts. In the Forsyth, Stokes cluster, the legislature drew 2 districts carried by Democrats in Barber’s partisan composite. In Guilford County, 99% of Barber’s maps had 5 or more Democratic districts. In Guilford, Democrats carried 4 using Barber’s partisan index. In each of those instances, Democrats carry fewer seats, than Dr. Barber’s simulations indicate they should. Moreover, the legislature drew extra districts carried by Republicans by packing Democrats into relatively fewer districts than they should have carried based on the analysis presented by Dr. Barber. The consequence of the packing present in each of these clusters is a systematic under-weighting of Democratic votes.

In the Senate map, Barber’s analysis again shows that Republicans opted to pack Democratic voters in certain clusters. Consider the distribution represented in Figure 3. On the left side, I provide a copy of the results summarized in Dr. Barber’s analysis. Here he finds that 95% of his simulations yield a map in which Democrats carry more seats than they carry in the legislature drawn map. While that outcome is in the range of outcomes yielded by his simulations, it is not particularly likely and it is far from the most likely outcome. In Figure 3, I also summarize the analysis of Iredell and Mecklenburg County that arises from 1000 simulations using the Magleby-Mosesson Algorithm (2018). As before the patterns are broadly similar. The most likely outcome in Iredell and Mecklenburg counties is that Democrats carry 5 of 6 districts. I find that the algorithm generates maps in which Democrats receive as few as 4 seats, but that only occurs in a minority of simulations

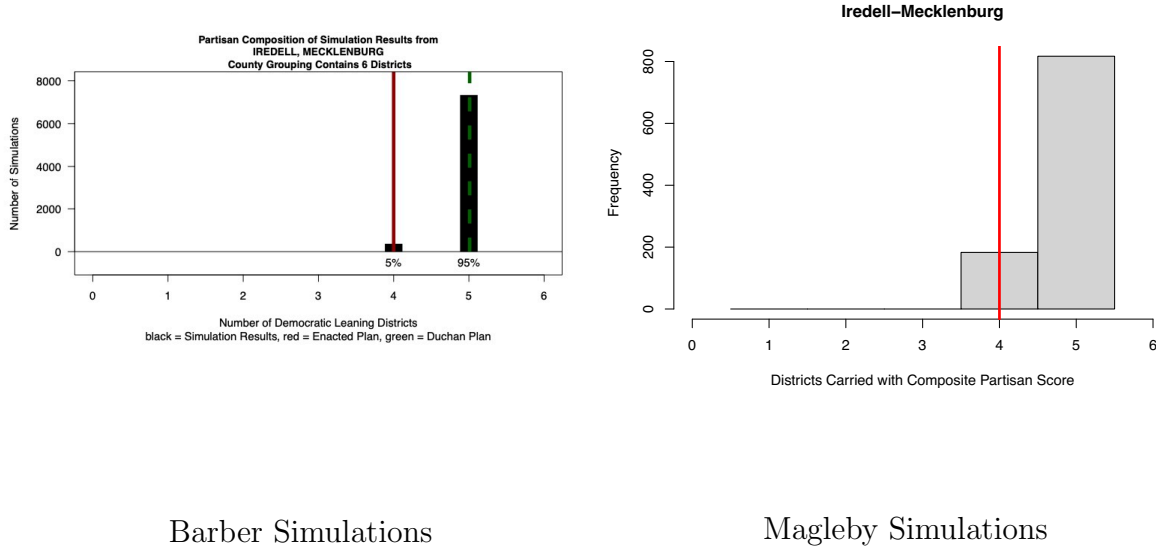


Figure 3: A copy of Dr. Barber’s summary of simulations of the Iredell-Mecklenburg cluster copied from his report dated December 22, 2021 and a summary of 1000 simulations using the algorithm proposed by Magleby and Mosesson (2018).

(18.3%). It is noteworthy again that the simulations yield broadly similar findings and that both Dr. Barber’s simulations and those that formed part of my analysis of the Senate map indicate that Democrats should carry more seats than they do in the legislature-drawn map.

The result of this pattern is the same in the Senate as it was in the House. By opting to pack democrats into fewer districts, the legislature underweights Democratic votes in Iredell and Mecklenburg Counties. By considering one cluster at a time, Barber describes the impact as relatively minor – Democrats receive one fewer seat than we would expect if the legislature engaged in a neutral district-drawing process. However, in reality, because this is repeated in other clusters, the resulting difference in vote-weights state-wide makes it extremely unlikely that Democrats will be able to achieve legislative majorities should they secure a majority of votes for legislative office.

5 Conclusion

The data presented in Dr. Barber’s report are inconsistent with his claim that the legislature-drawn maps are not a gerrymanders. One issue with Dr. Barber’s report is that he relies on a metric, seats carried, that does not allow us to directly consider the way the legislature’s maps systematically underweight Democratic votes. Yet in cluster after cluster, he shows that Republicans packed Democrats in ways that would underweight Democratic votes. In my analysis, I calculated the median-mean difference for the legislature-drawn Senate and House maps. I find that both legislature-drawn maps show patterns of treating Democratic and Republican voters asymmetrically with Democratic votes being systematically underweighted. Moreover, the median-mean difference is more extreme in the legislature-drawn maps than what I observe in any of the 1000 simulations of the House and Senate that I analyzed in my report.

The legislature-drawn maps are partisan gerrymanders because they exhibit significant partisan bias, and the bias is likely to persist when Democrats increase their vote share in North Carolina. The consequences of the cluster-level bias are pronounced when we consider the aggregate effect of cluster-level bias statewide.

References

- Best, Robin E, Shawn J Donahue, Jonathan Krasno, Daniel B Magleby and Michael D McDonald. 2017. “Considering the Prospects for Establishing a Packing Gerrymandering Standard.” *Election Law Journal: Rules, Politics, and Policy* .
- Katz, Jonathan N, Gary King and Elizabeth Rosenblatt. 2020. “Theoretical foundations and empirical evaluations of partisan fairness in district-based democracies.” *American Political Science Review* 114(1):164–178.
- McDonald, Michael D. and Robin E. Best. 2015. “Unfair partisan gerrymanders in politics and law: A diagnostic applied to six cases.” *Election Law Journal* 14(4):312–330.

I declare under penalty of perjury under the laws of NC that the foregoing is true and correct



Daniel B. Magleby, Ph.D.

Date: 12/28/21_____

EXHIBIT H

NCLCV v. Hall

21 CVS 15426

LDTX152

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

COUNTY OF WAKE

SUPERIOR COURT DIVISION

No.21 CVS 500085

REBECCA HARPER; AMY CLARE
OSEROFF; DONALD RUMPH; JOHN
ANTHONY BALLA; RICHARD R. CREWS;
LILY NICOLE QUICK; GETTYS COHEN
JR.; SHAWN RUSH; JACKSON THOMAS
DUNN, JR.; MARK S. PETERS; KATHLEEN
BARNES; VIRGINIA WALTERS BRIEN;
DAVID DWIGHT BROWN,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, IN
HIS OFFICIAL CAPACITY AS CHAIR OF
THE HOUSE STANDING COMMITTEE
ON REDISTRICTING; SENATOR
WARREN DANIEL, IN HIS OFFICIAL
CAPACITY AS CO-CHAIR OF THE
SENATE STANDING COMMITTEE ON
REDISTRICTING AND ELECTIONS;
SENATOR RALPH HISE, IN HIS
OFFICIAL CAPACITY AS CO-CHAIR OF
THE SENATE STANDING COMMITTEE
ON REDISTRICTING AND ELECTIONS;
SENATOR PAUL NEWTON, IN HIS
OFFICIAL CAPACITY AS CO-CHAIR OF
THE SENATE STANDING COMMITTEE
ON REDISTRICTING AND ELECTIONS;
SPEAKER OF THE NORTH CAROLINA
HOUSE OF REPRESENTATIVES
TIMOTHY K. MOORE; PRESIDENT PRO
TEMPORE OF THE NORTH CAROLINA
SENATE PHILIP E. BERGER; THE
NORTH CAROLINA STATE BOARD OF
ELECTIONS; DAMON CIRCOSTA, IN
HIS OFFICIAL CAPACITY AS
CHAIRMAN OF THE NORTH

**EXPERT REPORT OF DR. JOWEI
CHEN**

Exhibit #

CHEN 1

12/29/2021 - JNC

exhibitsticker.com

CAROLINA STATE BOARD OF ELECTIONS; STELLA ANDERSON, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE NORTH CAROLINA STATE BOARD OF ELECTIONS; JEFF CARMON III, IN HIS OFFICIAL CAPACITY AS MEMBER OF THE NORTH CAROLINA STATE BOARD OF ELECTIONS; STACY EGGERS IV, IN HIS OFFICIAL CAPACITY AS MEMBER OF THE NORTH CAROLINA STATE BOARD OF ELECTIONS; TOMMY TUCKER, IN HIS OFFICIAL CAPACITY AS MEMBER OF THE NORTH CAROLINA STATE BOARD OF ELECTIONS,

Defendants.

I, Dr. Jowei Chen, upon my oath, declare and say as follows:

1. I am over the age of eighteen (18) and competent to testify as to the matters set forth herein.
2. I am an Associate Professor in the Department of Political Science at the University of Michigan, Ann Arbor. I am also a Research Associate Professor at the Center for Political Studies of the Institute for Social Research at the University of Michigan and a Research Associate at the Spatial Social Science Laboratory at Stanford University. In 2007, I received a M.S. in Statistics from Stanford University, and in 2009, I received a Ph.D. in Political Science from Stanford University.
3. I have published academic papers on legislative districting and political geography in several political science journals, including The American Journal of Political Science and The American Political Science Review, and Election Law Journal. My academic areas of expertise include legislative elections, spatial statistics, geographic information systems

(GIS) data, redistricting, racial politics, legislatures, and political geography. I have expertise in the use of computer simulations of legislative districting and in analyzing political geography, elections, and redistricting.

4. I have authored expert reports in the following redistricting court cases: *The League of Women Voters of Florida v. Detzner* (Fla. 2d Judicial Cir. Leon Cnty. 2012); *Romo v. Detzner* (Fla. 2d Judicial Cir. Leon Cnty. 2013); *Missouri National Association for the Advancement of Colored People v. Ferguson-Florissant School District & St. Louis County Board of Election Commissioners* (E.D. Mo. 2014); *Raleigh Wake Citizens Association v. Wake County Board of Elections* (E.D.N.C. 2015); *Brown v. Detzner* (N.D. Fla. 2015); *City of Greensboro v. Guilford County Board of Elections* (M.D.N.C. 2015); *Common Cause v. Rucho* (M.D.N.C. 2016); *The League of Women Voters of Pennsylvania v. Commonwealth of Pennsylvania* (No. 261 M.D. 2017); *Georgia State Conference of the NAACP v. The State of Georgia* (N.D. Ga. 2017); *The League of Women Voters of Michigan v. Johnson* (E.D. Mich. 2017); *Whitford v. Gill* (W.D. Wis. 2018); *Common Cause v. Lewis* (N.C. Super. 2018); *Harper v. Lewis* (N.C. Super. 2019); *Baroody v. City of Quincy, Florida* (N.D. Fla. 2020); *McConchie v. Illinois State Board of Elections* (N.D. Ill. 2021). I have testified either at deposition or at trial in the following cases: *Romo v. Detzner* (Fla. 2d Judicial Cir. Leon Cnty. 2013); *Missouri National Association for the Advancement of Colored People v. Ferguson-Florissant School District & St. Louis County Board of Election Commissioners* (E.D. Mo. 2014); *Raleigh Wake Citizens Association v. Wake County Board of Elections* (E.D.N.C. 2015); *City of Greensboro v. Guilford County Board of Elections* (M.D.N.C. 2015); *Common Cause v. Rucho* (M.D.N.C. 2016); *The League of Women Voters of Pennsylvania v. Commonwealth of Pennsylvania* (No. 261 M.D. 2017); *Georgia State Conference of the NAACP v. The State of Georgia* (N.D. Ga. 2017); *The*

League of Women Voters of Michigan v. Johnson (E.D. Mich. 2017); *Whitford v. Gill* (W.D. Wis. 2018); *Common Cause v. Lewis* (N.C. Super. 2018); *Baroody v. City of Quincy, Florida* (N.D. Fla. 2020).

5. I have been retained by Plaintiffs in the above-captioned matter. I am being compensated \$550 per hour for my work in this case.

6. Plaintiffs’ counsel asked me to analyze the SB 740 districting plan for North Carolina’s congressional districts (the “Enacted Plan”), as passed on November 4, 2021. Plaintiffs’ counsel asked me to produce a set of computer-simulated plans for North Carolina’s congressional districts by following the criteria adopted by the North Carolina General Assembly’s Joint Redistricting Committee on August 12, 2021 (the “Adopted Criteria”). Plaintiffs’ counsel asked me to compare the district-level partisan attributes of the Enacted Plan to those of the computer-simulated plans and to identify any districts in the Enacted Plan that are partisan outliers. Plaintiffs’ counsel also asked me to compare the partisan composition of the individual Plaintiffs’ congressional districts under the Enacted Plan to the partisan composition of Plaintiffs’ districts under the computer-simulated plans and to identify any Plaintiffs whose Enacted Plan districts are partisan outliers.

7. ***The Use of Computer-Simulated Districting Plans:*** In conducting my academic research on legislative districting, partisan and racial gerrymandering, and electoral bias, I have developed various computer simulation programming techniques that allow me to produce a large number of nonpartisan districting plans that adhere to traditional districting criteria using US Census geographies as building blocks. This simulation process ignores all partisan and racial considerations when drawing districts. Instead, the computer simulations are programmed to draw districting plans following various traditional districting goals, such as equalizing

population, avoiding county and Voting Tabulation District (VTD) splits, and pursuing geographic compactness. By randomly generating a large number of districting plans that closely adhere to these traditional districting criteria, I am able to assess an enacted plan drawn by a state legislature and determine whether partisan goals motivated the legislature to deviate from these traditional districting criteria. More specifically, by holding constant the application of nonpartisan, traditional districting criteria through the simulations, I am able to determine whether the enacted plan could have been the product of something other than partisan considerations. With respect to North Carolina's 2021 Congressional Enacted Plan, I determined that it could not.

8. I produced a set of 1,000 valid computer-simulated plans for North Carolina's congressional districts using a computer algorithm programmed to strictly follow the required districting criteria enumerated in the August 12, 2021 Adopted Criteria of the General Assembly's Joint Redistricting Committee. In following these Adopted Criteria, the computer algorithm uses the same general approach that I employed in creating the simulated state House and state Senate plans that I analyzed in *Common Cause v. Lewis* (2019) and the simulated congressional plans that I used in *Harper v. Lewis* (2019).

9. By randomly drawing districting plans with a process designed to strictly follow nonpartisan districting criteria, the computer simulation process gives us an indication of the range of districting plans that plausibly and likely emerge when map-drawers are not motivated primarily by partisan goals. By comparing the Enacted Plan against the distribution of simulated plans with respect to partisan measurements, I am able to determine the extent to which a map-drawer's subordination of nonpartisan districting criteria, such as geographic compactness and preserving precinct boundaries, was motivated by partisan goals.

10. These computer simulation methods are widely used by academic scholars to analyze districting maps. For over a decade, political scientists have used such computer-simulated districting techniques to analyze the racial and partisan intent of legislative map-drawers.¹ In recent years, several courts have also relied upon computer simulations to assess partisan bias in enacted districting plans.²

11. ***Redistricting Criteria:*** I programmed the computer algorithm to create 1,000 independent simulated plans adhering to the following the seven districting criteria, as specified in the Adopted Criteria:

- a) Population Equality: Because North Carolina’s 2020 Census population was 10,439,388, districts in every 14-member congressional plan have an ideal population of 745,670.6. Accordingly, the computer simulation algorithm populated each districting plan such that precisely six districts have a population of 745,670, while the remaining eight districts have a population of 745,671.
- b) Contiguity: The simulation algorithm required districts to be geographically contiguous. Water contiguity is permissible. I also programmed the simulation algorithm to avoid double-traversals within a single county. In other words, for every simulated district, the portion of that district within any given county will be geographically contiguous.

¹ E.g., Carmen Cirincione, Thomas A. Darling, Timothy G. O’Rourke. "Assessing South Carolina’s 1990s Congressional Districting," *Political Geography* 19 (2000) 189–211; Jowei Chen, “The Impact of Political Geography on Wisconsin Redistricting: An Analysis of Wisconsin’s Act 43 Assembly Districting Plan.” *Election Law Journal*

² See, e.g., *League of Women Voters of Pa. v. Commonwealth*, 178 A. 3d 737, 818-21 (Pa. 2018); *Raleigh Wake Citizens Association v. Wake County Board of Elections*, 827 F.3d 333, 344-45 (4th Cir. 2016); *City of Greensboro v. Guilford County Board of Elections*, No. 1:15-CV-599, 2017 WL 1229736 (M.D.N.C. Apr 3, 2017); *Common Cause v. Rucho*, No. 1:16-CV-1164 (M.D.N.C. Jan 11, 2018); *The League of Women Voters of Michigan v. Johnson* (E.D. Mich. 2017); *Common Cause v. David Lewis* (N.C. Super. 2018).

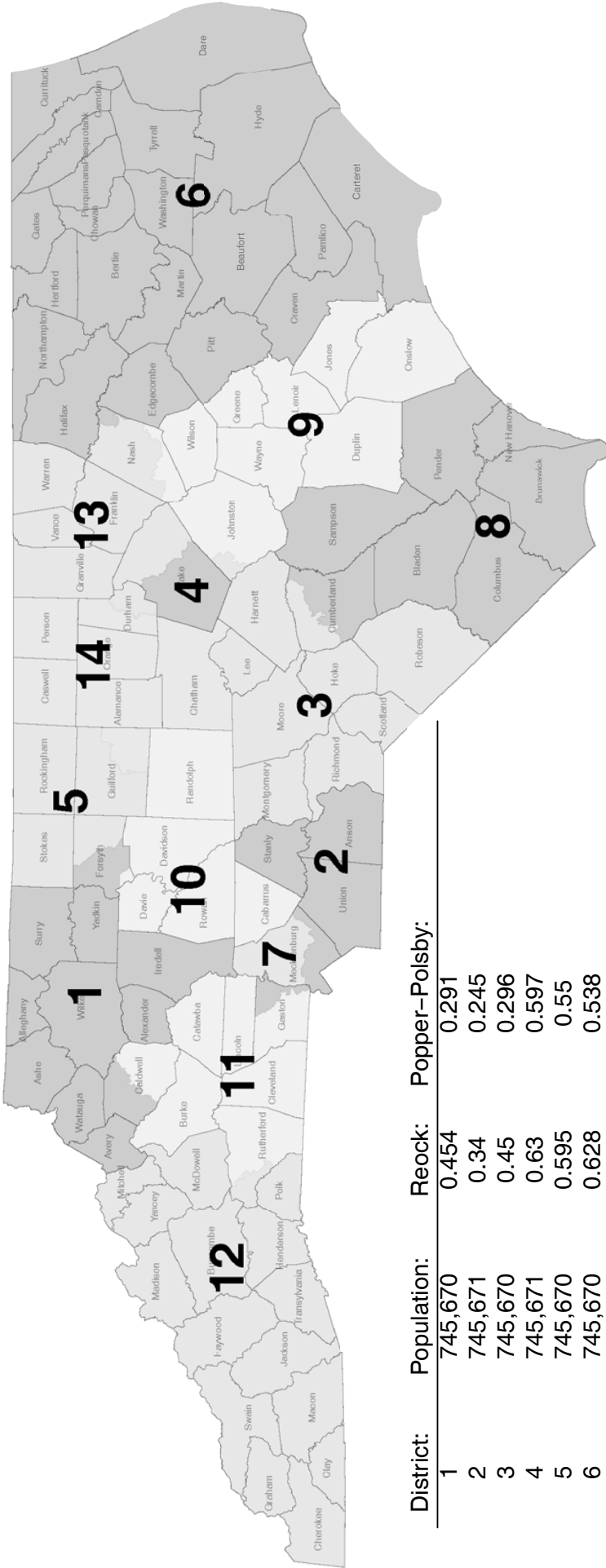
- c) Minimizing County Splits: The simulation algorithm avoided splitting any of North Carolina's 100 counties, except when doing so is necessary to avoid violating one of the aforementioned criteria. When a county is divided into two districts, the county is considered to have one split. A county divided into three districts is considered to have two splits. A county divided into four districts is considered to have three splits, and so on. For the purpose of creating equally populated districts, each newly drawn congressional district requires only one county split. But the fourteenth and final district drawn in North Carolina does need not create an additional county split, since this final district should simply be the remaining area unassigned to the first thirteen districts. Therefore, an entire plan of 14 congressional districts requires only 13 county splits. Accordingly, I require that every simulated plan contain only 13 county splits. The 2021 Adopted Criteria do not prohibit splitting a county more than once, so I allow some of these 13 county splits to occur within the same county. As a result, the total number of counties containing one or more splits may be fewer than 13.
- d) Minimizing VTD Splits: North Carolina is divided into 2,666 VTDs. The computer simulation algorithm attempted to keep these VTDs intact and not split them into multiple districts, except when doing so is necessary for creating equally populated districts. For the purpose of creating equally populated districts, each newly drawn congressional district requires one VTD split. But the fourteenth and final district drawn in North Carolina does need not create an additional VTD split, since this final district should simply be the remaining area unassigned to the first thirteen districts. Therefore, an entire plan of 14

congressional districts requires only 13 VTD splits. I therefore require that every simulated plan split only 13 VTDs in total.

- e) Geographic Compactness: The simulation algorithm prioritized the drawing of geographically compact districts whenever doing so does not violate any of the aforementioned criteria.
- f) Avoiding Incumbent Pairings: North Carolina’s current congressional delegation includes two incumbents, Representatives Ted Budd and David Price, who announced before the Enacted Plan was adopted that they will not run for reelection in 2022. For the remaining eleven congressional incumbents, the simulation algorithm intentionally avoids pairing multiple incumbents in the same district. Hence, in every computer-simulated plan, each district contains no more than one incumbent’s residence.
- g) Municipal Boundaries: The simulation algorithm generally favors not splitting municipalities, but this consideration is given lower priority than all of the aforementioned criteria. For example, the algorithm would not intentionally split a VTD in order to preserve a municipality, as the Adopted Criteria clearly prioritizes VTD preservation over municipal boundaries.

12. On the following page of this report, Map 1 displays an example of one of the computer-simulated plans produced by the computer algorithm. The lower half of this Map also reports the population of each district, the compactness scores for each district, and the county splits and VTD splits created by the plan. As with every simulated plan, this plan contains exactly 13 VTD splits and 13 county splits, with 11 counties split into two or more districts.

Map 1:
Example of a Computer-Simulated Congressional Plan Protecting all 11 Incumbents



District:	Population:	Reock:	Popper-Polsby:
1	745,670	0.454	0.291
2	745,671	0.34	0.245
3	745,670	0.45	0.296
4	745,671	0.63	0.597
5	745,670	0.595	0.55
6	745,670	0.628	0.538
7	745,671	0.555	0.44
8	745,671	0.555	0.402
9	745,671	0.494	0.345
10	745,671	0.527	0.535
11	745,670	0.592	0.295
12	745,671	0.354	0.313
13	745,671	0.629	0.396
14	745,670	0.513	0.439
Plan Average:	745,670.6	0.523	0.406

11 Split Counties:
Caldwell (Districts 1, 11)
Cumberland (Districts 3, 8)
Durham (Districts 13, 14)
Forsyth (Districts 1, 10, 5)
Gaston (Districts 11, 2)
Guilford (Districts 14, 5)
Johnston (Districts 3, 9)
Mecklenburg (Districts 2, 7)
Nash (Districts 13, 6, 9)
Rutherford (Districts 11, 12)
Wake (Districts 13, 4)

13 Split VTD's:
VTD 00PR32 in Caldwell County (Districts 1 and 11)
VTD 00CC17 in Cumberland County (Districts 3 and 8)
VTD 055-11 in Durham County (Districts 13 and 14)
VTD 000051 in Forsyth County (Districts 1 and 10)
VTD 000301 in Forsyth County (Districts 1 and 5)
VTD 000025 in Gaston County (Districts 11 and 2)
VTD 000PG1 in Guilford County (Districts 14 and 5)
VTD 00PR33 in Johnston County (Districts 3 and 9)
VTD 000216 in Mecklenburg County (Districts 2 and 7)
VTD 00P16A in Nash County (Districts 13 and 6)
VTD 00P22A in Nash County (Districts 13 and 9)
VTD 000018 in Rutherford County (Districts 11 and 12)
VTD 001-36 in Wake County (Districts 13 and 4)

The Enacted Plan’s Compliance with the Adopted Criteria:

13. Although all seven of the criteria listed above are part of the General Assembly’s Adopted Criteria, five of these criteria are ones that the Joint Redistricting Committee “shall” or “should” follow in the process of drawing its Congressional districting plan. These five mandated criteria are: equal population; contiguity, minimizing county splits, minimizing VTD splits, and geographic compactness.³

14. I assessed whether the 2021 Enacted Plan complies with these five mandated criteria, and I describe my findings in this section. I found that the Enacted Plan does not violate the equal population requirement, nor do any of its districts violate contiguity.

15. However, by comparing the Enacted Plan to the 1,000 computer-simulated plans, I found that the Enacted Plan fails to minimize county splits, fails to minimize VTD splits, and is significantly less geographically compact than is reasonably possible. I describe these findings below in detail.

16. ***Minimizing County Splits:*** In comparing the total number of county splits in the Enacted Plan and in the computer-simulated plans, I counted the total number of times a county is split into more than one district. Specifically, a county fully contained within a single district counts as zero splits. A county split into two full or partial districts counts as one split. And a county split into three full or partial districts counts as two splits. And so on.

17. Using this standard method of accounting for total county splits, I found that the Enacted Plan contains 14 total county splits, which are detailed in Table 1. These 14 total county splits are spread across 11 counties. Eight of these 11 counties are split only once, but Guilford,

³ In listing these five mandated criteria, I am not including the Adopted Criteria’s prohibitions on the use of racial data, partisan considerations, and election results data. I did not assess whether the Enacted Plan complies with the prohibition on racial considerations.

Mecklenburg, and Wake Counties are each split into three districts, thus accounting for two splits each. Thus, the Enacted Plan has 14 total county splits, as listed in Table 1.

Table 1: Total Number of County Splits in the 2021 Enacted Plan

	County:	Congressional Districts:	Total County Splits:
1	Davidson	7 and 10	1
2	Guilford	7, 10, and 11	2
3	Harnett	4 and 7	1
4	Iredell	10 and 12	1
5	Mecklenburg	8, 9, and 13	2
6	Onslow	1 and 3	1
7	Pitt	1 and 2	1
8	Robeson	3 and 8	1
9	Wake	5, 6, and 7	2
10	Watauga	11 and 14	1
11	Wayne	2 and 4	1
Total County Splits:			14

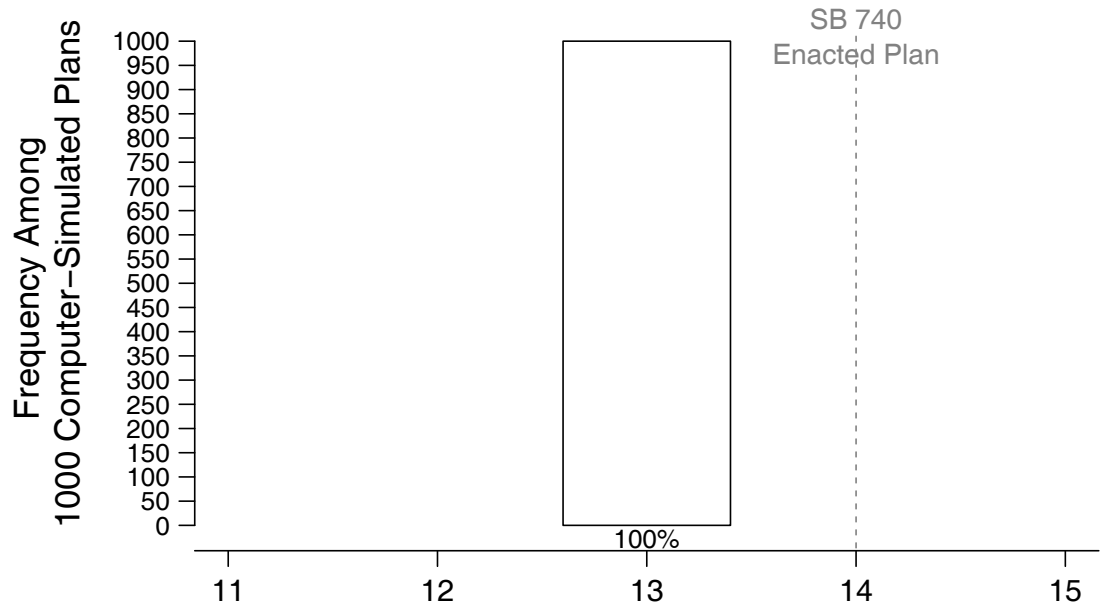
18. As explained in the previous section, a congressional plan in North Carolina needs to contain only 13 county splits if the map-drawer is attempting to minimize the splitting of counties. The Enacted Plan’s 14 county splits is therefore one more split than is necessary. This “extra” split is specifically found at the border between District 7 and District 10. In general, the border between any two congressional districts in North Carolina needs to split only one county, at most. But in the Enacted Plan, the border between Districts 7 and 10 creates two county splits: One split of Davidson County and one split of Guilford County. Creating two county splits of Davidson and Guilford Counties was not necessary for equalizing district populations. Nor was it necessary for protecting incumbents, as no incumbents reside in the

portions of Davidson and Guilford Counties within District 7 and District 10. Hence, the “extra” county split in Davidson and Guilford Counties does not appear to be consistent with the 2021 Adopted Criteria, which mandate that “Division of counties in the 2021 Congressional plan shall only be made for reasons of equalizing population and consideration of double bunking.”

19. Indeed, I found that the computer simulation algorithm was always able to draw districts complying with the Adopted Criteria without using an “extra” 14th county split. As the upper half of Figure 1 illustrates, all 1,000 computer-simulated plans contain exactly 13 county splits. The Enacted Plan clearly contains more county splits than one would expect from a map-drawing process complying with the Adopted Criteria. Therefore, I conclude that the Enacted Plan does not comply with the Adopted Criteria’s rule against unnecessary division of counties.

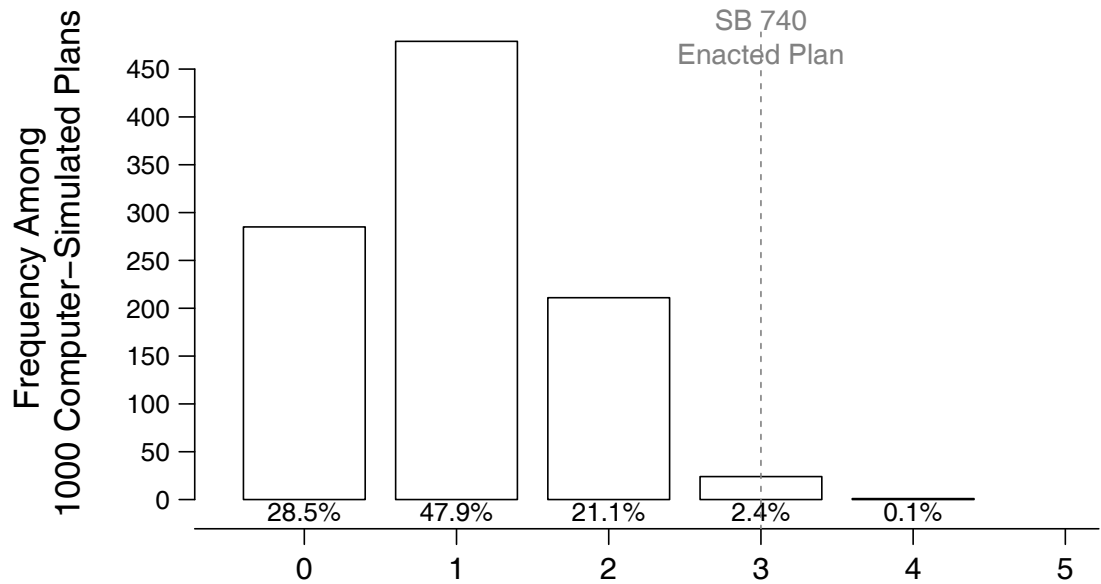
20. The Adopted Criteria do not explicitly limit the number of county splits within any single county. Nevertheless, it is notable that under the Enacted Plan, three different counties (Guilford, Mecklenburg, and Wake) are split multiple times. These three counties are each split into three districts under the Enacted Plan. This is an outcome that rarely occurs under the computer-simulated plans. As the lower half of Figure 1 illustrates, only 2.5% of the computer-simulated plans similarly split three or more counties multiple times. Thus, it is clear that the Enacted Plan’s level of concentrating multiple county splits within a single county is an outcome that generally does not occur in a vast majority of the simulated plans drawn according to the Adopted Criteria.

Figure 1:
Comparison of Total County Splits in Enacted SB 740 Plan and 1,000 Computer–Simulated Plans



Total Number of County Splits in Each Congressional Plan
(Counting Multiple Splits in Counties Divided into Three or More Districts)

**Number of Counties Split Multiple Times
in Enacted SB 740 Plan and 1,000 Computer–Simulated Plans**



Number of Counties Split into Three or More Districts
Within in Each Congressional Plan

21. **Minimizing VTD Splits:** The Adopted Criteria mandates that “Voting districts (“VTDs”) should be split only when necessary.” As explained earlier in this report, each newly drawn congressional district needs to create only one VTD split for the purpose of equalizing the district’s population. But the fourteenth and final district drawn in North Carolina does need not create an additional VTD split, since this final district should simply be the remaining area unassigned to the first thirteen districts. Therefore, an entire plan of 14 congressional districts needs to create only 13 VTD splits.

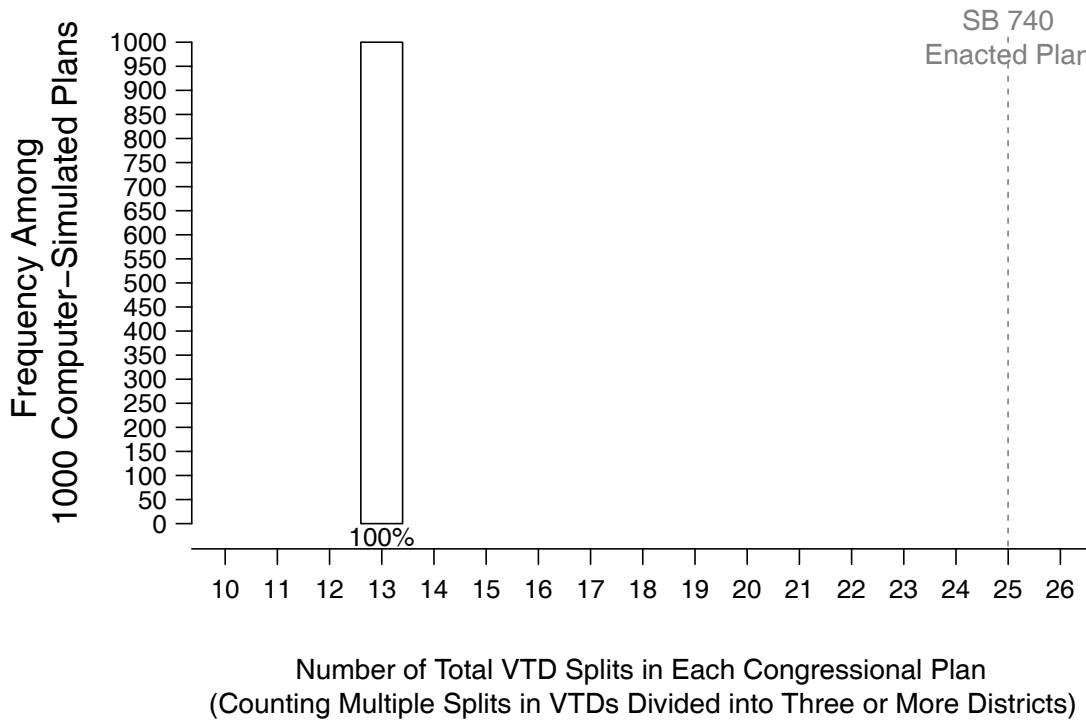
22. However, the Enacted Plan creates far more VTD splits than is necessary. As the General Assembly’s “StatPack” Report⁴ for the Enacted SB 740 Plan details, the Enacted plan splits 24 VTDs into multiple districts. Among these 24 split VTDs, 23 VTDs are split into two districts, while one VTD (Wake County VTD 18-02) is split into three districts. Thus, using the same method of accounting for splits described earlier, the Enacted Plan contains 25 total VTD splits, and 24 VTDs are split into two or more districts.

23. The Enacted Plan’s 25 total VTD splits is far more than is necessary to comply with the Adopted Criteria’s equal population requirement. As explained earlier, only 13 VTD splits are necessary in order to produce an equally-populated congressional plan in North Carolina. Thus, as Figure 2 illustrates, every one of the 1,000 computer-simulated plans contains exactly 13 VTD splits, and the Enacted Plan’s 25 total VTD splits is clearly not consistent with the Adopted Criteria’s requirement that “Voting districts (‘VTDs’) should be split only when necessary.”

⁴ Available at:
<https://webservices.ncleg.gov/ViewBillDocument/2021/53447/0/SL%202021-174%20-%20StatPack%20Report>.

Figure 2:

Comparison of Total VTD Splits in Enacted SB 740 Plan and 1,000 Computer–Simulated Plans



24. ***Measuring Geographic Compactness:*** The August 12, 2021 Adopted Criteria mandates that the Joint Redistricting Committee “shall” attempt to draw geographically compact congressional districts. The Adopted Criteria also specify two commonly used measures of district compactness: the Reock score and the Polsby-Popper score.

25. In evaluating whether the Enacted Plan follows the compactness requirement of the Adopted Criteria, it is useful to compare the compactness of the Enacted Plan and the 1,000 computer-simulated plans. The computer-simulated plans were produced by a computer algorithm adhering strictly to the traditional districting criteria mandated by the Adopted Criteria and ignoring any partisan or racial considerations. Thus, the compactness scores of these computer-simulated plans illustrate the statistical range of compactness scores that could be

reasonably expected to emerge from a districting process that solely seeks to follow the Adopted Criteria while ignoring partisan and racial considerations. I therefore compare the compactness of the simulated plans and the Enacted Plan using the two measures of compactness specified by the 2021 Adopted Criteria.

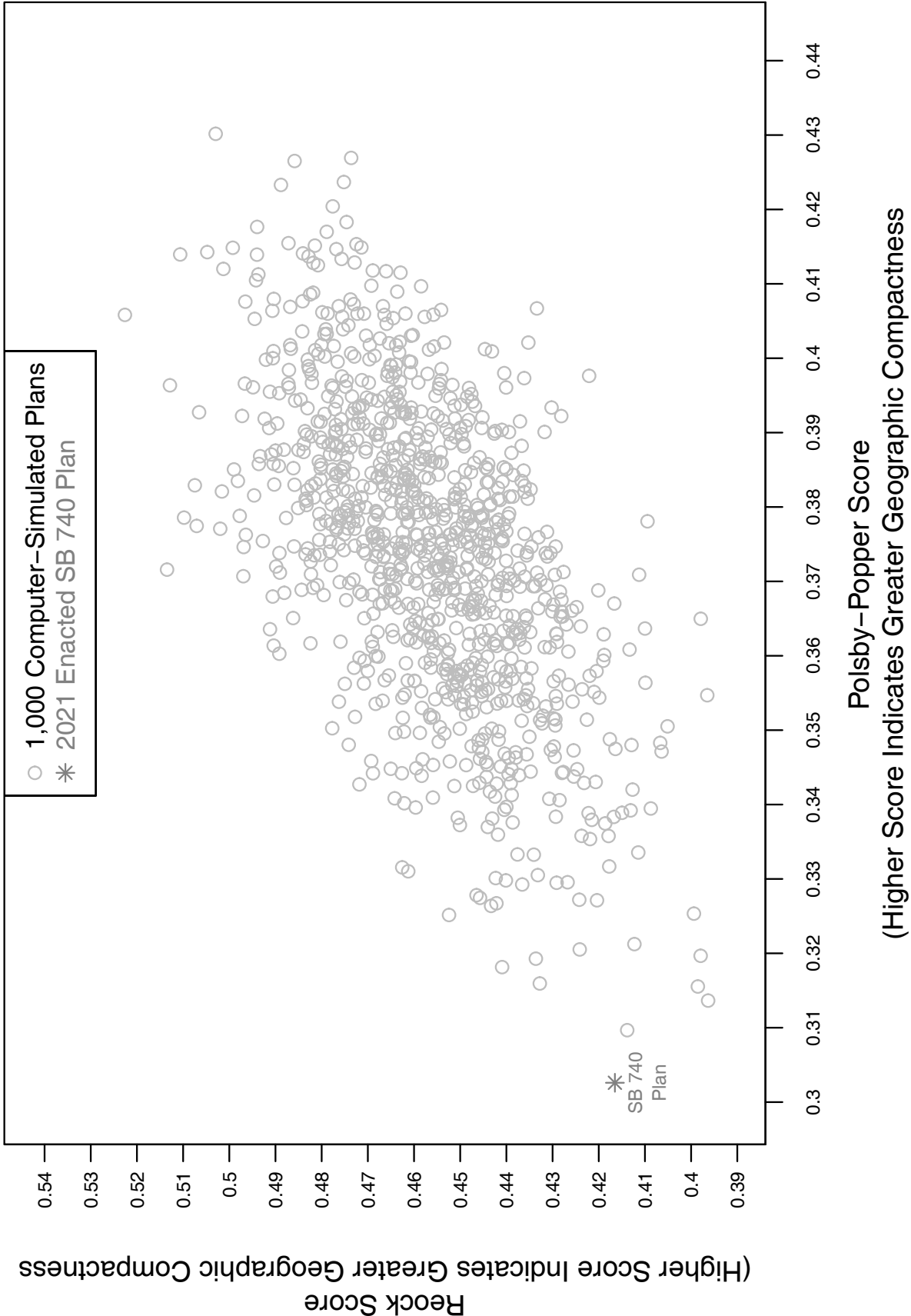
26. First, I calculate the average Polsby-Popper score of each plan's districts. The Polsby-Popper score for each individual district is calculated as the ratio of the district's area to the area of a hypothetical circle whose circumference is identical to the length of the district's perimeter; thus, higher Polsby-Popper scores indicate greater district compactness. The 2021 Enacted Plan has an average Polsby-Popper score of 0.3026 across its 14 congressional districts. As illustrated in Figure 3, every single one of the 1,000 computer-simulated House plans in this report exhibits a higher Polsby-Popper score than the Enacted Plan. In fact, the middle 50% of these 1,000 computer-simulated plans have an average Polsby-Popper score ranging from 0.36 to 0.39, and the most compact computer-simulated plan has a Polsby-Popper score of 0.43. Hence, it is clear that the Enacted Plan is significantly less compact, as measured by its Polsby-Popper score, than what could reasonably have been expected from a districting process adhering to the Adopted Criteria.

27. Second, I calculate the average Reock score of the districts within each plan. The Reock score for each individual district is calculated as the ratio of the district's area to the area of the smallest bounding circle that can be drawn to completely contain the district; thus, higher Reock score indicate more geographically compact districts. The 2021 Enacted Plan has an average Reock score of 0.4165 across its 14 congressional districts. As illustrated in Figure 3, 97.7% of the 1,000 computer-simulated plans exhibit a higher Reock score than the Enacted Plan. In fact, the middle 50% of these 1,000 computer-simulated plans have an average Reock

score ranging from 0.44 to 0.47, and the most compact computer-simulated plan has an average Reock score of 0.52. Hence, it is clear that the Enacted Plan is significantly less compact, as measured by its Reock score, than what could reasonably have been expected from a districting process adhering to the Adopted Criteria.

Figure 3:

**Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
on Polsby-Popper and Reock Compactness Scores**



Measuring the Partisanship of Districting Plans

28. In general, I use actual election results from recent, statewide election races in North Carolina to assess the partisan performance of the Enacted Plan and the computer-simulated plans analyzed in this report. Overlaying these past election results onto a districting plan enables me to calculate the Republican (or Democratic) share of the votes cast from within each district in the Enacted Plan and in each simulated plan. I am also able to count the total number of Republican and Democratic-leaning districts within each simulated plan and within the Enacted Plan. All of these calculations thus allow me to directly compare the partisanship of the Enacted Plan and the simulated plans. These partisan comparisons allow me to determine whether or not the partisanship of individual districts and the partisan distribution of seats in the Enacted Plan could reasonably have arisen from a districting process adhering to the Adopted Criteria and its explicit prohibition on partisan considerations. Past voting history in federal and statewide elections is a strong predictor of future voting history. Mapmakers thus can and do use past voting history to identify the class of voters, at a precinct-by-precinct level, who are likely to vote for Republican or Democratic congressional candidates.

29. In the 2011, 2016, and 2017 rounds of state legislative and congressional redistricting last decade, the North Carolina General Assembly publicly disclosed that it was relying solely on recent statewide elections in measuring the partisanship of the districting plans being created. I therefore follow the General Assembly's past practice from last decade by using results from a similar set of recent statewide elections in order to measure the partisanship of districts in the Enacted Plan and in the computer-simulated plans.

30. ***The 2016-2020 Statewide Election Composite:*** During the General Assembly's 2017 legislative redistricting process, Representative David Lewis announced at the Joint

Redistricting Committee’s August 10, 2017 meeting that the General Assembly would measure the partisanship of legislative districts using the results from some of the most recent elections held in North Carolina for the following five offices: US President, US Senator, Governor, Lieutenant Governor, and Attorney General.

31. To measure the partisanship of all districts in the computer-simulated plans and the 2021 Enacted Plan, I used the two most-recent election contests held in North Carolina for these same five offices during 2016-2020. In other words, I used the results of the following ten elections: 2016 US President, 2016 US Senator, 2016 Governor, 2016 Lieutenant Governor, 2016 Attorney General, 2020 US President, 2020 US Senator, 2020 Governor, 2020 Lieutenant Governor, and 2020 Attorney General. I use these election results because these are the same state and federal offices whose election results were used by the General Assembly during its 2017 legislative redistricting process, and the 2017 redistricting process was the most recent one in which the leadership of the General Assembly’s redistricting committees publicly announced how the General Assembly would evaluate the partisanship of its own districting plans.

32. I obtained precinct-level results for these ten elections, and I disaggregated these election results down to the census block level. I then aggregated these block-level election results to the district level within each computer-simulated plan and the Enacted Plan, and I calculated the number of districts within each plan that cast more votes for Republican than Democratic candidates. I use these calculations to measure the partisan performance of each simulated plan analyzed in this report and of the Enacted Plan. In other words, I look at the census blocks that would comprise a particular district in a given simulation and, using the actual election results from those census blocks, I calculate whether voters in that simulated district collectively cast more votes for Republican or Democratic candidates in the 2016-2020 statewide

election contests. I performed such calculations for each district under each simulated plan to measure the number of districts Democrats or Republicans would win under that particular simulated districting map.

33. I refer to the aggregated election results from these ten statewide elections as the “2016-2020 Statewide Election Composite.” For the Enacted Plan districts and for all districts in each of the 1,000 computer-simulated plans, I calculate the percentage of total two-party votes across these ten elections that were cast in favor of Republican candidates in order to measure the average Republican vote share of the district. In the following section, I present district-level comparisons of the Enacted Plan and simulated plan districts in order to identify whether any individual districts in the Enacted Plan are partisan outliers. I also present plan-wide comparisons of the Enacted Plan and the simulated plans in order to identify the extent to which the Enacted Plan is a statistical outlier in terms of common measures of districting plan partisanship.

District-Level and Plan-Wide Partisan Comparisons of the Enacted Plan and Simulated Plans

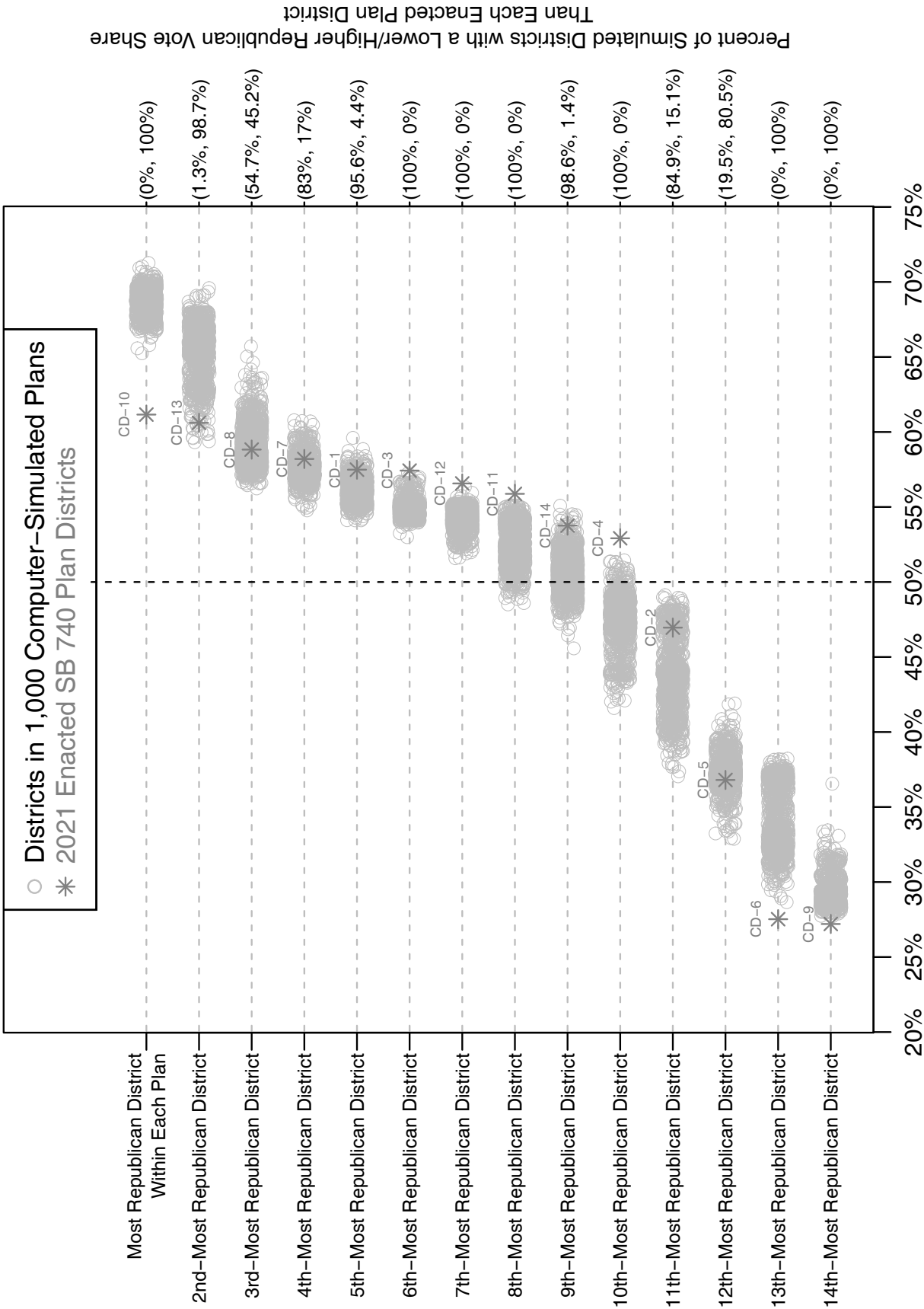
34. In this section, I present partisan comparisons of the Enacted Plan to the computer-simulated plans at both a district-by-district level as well as a plan-wide level using several common measures of districting plan partisanship. First, I compare the district-level Republican vote share of the Enacted Plan's districts and the districts in the computer-simulated plans. Next, I compare the number of Republican-favoring districts in the Enacted Plan and in the computer-simulated plans. Finally, I use several common measures of partisan bias to compare the Enacted Plan to the computer-simulated plans. Overall, I find that the several individual districts in the Enacted Plan are statistical outliers, exhibiting extreme partisan characteristics that are rarely or never observed in the computer-simulated plan districts drawn with strict adherence to the Adopted Criteria. Moreover, I find that at the plan-wide level, the Enacted Plan creates a degree of partisan bias favoring Republicans that is more extreme than the vast majority of the computer-simulated plans. I describe these findings in detail below:

35. ***Partisan Outlier Districts in the Enacted Plan:*** In Figure 4, I directly compare the partisan distribution of districts in the Enacted Plan to the partisan distribution of districts in the 1,000 computer-simulated plans. I first order the Enacted Plan's districts from the most to the least-Republican district, as measured by Republican vote share using the 2016-2020 Statewide Election Composite. The most-Republican district appears on the top row, and the least-Republican district appears on the bottom row of Figure 4. Next, I analyze each of the 1,000 computer-simulated plans and similarly order each simulated plan's districts from the most- to the least-Republican district. I then directly compare the most-Republican Enacted Plan district (CD-10) to the most-Republican simulated district from each of the 1,000 computer-simulated plans. In other words, I compare one district from the Enacted Plan to 1,000 computer-simulated

districts, and I compare these districts based on their Republican vote share. I then directly compare the second-most-Republican district in the Enacted Plan to the second-most-Republican district from each of the 1,000 simulated plans. I conduct the same comparison for each district in the Enacted Plan, comparing the Enacted Plan district to its computer-simulated counterparts from each of the 1,000 simulated plans.

Figure 4:

Comparisons of Enacted SB 740 Plan Districts to 1,000 Computer-Simulated Plans' Districts



District's Republican Vote Share Measured Using the 2016-2020 Statewide Election Composite
(50.8% Statewide Republican 2-Party Vote Share)

36. Thus, the top row of Figure 4 directly compares the partisanship of the most-Republican Enacted Plan district (CD-10) to the partisanship of the most-Republican district from each of the 1,000 simulated plans. The two percentages (in parentheses) in the right margin of this Figure report the percentage of these 1,000 simulated districts that are less Republican than, and more Republican than, the Enacted plan district. Similarly, the second row of this Figure compares the second-most-Republican district from each plan, the third row compares the third-most-Republican district from each plan, and so on. In each row of this Figure, the Enacted Plan's district is depicted with a red star and labeled in red with its district number; meanwhile, the 1,000 computer-simulated districts are depicted with 1,000 gray circles on each row.

37. As the bottom row of Figure 4 illustrates, the most-Democratic district in the Enacted Plan (CD-9) is more heavily Democratic than 100% of the most-Democratic districts in each of the 1,000 computer-simulated plans. This calculation is numerically reported in the right margin of the Figure. Every single one of the computer-simulated counterpart districts would have been more politically moderate than CD-9 in terms of partisanship: CD-9 exhibits a Republican vote share of 27.2%, while all 1,000 of the most-Democratic districts in the computer-simulated plans would have exhibited a higher Republican vote share and would therefore have been more politically moderate. It is thus clear that CD-9 packs together Democratic voters to a more extreme extent than the most-Democratic district in 100% of the computer-simulated plans. I therefore identify CD-9 as an extreme partisan outlier when compared to its 1,000 computer-simulated counterparts, using a standard threshold test of 95% for statistical significance.

38. The next-to-bottom row of Figure 4 reveals a similar finding regarding CD-6 in the Enacted Plan. This row illustrates that the second-most-Democratic district in the Enacted

Plan (CD-6) is more heavily Democratic than 100% of the second-most-Democratic districts in each of the 1,000 computer-simulated plans. Every single one of its computer-simulated counterpart districts would have been more politically moderate than CD-6 in terms of partisanship: CD-6 exhibits a Republican vote share of 27.5%, while 100% of the second-most-Democratic districts in the computer-simulated plans would have exhibited a higher Republican vote share and would therefore have been more politically moderate. In other words, CD-6 packs together Democratic voters to a more extreme extent than the second-most-Democratic district in 100% of the computer-simulated plans. I therefore identify CD-6 as an extreme partisan outlier when compared to its 1,000 computer-simulated counterparts, using a standard threshold test of 95% for statistical significance.

39. Meanwhile, the top two rows of Figure 4 reveal a similar finding: As the top row illustrates, the most-Republican district in the Enacted Plan (CD-10) is less heavily Republican than 100% of the most-Republican districts in each of the 1,000 computer-simulated plans. A similar pattern appears in the second-to-top row of Figure 4, which illustrates that the second-most-Republican district in the Enacted Plan (CD-13) is less heavily Republican than 98.7% of the second-most-Republican districts in each of the 1,000 computer-simulated plans.

40. It is especially notable that these four aforementioned Enacted Plan districts – the two most Republican districts (CD-10 and CD-13) and the two most Democratic districts (CD-9 and CD-6) in the Enacted Plan – were drawn to include more Democratic voters than virtually all of their counterpart districts in the 1,000 computer-simulated plans. These “extra” Democratic voters in the four most partisan-extreme districts in the Enacted Plan had to come from the remaining ten more moderate districts in the Enacted Plan. Having fewer Democratic voters in these more moderate districts enhances Republican candidate performance in these districts.

41. Indeed, the middle six rows in Figure 4 (i.e., rows 5 through 10) confirm this precise effect. The middle six rows in Figure 4 compare the partisanship of districts in the fifth, sixth, seventh, eighth, ninth, and tenth-most Republican districts within the Enacted Plan and the 1,000 computer-simulated plans. In all six of these rows, the Enacted Plan district is a partisan outlier. In each of these six rows, the Enacted Plan's district is more heavily Republican than over 95% of its counterpart districts in the 1,000 computer-simulated plans. Four of these six rows illustrate Enacted Plan districts that are more heavily Republican than 100% of their counterpart districts in the computer-simulated plans. The six Enacted Plan districts in these six middle rows (CD-1, 3, 4, 11, 12, and 14) are more heavily Republican than nearly all of their counterpart computer-simulated plan districts because the four most partisan-extreme districts in the Enacted Plan (CD-6, 9, 10, and 13) are more heavily Democratic than nearly all of their counterpart districts in the computer-simulated plans.

42. I therefore identify the six Enacted Plan districts in the six middle rows (CD-1, 3, 4, 11, 12, and 14) of Figure 4 as partisan statistical outliers. Each of these six districts has a Republican vote share that is higher than over 95% of the computer-simulated districts in its respective row in Figure 4. I also identify the four Enacted Plan districts in the top rows and the bottom two rows (CD-6, 9, 10, and 13) of Figure 4 as partisan statistical outliers. Each of these four districts has a Republican vote share that is lower than over 98% of the computer-simulated districts in its respective row in Figure 4.

43. In summary, Figure 4 illustrates that 10 of the 14 districts in the Enacted Plan are partisan outliers: Six districts (CD-1, 3, 4, 11, 12, and 14) in the Enacted Plan are more heavily Republican than over 95% of their counterpart computer-simulated plan districts, while four

districts (CD-6, 9, 10, and 13) are more heavily Democratic than over 98% of their counterpart districts in the computer-simulated plans.

44. The Appendix of this report contains ten additional Figures (Figures A1 through A10) that each contain a similar analysis of the Enacted Plan districts and the computer-simulated plan districts. Each of these ten Figures in the Appendix measures the partisanship of districts using one of the individual ten elections included in the 2016-2020 Statewide Election Composite. These ten Figures generally demonstrate that the same extreme partisan outlier patterns observed in Figure 4 are also present when district partisanship is measured using any one of the ten statewide elections held in North Carolina during 2016-2020.

45. **“Mid-Range” Republican Districts:** Collectively, the upper ten rows in Figure 4 illustrate that the Enacted Plan’s ten most-Republican districts exhibit a significantly narrower range of partisanship than is exhibited by the ten most-Republican districts in each of the computer-simulated plans. Specifically, the Enacted Plan’s ten most-Republican districts all have Republican vote shares within the narrow range of 52.9% to 61.2%. As explained earlier, this narrow range is the product of two distinct dynamics: In the top two rows of Figure 4, the Enacted Plan’s districts are significantly less Republican than nearly all of the simulated plans’ districts in these rows. But in the fifth to tenth rows of Figure 4, the Enacted Plan’s districts are more safely Republican-leaning than over 95% of the computer-simulated districts within each of these six rows. The overall result of these two distinct dynamics is that the Enacted Plan contains ten districts that all have Republican vote shares within the narrow range of 52.9% to 61.2%. I label any districts within this narrow range of partisanship as “mid-range” Republican-leaning districts, reflecting the fact that these districts have generally favored Republican candidates, but not by overwhelmingly large margins.

46. Is the Enacted Plan’s creation of ten such “mid-range” Republican-leaning districts an outcome that ever occurs in the 1,000 computer-simulated plans? I analyzed the simulated plans and counted the number of districts within each plan that are similarly “mid-range” with a Republican vote share between 52.9% and 61.2%. As Figure 5 illustrates, the Enacted Plan’s creation of ten “mid-range” Republican districts is an extreme statistical outlier. None of the 1,000 simulated plans comes close to creating ten such districts. Virtually all of the simulated plans contain from two to six “mid-range” Republican districts, and the most common outcome among the simulations is four such districts. Hence, the Enacted Plan is clearly an extreme partisan outlier in terms of its peculiar focus on maximizing the number of “mid-range” Republican districts, and the Enacted Plan did so to an extreme degree far beyond any of the 1,000 simulated plans created using a partisan-blind computer algorithm that follows the Adopted Criteria.

47. ***Competitive Districts:*** The Enacted Plan’s maximization of “mid-range” Republican districts necessarily comes at the expense of creating more competitive districts. As Figure 4 illustrates, the Enacted Plan contains zero districts whose Republican vote share is higher than 47.0% and lower than 52.9%, as measured using the 2016-2020 Statewide Election Composite. In other words, there are zero districts in which the Republican vote share is within 5% of the Democratic vote share.

48. I label districts with a Republican vote share from 47.5% to 52.5% as “competitive” districts to reflect the fact that such districts have a nearly even share of Republican and Democratic voters, and election outcomes in the district could therefore swing in favor of either party. The Enacted Plan contains zero “competitive” districts, as measured using the 2016-2020 Statewide Election Composite.

Figure 5:

**Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
On Number of Mid-Range Republican Districts**

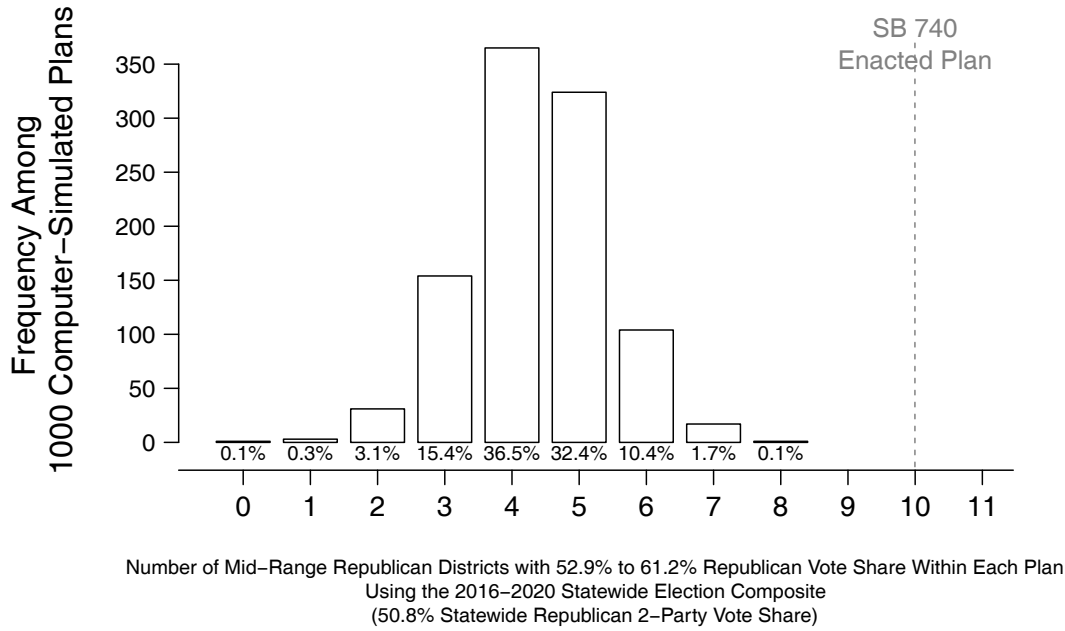
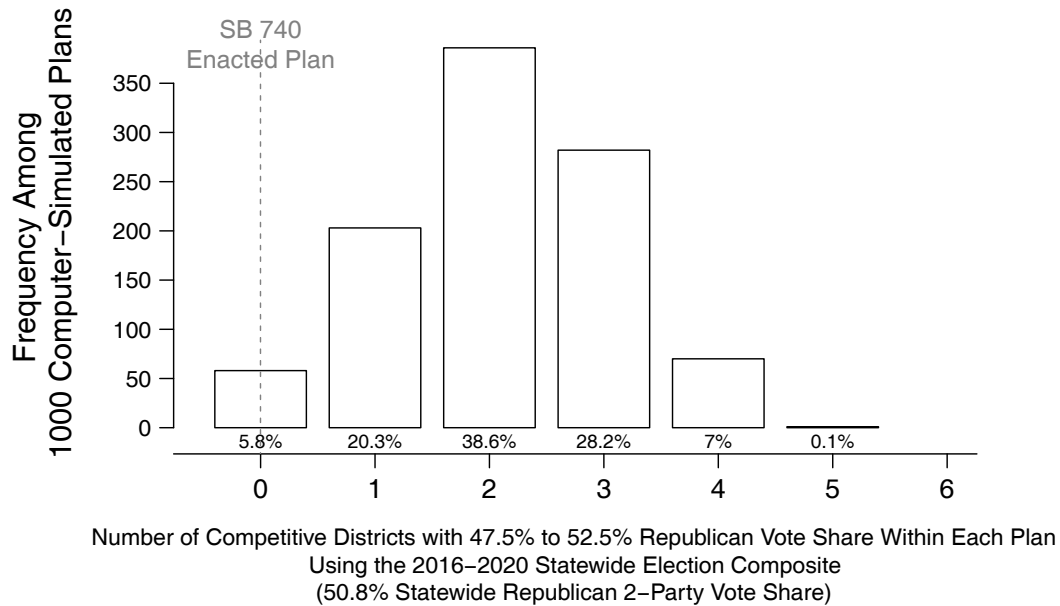


Figure 6:

**Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
On Number of Competitive Districts**



49. Is the Enacted Plan’s failure to create any “competitive” districts an outcome that ever occurs in the 1,000 computer-simulated plans? I analyzed the simulated plans and counted the number of districts within each plan that are “competitive” districts with a Republican vote share between 47.5% and 52.5%. As Figure 6 illustrates, the Enacted Plan’s creation of zero “competitive” districts is almost a statistical outlier: Only 5.8% of the 1,000 simulated plans similarly fail to have a single “competitive” district. The vast majority of the computer-simulated plans contain two or more “competitive” districts. Over 94% of the computer-simulated plans create more “competitive” districts than the Enacted Plan does.

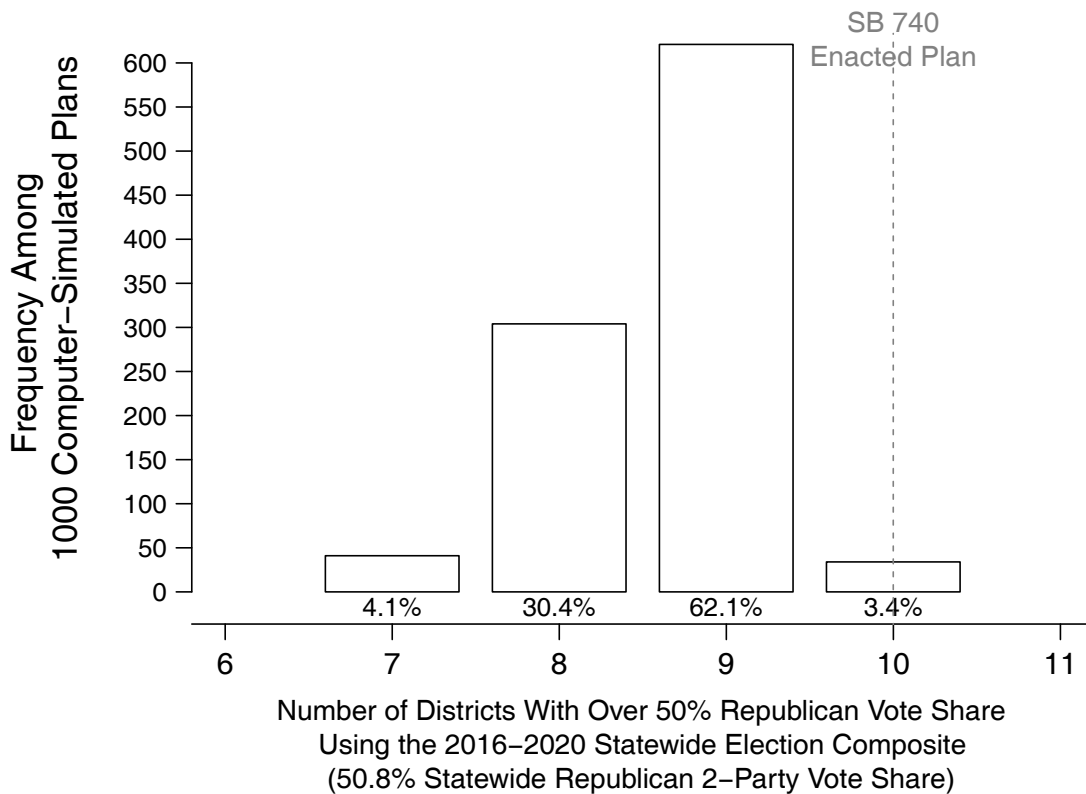
50. *Number of Democratic and Republican Districts:* Figure 7 compares the partisan breakdown of the computer-simulated plans to the partisanship of the Enacted Plan. Specifically, Figure 7 uses the 2016-2020 Statewide Election Composite to measure the number of Republican-favoring districts created in each of the 1,000 simulated plans. Across the entire state, Republican candidates collectively won a 50.8% share of the votes in the ten elections in the 2016-2020 Statewide Election Composite. But within the 14 districts in the Enacted Plan, Republicans have over a 50% vote share in 10 out of 14 districts. In other words, the Enacted Plan created 10 Republican-favoring districts, as measured using the 2016-2020 Statewide Election Composite.. By contrast, only 3.4% of the computer-simulated plans create 10 Republican-favoring districts, and no computer-simulated plan ever creates more than 10 Republican districts.

51. Hence, in terms of the total number of Republican-favoring districts created by the plan, the 2021 Enacted Plan is a statistical outlier when compared to the 1,000 computer-simulated plans. The Enacted Plan creates the maximum number of Republican districts that ever occurs in any computer-simulated plan, and the Enacted Plan creates more Republican districts

than 96.6% of the computer-simulated plans, which were drawn using a non-partisan districting process adhering to the General Assembly’s 2021 Adopted Criteria. I characterize the Enacted Plan’s creation of 10 Republican districts as a statistical outlier among the computer-simulated plans because the Enacted Plan exhibits an outcome that is more favorable to Republicans than over 95% of the simulated plans.

Figure 7:

Comparisons of Enacted SB 740 Plan to 1,000 Computer–Simulated Plans



52. Notably, the ten elections included in the Statewide Election Composite all occurred in two election years and in electoral environments that were relatively favorable to Republicans across the country (November 2016 and November 2020). North Carolina did not hold any statewide elections for non-judicial offices in November 2018, which was an electoral environment more favorable to Democrats across the country.

53. Hence, the projected number of Republican seats would be even lower in the computer-simulated plans if one measured district partisanship using a statewide election whose outcome was more partisan-balanced or even favorable to Democrats. In the Appendix, I present ten histograms (labeled as Figures B1 to B10), each presenting the projected number of Republican seats across all of the simulated plans and the Enacted Plan using only one of the ten elections in the Statewide Election Composite.

54. The ten histograms in Figures B1 to B10 illustrate how the partisanship of the Enacted Plan compares to the partisanship of the 1,000 computer-simulated plans under a range of different electoral environments, as reflected by the ten elections in the Statewide Election Composite. Most notably, under all ten of these elections, the Enacted Plan always contains exactly 10 Republican-favoring districts and 4 Democrat-favoring districts. Hence, it is clear that the Enacted Plan creates a 10-to-4 distribution of seats in favor of Republican candidates that is durable across a range of different electoral conditions.

55. Moreover, the histograms in Figures B1 to B10 demonstrate that the Enacted Plan becomes a more extreme partisan outlier relative to the computer-simulated plans under electoral conditions that are slightly to moderately favorable to the Democratic candidate. For example, Figure B1 compares the Enacted Plan to the computer-simulated plan using the results of the 2016 Attorney General election, which was a near-tied statewide contest in which Democrat Josh

Stein defeated Republican Buck Newton by a very slim margin. Using the 2016 Attorney General election to measure district partisanship, the 2021 Enacted Plan contains 10 Republican-favoring districts out of 14. The Enacted Plan’s creation of 10 districts favoring Republican Buck Newton over Democrat Josh Stein is an outcome that occurs in only 0.2% of the 1,000 computer-simulated plans, indicating that the Enacted Plan is a partisan statistical outlier under electoral conditions that are more favorable for Democrats (and thus relatively more unfavorable for Republicans) than is normal in North Carolina.

56. An even more favorable election for the Democratic candidate was the 2020 gubernatorial contest, in which Democrat Roy Cooper defeated Republican Dan Forest by a 4.5% margin. Figure B7 compares the Enacted Plan to the computer-simulated using the results of this 2020 gubernatorial election. Using the results from this election, the 2021 Enacted Plan contains 10 Republican-favoring districts out of 14. None of the 1,000 simulated plans ever contain 10 districts favoring the Republican candidate. The Enacted Plan’s creation of 10 Republican-favoring districts is therefore an extreme partisan outlier that is durable even in Democratic-favorable electoral conditions. In fact, the 10-to-4 Republican partisan advantage under the Enacted Plan appears to become even more of an extreme partisan outlier under Democratic-favorable elections.

57. ***The Mean-Median Difference:*** I also calculate each districting plan’s mean-median difference, which is another accepted method that redistricting scholars commonly use to compare the relative partisan bias of different districting plans. The mean-median difference for any given plan is calculated as the mean district-level Republican vote share, minus the median district-level Republican vote share. For any congressional districting plan, the mean is calculated as the average of the Republican vote shares in each of the 14 districts. The median, in

turn, is the Republican vote share in the district where Republican performed the middle-best, which is the district that Republican would need to win to secure a majority of the congressional delegation. For a congressional plan containing 14 districts, the median district is calculated as the average of the Republican vote share in the districts where Republican performed the 7th and 8th-best across the state.

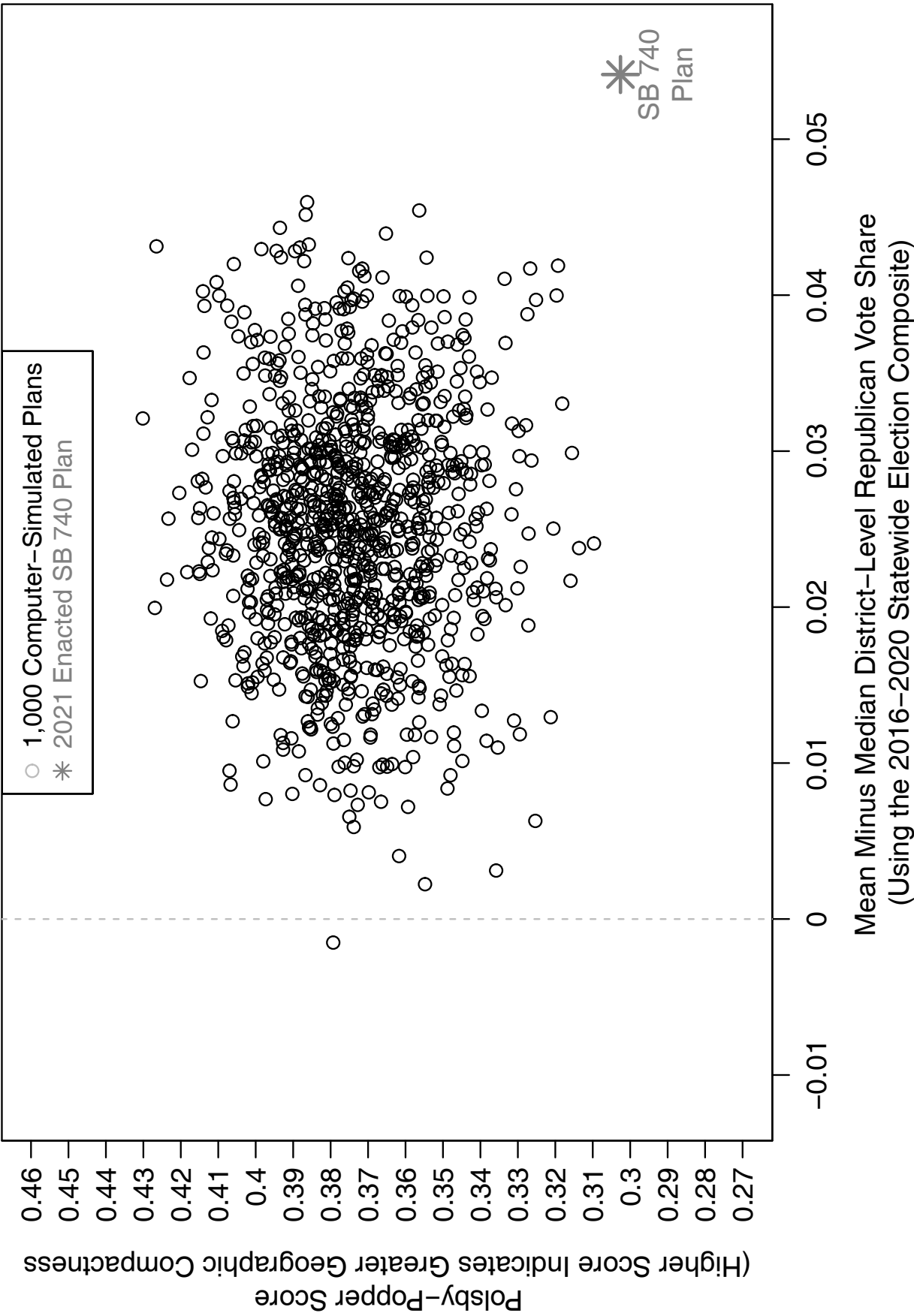
58. Using the 2016-2020 Statewide Election Composite to measure partisanship, the districts in the 2021 Enacted Plan have a mean Republican vote share of 50.8%, while the median district has a Republican vote share of 56.2%. Thus, the Enacted Plan has a mean-median difference of +5.4%, indicating that the median district is skewed significantly more Republican than the plan's average district. The mean-median difference thus indicates that the Enacted Plan distributes voters across districts in such a way that most districts are significantly more Republican-leaning than the average North Carolina congressional district, while Democratic voters are more heavily concentrated in a minority of the Enacted Plan's districts.

59. I perform this same mean-median difference calculation on all computer-simulated plans in order to determine whether this partisan skew in the median congressional districts could have resulted naturally from North Carolina's political geography and the application of the Adopted Criteria. Figure 8 compares the mean-median difference of the Enacted Plan to the mean-median difference for each the 1,000 computer-simulated plans.

60. Figure 8 contains 1,000 gray circles, representing the 1,000 computer-simulated plans, as well as a red star, representing the 2021 Enacted Plan. The horizontal axis in this Figure measures the mean-median difference of the 2021 Enacted Plan and each simulated plan using the 2016-2020 Statewide Election Composite, while the vertical axis measures the average Polsby-Popper compactness score of the districts within each plan, with higher Polsby-Popper

scores indicating more compact districts. Figure 8 illustrates that the Enacted Plan's mean-median difference is +5.4%, indicating that the median district is skewed significantly more Republican than the plan's average district. Figure 8 further indicates that this difference is an extreme statistical outlier compared to the 1,000 computer-simulated plans. Indeed, the Enacted Plan's +5.4% mean-median difference is an outcome never observed across these 1,000 simulated plans. The 1,000 simulated plans all exhibit mean-median differences that range from -0.2% to +4.6%. In fact, the middle 50% of these computer-simulated plans have mean-median differences ranging from +2.0% to +3.0%, indicating a much smaller degree of skew in the median district than occurs under the 2021 Enacted Plan. These results confirm that the Enacted Plan creates an extreme partisan outcome that cannot be explained by North Carolina's voter geography or by strict adherence to the required districting criteria set forth in the General Assembly's Adopted Criteria.

Figure 8:
**Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
on Mean-Median Difference and Compactness**



61. Figure 8 illustrates that the Enacted Plan is less geographically compact than every single one of the computer-simulated plans, as measured by each plan’s average Polsby-Popper score. The simulated plans have Polsby-Popper scores ranging from 0.31 to 0.43. In fact, the middle 50% of these computer-simulated plans have Polsby-Popper scores ranging from 0.36 to 0.39. Meanwhile, the Enacted Plan exhibits a Polsby-Popper score of only 0.30, which is lower than all 1,000 of the computer-simulated plans. Hence, it is clear that the Enacted Plan did not seek to draw districts that were as geographically compact as reasonably possible. Instead, the Enacted Plan subordinated geographic compactness, which enabled the Enacted Plan to create a partisan skew in North Carolina’s congressional districts favoring Republican candidates.

62. ***The Efficiency Gap:*** Another commonly used measure of a districting plan’s partisan bias is the efficiency gap.⁵ To calculate the efficiency gap of the Enacted Plan and every computer-simulated plan, I first measure the number of Republican and Democratic votes within each Enacted Plan district and each computer-simulated district, as measured using the 2016-2020 Statewide Election Composite. Using this measure of district-level partisanship, I then calculate each districting plan’s efficiency gap using the method outlined in *Partisan Gerrymandering and the Efficiency Gap*.⁶ Districts are classified as Democratic victories if, using the 2016-2020 Statewide Election Composite, the sum total of Democratic votes in the district during these elections exceeds the sum total of Republican votes; otherwise, the district is classified as Republican. For each party, I then calculate the total sum of surplus votes in districts

⁵ Eric McGhee, “Measuring Partisan Bias in Single-Member District Electoral Systems.” *Legislative Studies Quarterly* Vol. 39, No. 1: 55–85 (2014).

⁶ Nicholas O. Stephanopoulos & Eric M. McGhee, *Partisan Gerrymandering and the Efficiency Gap*, 82 *University of Chicago Law Review* 831 (2015).

the party won and lost votes in districts where the party lost. Specifically, in a district lost by a given party, all of the party's votes are considered lost votes; in a district won by a party, only the party's votes exceeding the 50% threshold necessary for victory are considered surplus votes. A party's total wasted votes for an entire districting plan is the sum of its surplus votes in districts won by the party and its lost votes in districts lost by the party. The efficiency gap is then calculated as total wasted Republican votes minus total wasted Democratic votes, divided by the total number of two-party votes cast statewide across all seven elections.

63. Thus, the theoretical importance of the efficiency gap is that it tells us the degree to which more Democratic or Republican votes are wasted across an entire districting plan. A significantly positive efficiency gap indicates far more Republican wasted votes, while a significantly negative efficiency gap indicates far more Democratic wasted votes.

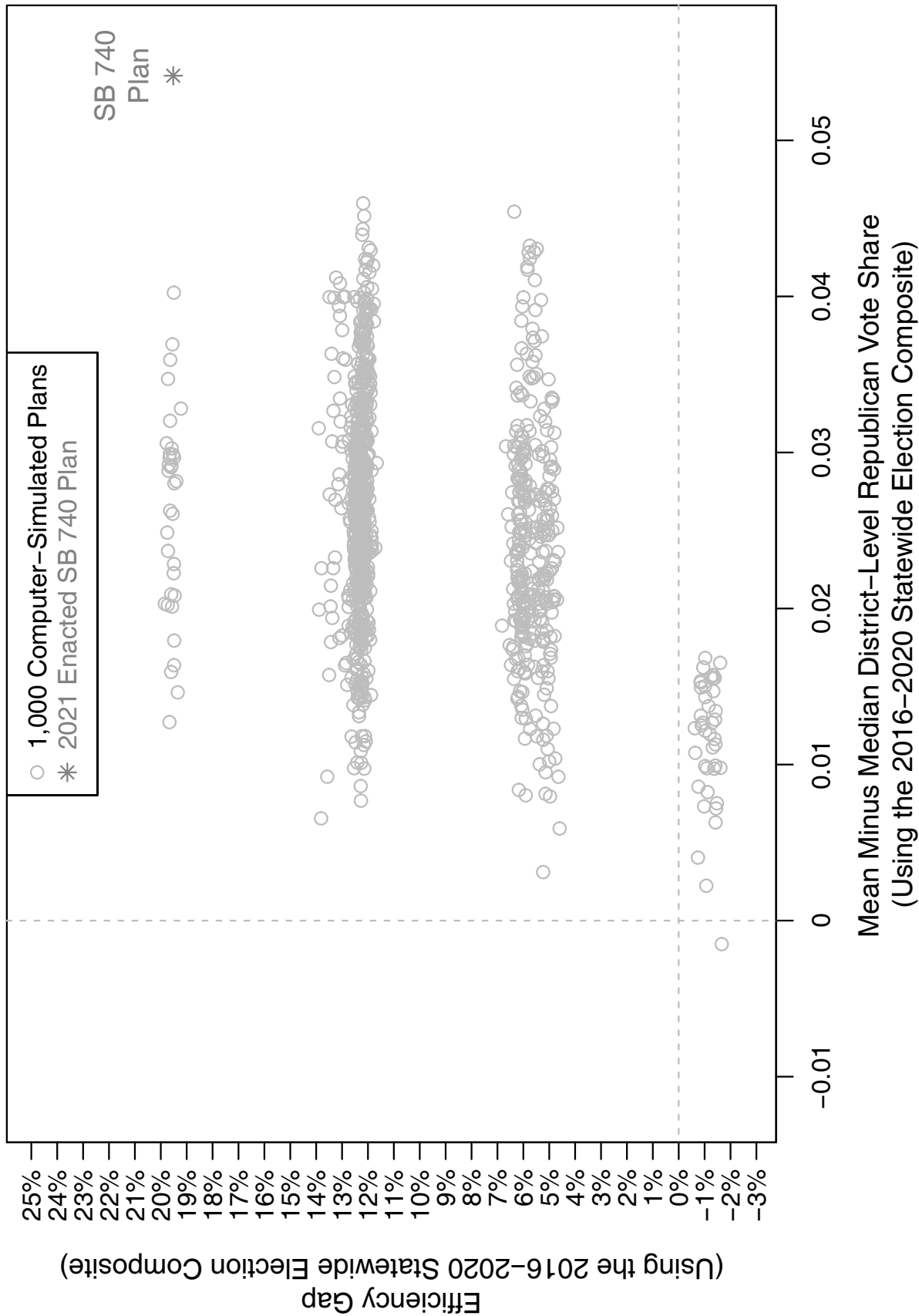
64. I analyze whether the Enacted Plan's efficiency gap arises naturally from a map-drawing process strictly adhering to the mandated criteria in the General Assembly's Adopted Criteria, or rather, whether the skew in the Enacted Plan's efficiency gap is explainable only as the product of a map-drawing process that intentionally favored one party over the other. By comparing the efficiency gap of the Enacted Plan to that of the computer-simulated plans, I am able to evaluate whether or not such the Enacted Plan's efficiency gap could have realistically resulted from adherence to the Adopted Criteria.

65. Figure 9 compares the efficiency gaps of the Enacted Plan and of the 1,000 computer-simulated plans. As before, the 1,000 circles in this Figure represent the 1,000 computer-simulated plans, while the red star in the lower right corner represents the Enacted Plan. Each plan is plotted along the vertical axis according to its efficiency gap, while each plan is plotted along the horizontal axis according to its mean-median difference.

66. The results in Figure 9 illustrate that the Enacted Plan exhibits an efficiency gap of +19.5%, indicating that the plan results in far more wasted Democratic votes than wasted Republican votes. Specifically, the difference between the total number of wasted Democratic votes and wasted Republican votes amounts to 19.5% of the total number of votes statewide. The Enacted Plan's efficiency gap is larger than the efficiency gaps exhibited by 97.7% of the computer-simulated plans. This comparison reveals that the significant level of Republican bias exhibited by the Enacted Plan cannot be explained by North Carolina's political geography or the Adopted Criteria alone.

Figure 9:

Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans on Mean-Median Difference and Efficiency Gap



67. ***The Lopsided Margins Measure:*** Another measure of partisan bias in districting plans is the "lopsided margins" test. The basic premise captured by this measure is that a partisan-motivated map-drawer may attempt to pack the opposing party's voters into a small number of extreme districts that are won by a lopsided margin. Thus, for example, a map-drawer attempting to favor Party A may pack Party B's voters into a small number of districts that very heavily favor Party B. This packing would then allow Party A to win all the remaining districts with relatively smaller margins. This sort of partisan manipulation in districting would result in Party B winning its districts by extremely large margins, while Party A would win its districts by relatively small margins.

68. Hence, the lopsided margins test is performed by calculating the difference between the average margin of victory in Republican-favoring districts and the average margin of victory in Democratic-favoring districts. The 2021 Enacted Plan contains four Democratic-favoring districts (CD-2, 5, 6, and 9), and these four districts have an average Democratic vote share of 65.4%, as measured using the 2016-2020 Statewide Election Composite. By contrast, the Enacted Plan contains ten Republican-favoring districts (CD-1, 3, 4, 7, 8, 10, 11, 12, 13, and 14), and these ten districts have an average Republican vote share of 57.3%. Hence, the difference between the average Democratic margin of victory in Democratic-favoring districts and the average Republican margin of victory in Republican-favoring districts is +8.1%, which is calculated as 65.4% - 57.3%. I refer to this calculation of +8.1% as the Enacted Plan's lopsided margins measure.

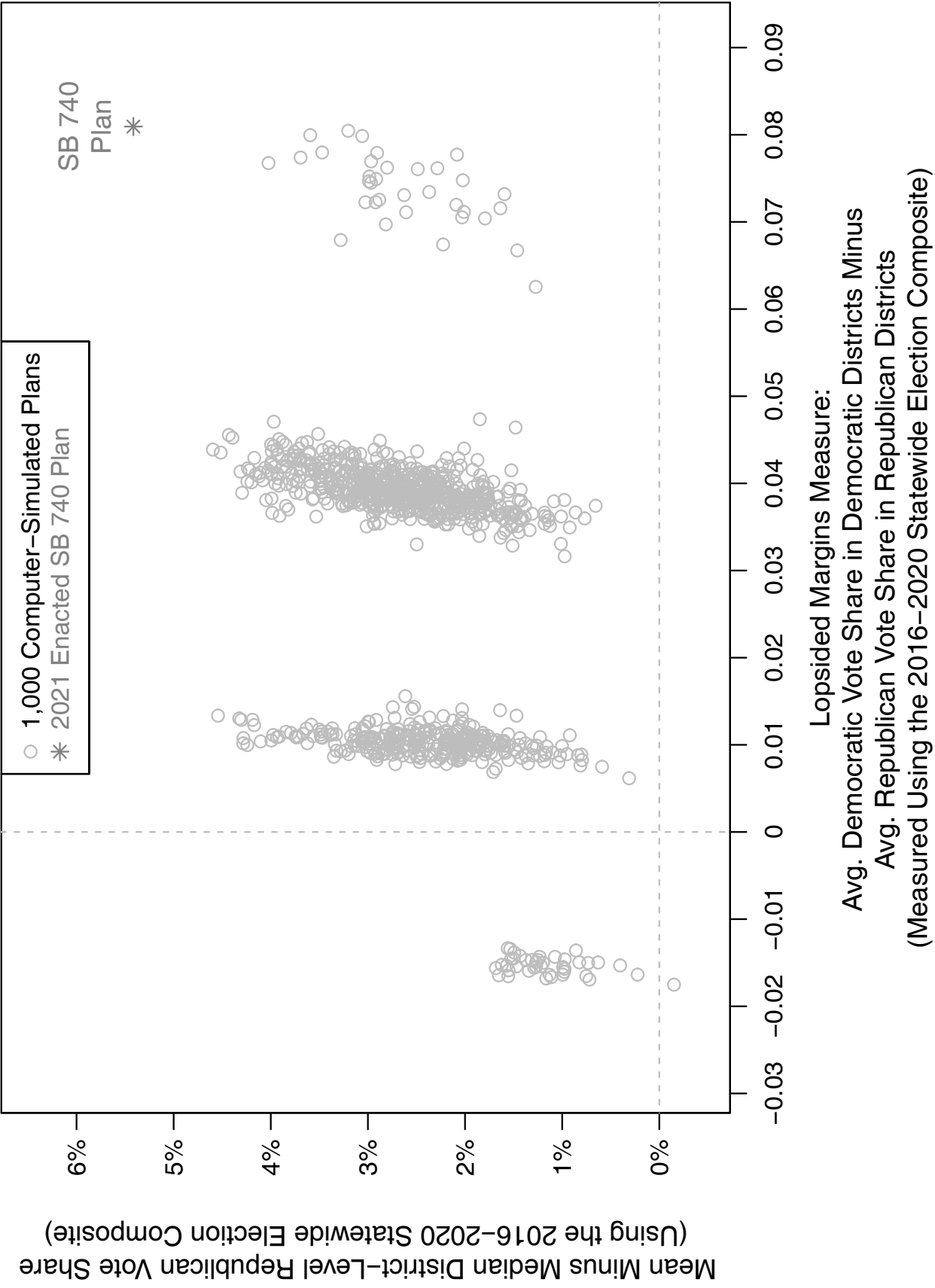
69. How does the 8.1% lopsided margins measure of the Enacted Plan compare to the same calculation for the 1,000 computer-simulated plans? Figure 10 reports the lopsided margins calculations for the Enacted Plan and for the simulated plans. In Figure 10, each plan is plotted

along the horizontal axis according to its lopsided margins measure and along the vertical axis according to its mean-median difference.

70. Figure 10 reveals that the Enacted Plan's +8.1% lopsided margins measure is an extreme outlier compared to the lopsided margins measures of the 1,000 computer-simulated plans. All 1,000 of the simulated plans have a smaller lopsided margins measure than the Enacted Plan. In fact, a significant minority (34.5%) of the 1,000 simulated plans have a lopsided margins measure of between -2% to +2%, indicating a plan in which Democrats and Republicans win their respective districts by similar average margins.

71. By contrast, the Enacted Plan's lopsided margins measure of +8.1% indicates that the Enacted Plan creates districts in which Democrats are extremely packed into their districts, while the margin of victory in Republican districts is significantly smaller. The "lopsidedness" of the two parties' average margin of victory is extreme when compared to the computer-simulated plans. The finding that all 1,000 simulated plans have a smaller lopsided margins measure indicates that the Enacted Plan's extreme packing of Democrats into Democratic-favoring districts was not simply the result of North Carolina's political geography, combined with adherence to the Adopted Criteria.

Figure 10:
**Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
on Lopsided Margins Measure and Mean-Median Difference**



Conclusions Regarding Partisanship and Traditional Districting Criteria:

72. The analysis described thus far in this report lead me to reach two main findings: First, among the five traditional districting criteria mandated by the General Assembly’s 2021 Adopted Criteria, the Enacted Plan fails to minimize county splits, fails to minimize VTD splits, and is significantly less geographically compact than is reasonably possible under a districting process that follows the Adopted Criteria. Second, I found that the Enacted Plan is an extreme partisan outlier when compared to computer-simulated plans produced by a process following the Adopted Criteria. The Enacted Plan contains 10 districts that are partisan outliers when compared to the simulated plans’ districts, and using several different common measures of partisan bias, the Enacted Plan creates a level of pro-Republican bias more extreme than in over 95% of the computer-simulated plans. In particular, the Enacted Plan creates more “mid-range” Republican districts than is created in 100% of the computer-simulated plans (Paragraphs 45-46).

73. Based on these two main findings, I conclude that partisanship predominated in the drawing of the 2021 Enacted Plan and subordinated the traditional districting principles of avoiding county splits, avoiding VTD splits, and geographic compactness. Because the Enacted Plan fails to follow three of the Adopted Criteria’s mandated districting principles while simultaneously creating an extreme level of partisan bias, I therefore conclude that the partisan bias of the Enacted Plan did not naturally arise by chance from a districting process adhering to the Adopted Criteria. Instead, I conclude that partisan goals predominated in the drawing of the Enacted Plan. By subordinating traditional districting criteria, the General Assembly’s Enacted Plan was able to achieve partisan goals that could not otherwise have been achieved under a partisan-neutral districting process that follows the Adopted Criteria.

The Effect of the Enacted Plan Districts on Plaintiffs

74. I evaluated the congressional districts in which each Plaintiff would reside under the 1,000 computer-simulated using a list of geocoded residential addresses for the Plaintiffs that counsel for the Plaintiffs provided me. I used these geocoded addresses to identify the specific district in which each Plaintiff would be located under each computer-simulated plan, as well as under the Enacted Plan. I then compared the partisanship of each individual Plaintiff's Enacted Plan district to the partisanship of the Plaintiff's 1,000 districts from the 1,000 computer-simulated plans. Using this approach, I identify whether each Plaintiff's district is a partisan outlier when compared to the Plaintiff's 1,000 computer-simulated districts.

75. Figure 11 present the results of this analysis. This Figure lists the individual Plaintiffs and describes the partisanship of each Plaintiff's district of residence in the Enacted Plan, as well as the partisanship of the district the Plaintiff would have resided in under each of the 1,000 simulated congressional plans.

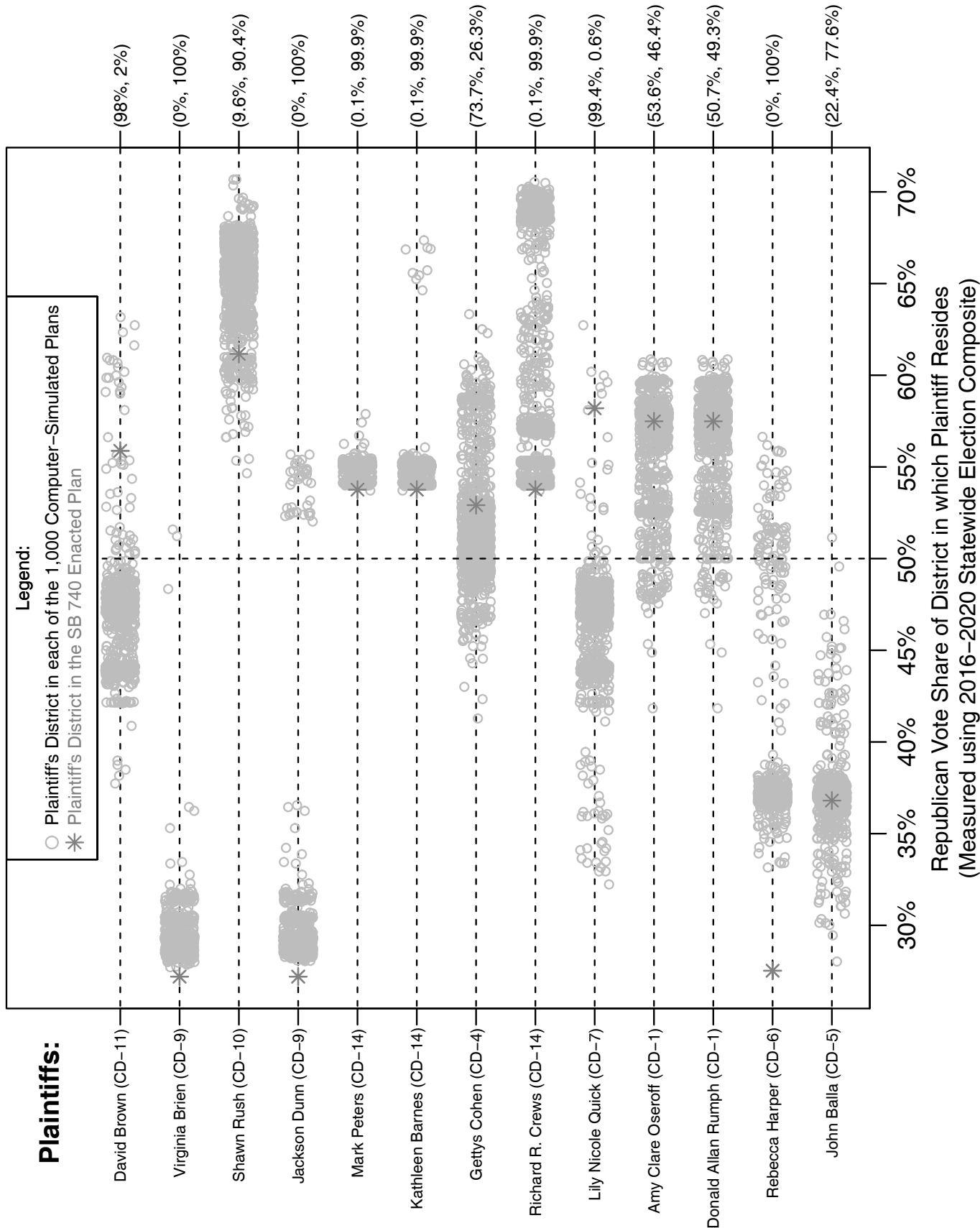
76. To explain these analyses with an example each row in Figure 11 corresponds to a particular individual Plaintiff. In the first row, describing Plaintiff David Brown, the red star depicts the partisanship of the Plaintiff's Enacted Plan district (CD-11), as measured by Republican vote share using the 2016-2020 Statewide Election Composite. The 1,000 gray circles on this row depict the Republican vote share of each of the 1,000 simulated districts in which the Plaintiff would reside in each of the 1,000 computer-simulated plans, based on that Plaintiff's residential address. In the margin to the right of each row, I list in parentheses how many of the 1,000 simulated plans would place the plaintiff in a more Democratic-leaning district (on the left) and how many of the 1,000 simulations would place the plaintiff in a more Republican-leaning district (on the right) than the Plaintiff's Enacted Plan district. Thus, for

example, the first row of Figure 11 reports that 98% of the 1,000 computer-simulated plans would place Plaintiff David Brown in a more Democratic-leaning district than his actual Enacted Plan district (CD-11). Therefore, I can conclude that Plaintiff David Brown’s Enacted Plan district is a partisan statistical outlier when compared to his district under the 1,000 simulated plans.

77. Figure 11 shows that two Plaintiffs residing in Republican-leaning districts under the Enacted Plan would be placed in a more Democratic-leaning district in over 95% of the computer-simulated plans: David Brown (CD-11) and Lily Nicole Quick (CD-7).

Figure 11:

Plaintiffs' Districts in the SB 740 Plan and in 1,000 Computer-Simulated Plans



78. Additionally, Figure 11 shows that six Plaintiffs would be placed in a more Republican district in 99.9% or more of the simulated plans relative to their districts under the Enacted Plan: Virginia Brien (CD-9), Jackson Dunn (CD-9), Mark Peters (CD-14), Kathleen Barnes (CD-14), Richard R. Crews (CD-14), and Rebecca Harper (CD-6).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

This 30th day of November, 2021.

A handwritten signature in black ink, appearing to read 'J. Chen', written over a horizontal line.

Dr. Jowei Chen

Jowei Chen
Curriculum Vitae

Department of Political Science
University of Michigan
5700 Haven Hall
505 South State Street
Ann Arbor, MI 48109-1045
Phone: 917-861-7712, Email: jowei@umich.edu
Website: <http://www.umich.edu/~jowei>

Academic Positions:

Associate Professor (2015-present), Assistant Professor (2009-2015), Department of Political Science, University of Michigan.
Research Associate Professor (2016-present), Faculty Associate (2009-2015), Center for Political Studies, University of Michigan.
W. Glenn Campbell and Rita Ricardo-Campbell National Fellow, Hoover Institution, Stanford University, 2013.
Principal Investigator and Senior Research Fellow, Center for Governance and Public Policy Research, Willamette University, 2013 – Present.

Education:

Ph.D., Political Science, Stanford University (June 2009)
M.S., Statistics, Stanford University (January 2007)
B.A., Ethics, Politics, and Economics, Yale University (May 2004)

Publications:

Chen, Jowei and Neil Malhotra. 2007. “The Law of k/n: The Effect of Chamber Size on Government Spending in Bicameral Legislatures.”
American Political Science Review. 101(4): 657-676.

Chen, Jowei, 2010. “The Effect of Electoral Geography on Pork Barreling in Bicameral Legislatures.”
American Journal of Political Science. 54(2): 301-322.

Chen, Jowei, 2013. “Voter Partisanship and the Effect of Distributive Spending on Political Participation.”
American Journal of Political Science. 57(1): 200-217.

Chen, Jowei and Jonathan Rodden, 2013. “Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures”
Quarterly Journal of Political Science, 8(3): 239-269.

Bradley, Katharine and Jowei Chen, 2014. “Participation Without Representation? Senior Opinion, Legislative Behavior, and Federal Health Reform.”

Journal of Health Politics, Policy and Law. 39(2), 263-293.

Chen, Jowei and Tim Johnson, 2015. “Federal Employee Unionization and Presidential Control of the Bureaucracy: Estimating and Explaining Ideological Change in Executive Agencies.”

Journal of Theoretical Politics, Volume 27, No. 1: 151-174.

Bonica, Adam, Jowei Chen, and Tim Johnson, 2015. “Senate Gate-Keeping, Presidential Staffing of ‘Inferior Offices’ and the Ideological Composition of Appointments to the Public Bureaucracy.”

Quarterly Journal of Political Science. Volume 10, No. 1: 5-40.

Chen, Jowei and Jonathan Rodden, 2015. “Cutting Through the Thicket: Redistricting Simulations and the Detection of Partisan Gerrymanders.”

Election Law Journal. Volume 14, Number 4: 331-345.

Chen, Jowei and David Cottrell, 2016. “Evaluating Partisan Gains from Congressional Gerrymandering: Using Computer Simulations to Estimate the Effect of Gerrymandering in the U.S. House.”

Electoral Studies. Volume 44 (December 2016): 329-340.

Chen, Jowei, 2017. “Analysis of Computer-Simulated Districting Maps for the Wisconsin State Assembly.”

Election Law Journal. Volume 16, Number 4 (December 2017): 417-442.

Chen, Jowei and Nicholas Stephanopoulos, 2020. “The Race-Blind Future of Voting Rights.”

Yale Law Journal, Forthcoming. Volume 130, Number 4: 778-1049.

Kim, Yunsieg and Jowei Chen, 2021. "Gerrymandered by Definition: The Distortion of 'Traditional' Districting Principles and a Proposal for an Empirical Redefinition."

Wisconsin Law Review, Forthcoming, Volume 2021, Number 1.

Chen, Jowei and Nicholas Stephanopoulos, 2021. "Democracy's Denominator."

California Law Review, Accepted for Publication, Volume 109.

Non-Peer-Reviewed Publication:

Chen, Jowei and Tim Johnson. 2017. “Political Ideology in the Bureaucracy.”

Global Encyclopedia of Public Administration, Public Policy, and Governance.

Research Grants:

"How Citizenship-Based Redistricting Systemically Disadvantages Voters of Color". 2020 (\$18,225). Combating and Confronting Racism Grant. University of Michigan Center for Social Solutions and Poverty Solutions.

Principal Investigator. National Science Foundation Grant SES-1459459, September 2015 – August 2018 (\$165,008). "The Political Control of U.S. Federal Agencies and Bureaucratic Political Behavior."

"Economic Disparity and Federal Investments in Detroit," (with Brian Min) 2011. Graham Institute, University of Michigan (\$30,000).

"The Partisan Effect of OSHA Enforcement on Workplace Injuries," (with Connor Raso) 2009. John M. Olin Law and Economics Research Grant (\$4,410).

Invited Talks:

September, 2011. University of Virginia, American Politics Workshop.

October 2011. Massachusetts Institute of Technology, American Politics Conference.

January 2012. University of Chicago, Political Economy/American Politics Seminar.

February 2012. Harvard University, Positive Political Economy Seminar.

September 2012. Emory University, Political Institutions and Methodology Colloquium.

November 2012. University of Wisconsin, Madison, American Politics Workshop.

September 2013. Stanford University, Graduate School of Business, Political Economy Workshop.

February 2014. Princeton University, Center for the Study of Democratic Politics Workshop.

November 2014. Yale University, American Politics and Public Policy Workshop.

December 2014. American Constitution Society for Law & Policy Conference: Building the Evidence to Win Voting Rights Cases.

February 2015. University of Rochester, American Politics Working Group.

March 2015. Harvard University, Voting Rights Act Workshop.

May 2015. Harvard University, Conference on Political Geography.

October 2015. George Washington University School of Law, Conference on Redistricting Reform.

September 2016. Harvard University Center for Governmental and International Studies, Voting Rights Institute Conference.

March 2017. Duke University, Sanford School of Public Policy, Redistricting Reform Conference.

October 2017. Willamette University, Center for Governance and Public Policy Research

October 2017, University of Wisconsin, Madison. Geometry of Redistricting Conference.

February 2018: University of Georgia Law School

September 2018. Willamette University.

November 2018. Yale University, Redistricting Workshop.

November 2018. University of Washington, Severyns Ravenholt Seminar in Comparative Politics.

January 2019. Duke University, Reason, Reform & Redistricting Conference.

February 2019. Ohio State University, Department of Political Science. Departmental speaker series.

March 2019. Wayne State University Law School, Gerrymandering Symposium.

November 2019. Big Data Ignite Conference.

November 2019. Calvin College, Department of Mathematics and Statistics.

September 2020 (Virtual). Yale University, Yale Law Journal Scholarship Workshop

Conference Service:

Section Chair, 2017 APSA (San Francisco, CA), Political Methodology Section

Discussant, 2014 Political Methodology Conference (University of Georgia)

Section Chair, 2012 MPSA (Chicago, IL), Political Geography Section.

Discussant, 2011 MPSA (Chicago, IL) “Presidential-Congressional Interaction.”

Discussant, 2008 APSA (Boston, MA) “Congressional Appropriations.”

Chair and Discussant, 2008 MPSA (Chicago, IL) “Distributive Politics: Parties and Pork.”

Conference Presentations and Working Papers:

“Ideological Representation of Geographic Constituencies in the U.S. Bureaucracy,” (with Tim Johnson). 2017 APSA.

“Incentives for Political versus Technical Expertise in the Public Bureaucracy,” (with Tim Johnson). 2016 APSA.

“Black Electoral Geography and Congressional Districting: The Effect of Racial Redistricting on Partisan Gerrymandering”. 2016 Annual Meeting of the Society for Political Methodology (Rice University)

“Racial Gerrymandering and Electoral Geography.” Working Paper, 2016.

“Does Deserved Spending Win More Votes? Evidence from Individual-Level Disaster Assistance,” (with Andrew Healy). 2014 APSA.

“The Geographic Link Between Votes and Seats: How the Geographic Distribution of Partisans Determines the Electoral Responsiveness and Bias of Legislative Elections,” (with David Cottrell). 2014 APSA.

“Gerrymandering for Money: Drawing districts with respect to donors rather than voters.” 2014 MPSA.

“Constituent Age and Legislator Responsiveness: The Effect of Constituent Opinion on the Vote for Federal Health Reform.” (with Katharine Bradley) 2012 MPSA.

“Voter Partisanship and the Mobilizing Effect of Presidential Advertising.” (with Kyle Dropp) 2012 MPSA.

“Recency Bias in Retrospective Voting: The Effect of Distributive Benefits on Voting Behavior.” (with Andrew Feher) 2012 MPSA.

“Estimating the Political Ideologies of Appointed Public Bureaucrats,” (with Adam Bonica and Tim Johnson) 2012 Annual Meeting of the Society for Political Methodology (University of North Carolina)

“Tobler’s Law, Urbanization, and Electoral Bias in Florida.” (with Jonathan Rodden) 2010 Annual Meeting of the Society for Political Methodology (University of Iowa)

“Unionization and Presidential Control of the Bureaucracy” (with Tim Johnson) 2011 MPSA.

“Estimating Bureaucratic Ideal Points with Federal Campaign Contributions” 2010 APSA. (Washington, DC).

“The Effect of Electoral Geography on Pork Spending in Bicameral Legislatures,” Vanderbilt University Conference on Bicameralism, 2009.

“When Do Government Benefits Influence Voters’ Behavior? The Effect of FEMA Disaster Awards on US Presidential Votes,” 2009 APSA (Toronto, Canada).

“Are Poor Voters Easier to Buy Off?” 2009 APSA (Toronto, Canada).

“Credit Sharing Among Legislators: Electoral Geography’s Effect on Pork Barreling in Legislatures,” 2008 APSA (Boston, MA).

“Buying Votes with Public Funds in the US Presidential Election,” Poster Presentation at the 2008 Annual Meeting of the Society for Political Methodology (University of Michigan).

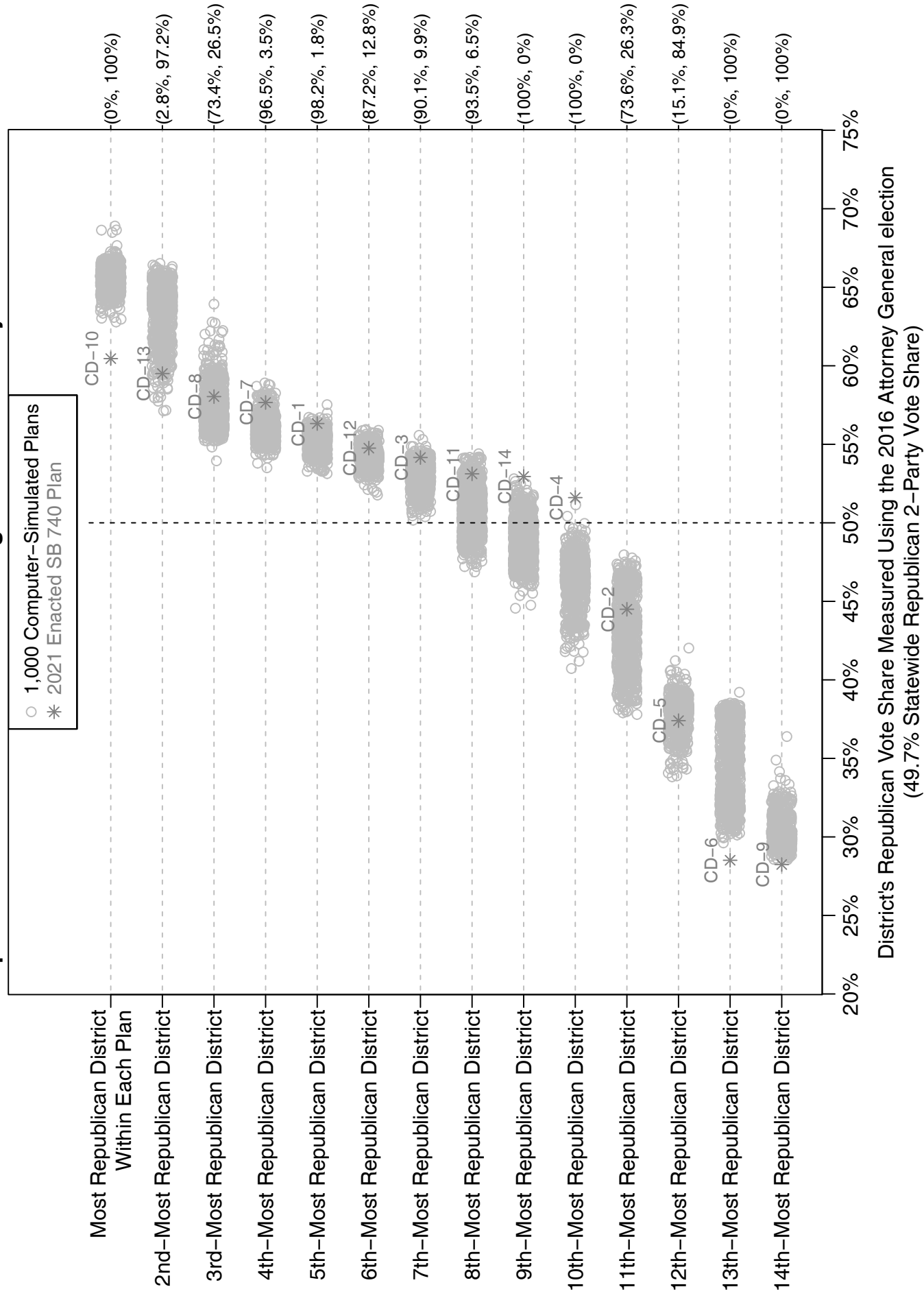
“The Effect of Electoral Geography on Pork Spending in Bicameral Legislatures,” 2008 MPSA.

“Legislative Free-Riding and Spending on Pure Public Goods,” 2007 MPSA (Chicago, IL).

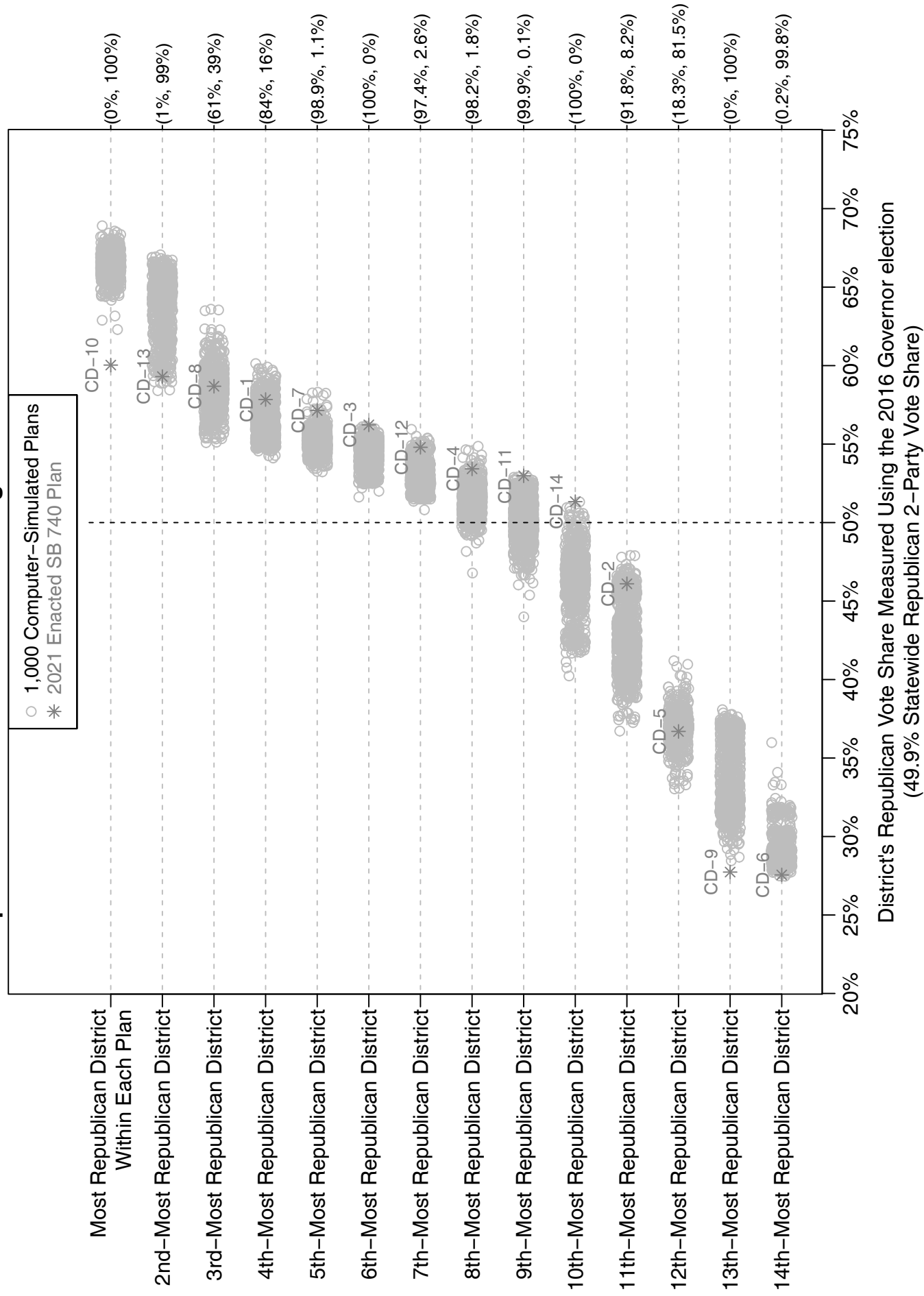
“Free Riding in Multi-Member Legislatures,” (with Neil Malhotra) 2007 MPSA (Chicago, IL).

“The Effect of Legislature Size, Bicameralism, and Geography on Government Spending: Evidence from the American States,” (with Neil Malhotra) 2006 APSA (Philadelphia, PA).

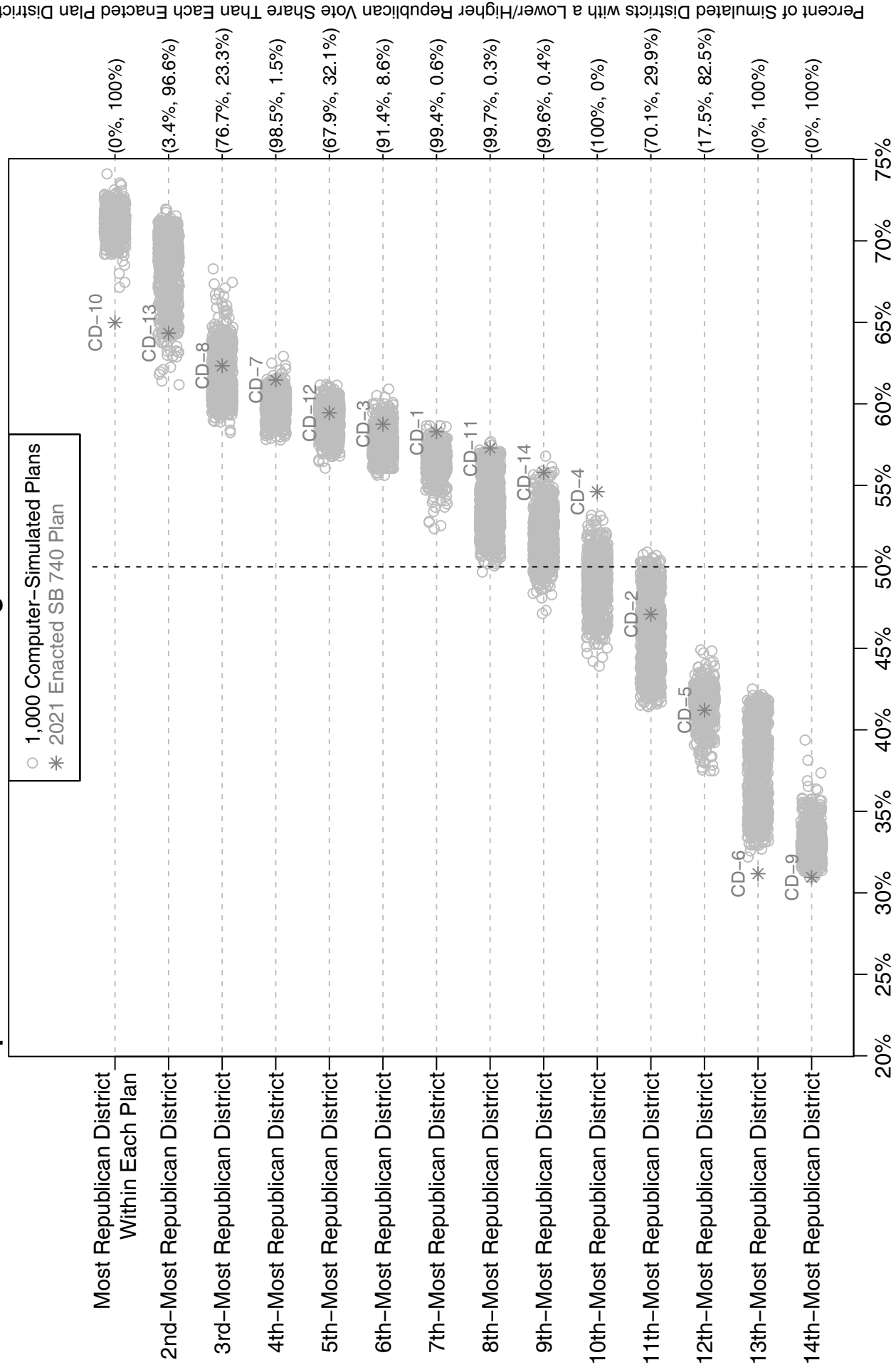
**Figure A1: Comparison of Enacted SB 740 Plan to 1,000 Computer–Simulated Plans:
Districts' Republican Vote Share Measured Using the 2016 Attorney General Election Results**



**Figure A2: Comparison of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans:
Districts' Republican Vote Share Measured Using the 2016 Governor Election Results**



**Figure A3: Comparison of Enacted SB 740 Plan to 1,000 Computer–Simulated Plans:
Districts' Republican Vote Share Measured Using the 2016 Lieutenant Governor Election Results**



District's Republican Vote Share Measured Using the 2016 Lieutenant Governor election
(53.3% Statewide Republican 2–Party Vote Share)

**Figure A4: Comparison of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans:
Districts' Republican Vote Share Measured Using the 2016 US President Election Results**

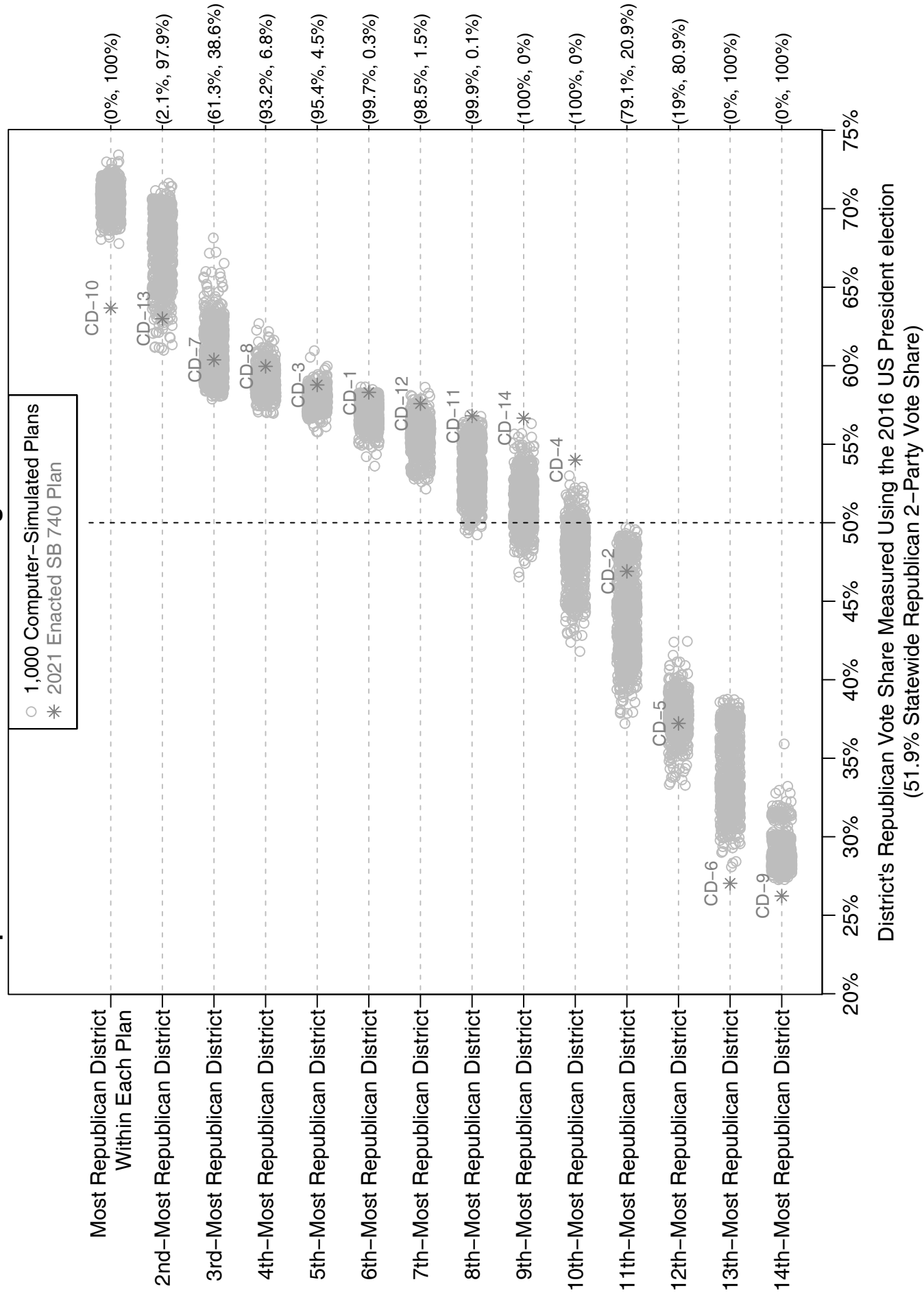
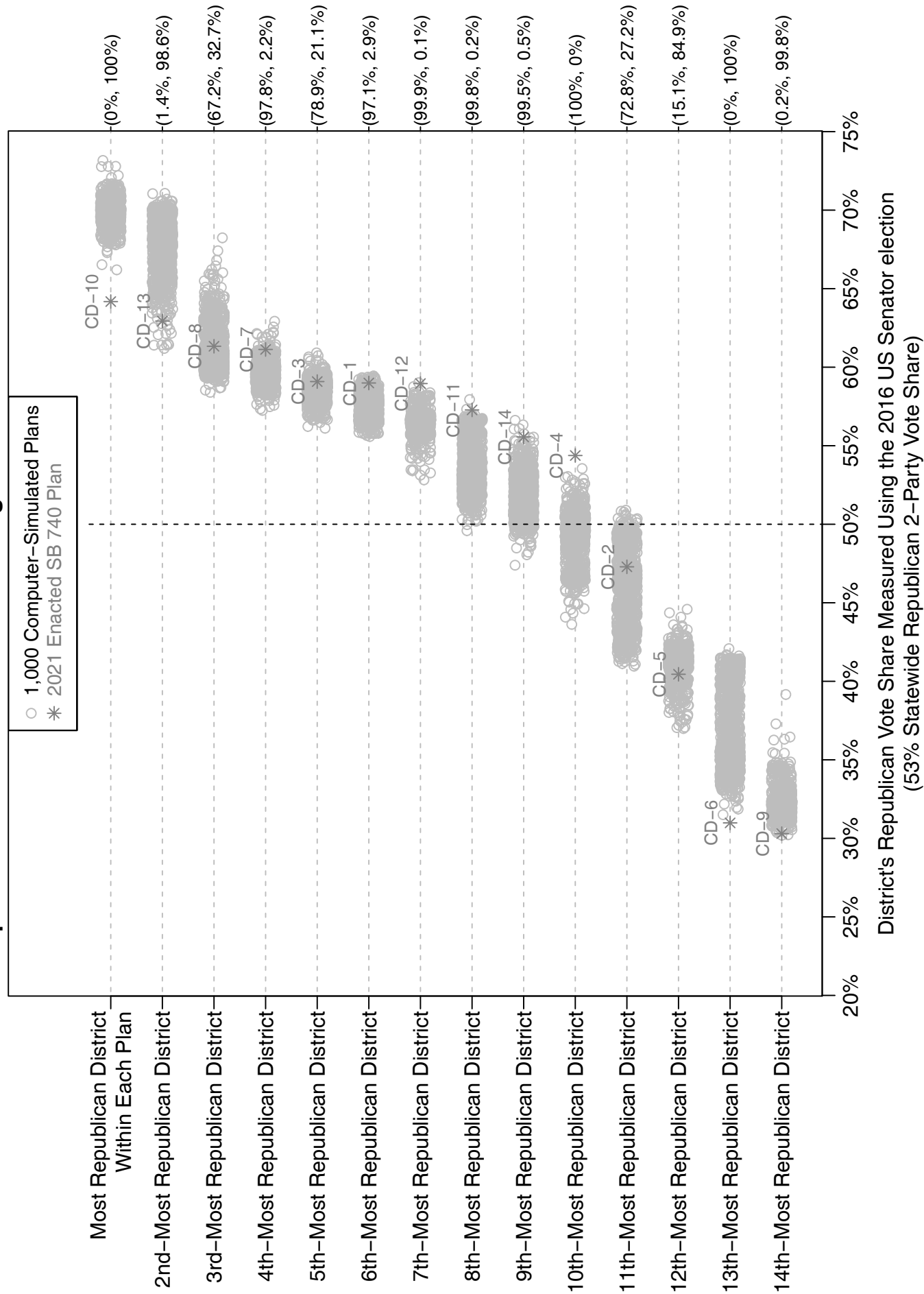
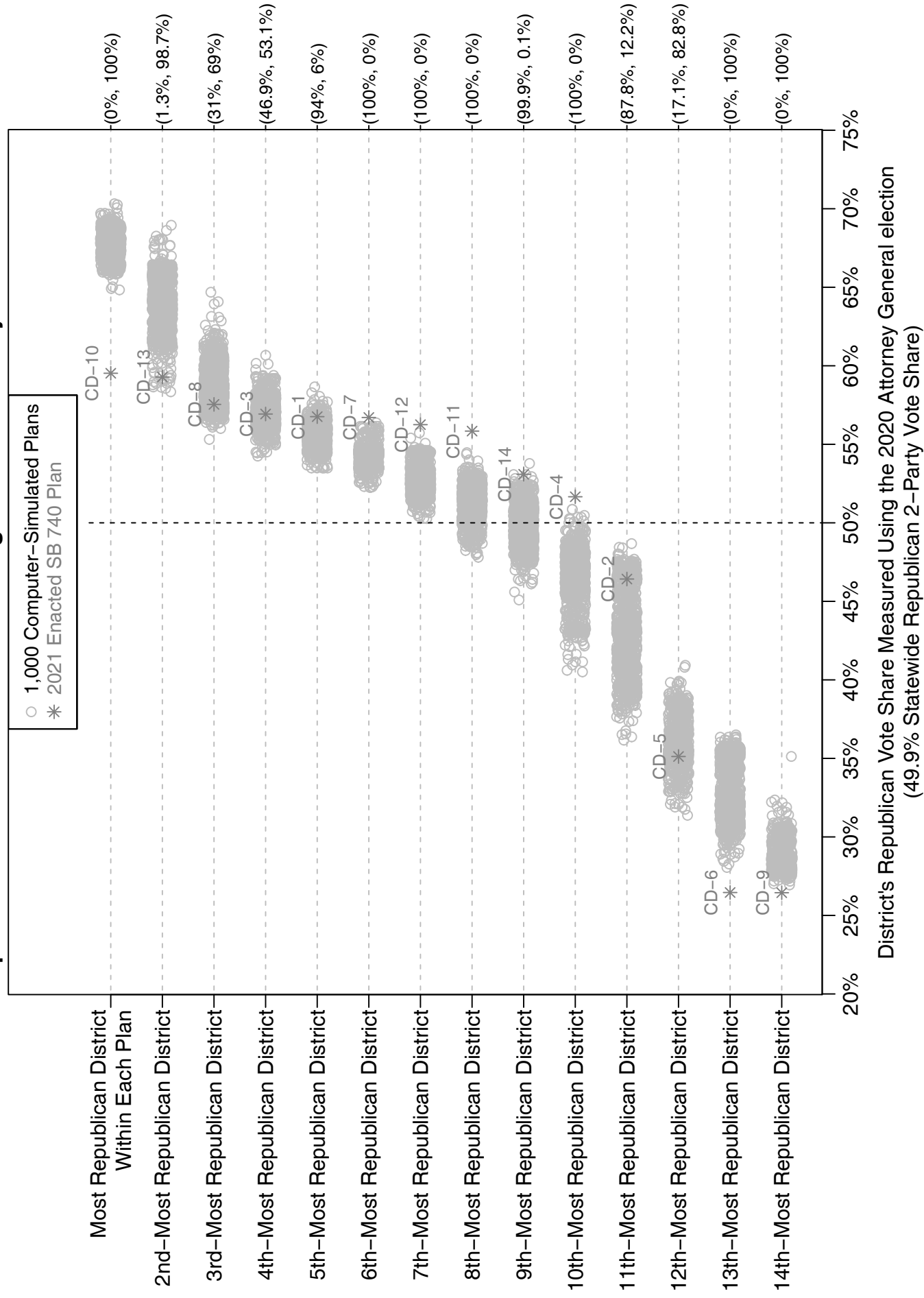


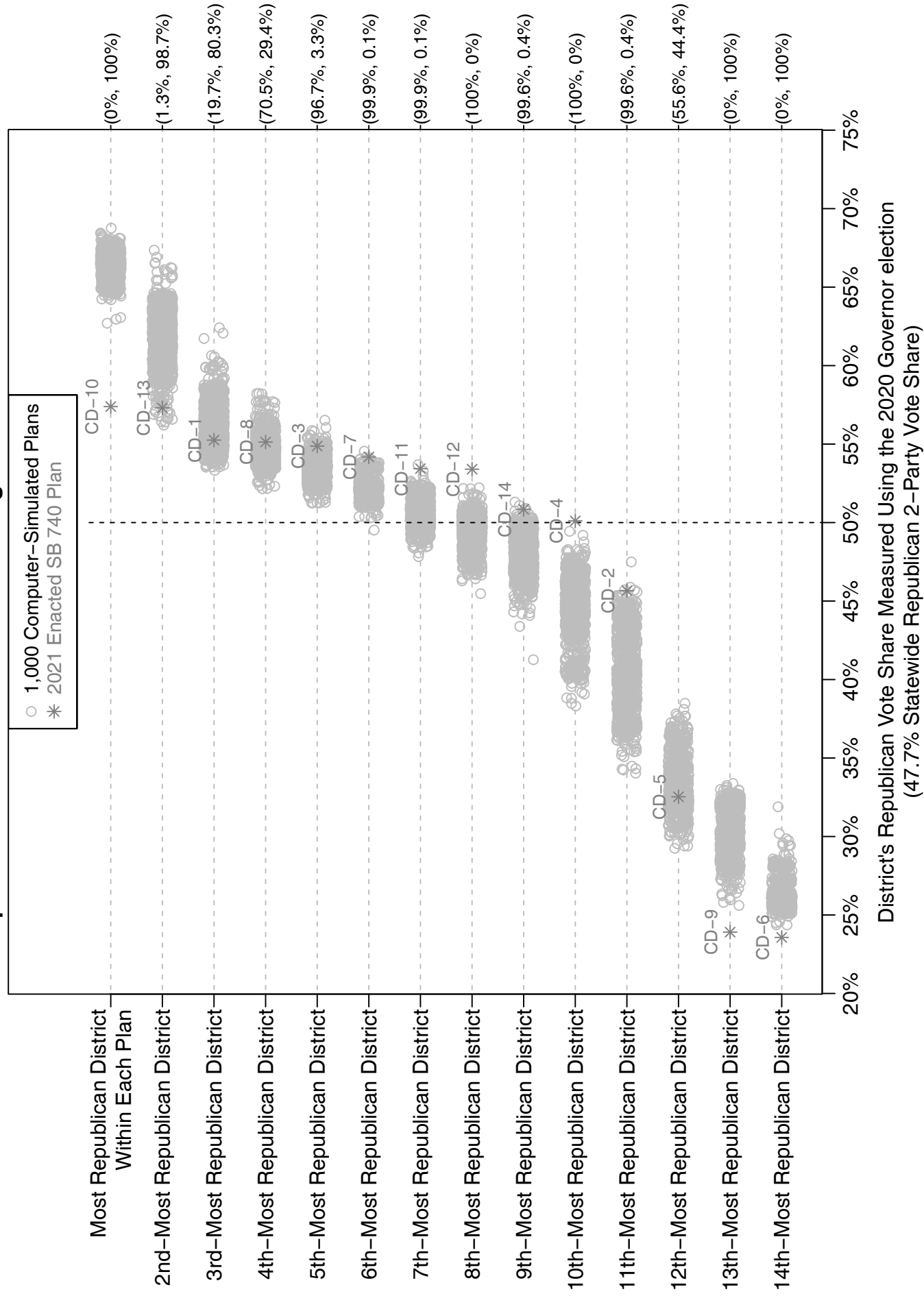
Figure A5: Comparison of Enacted SB 740 Plan to 1,000 Computer–Simulated Plans: Districts' Republican Vote Share Measured Using the 2016 US Senator Election Results



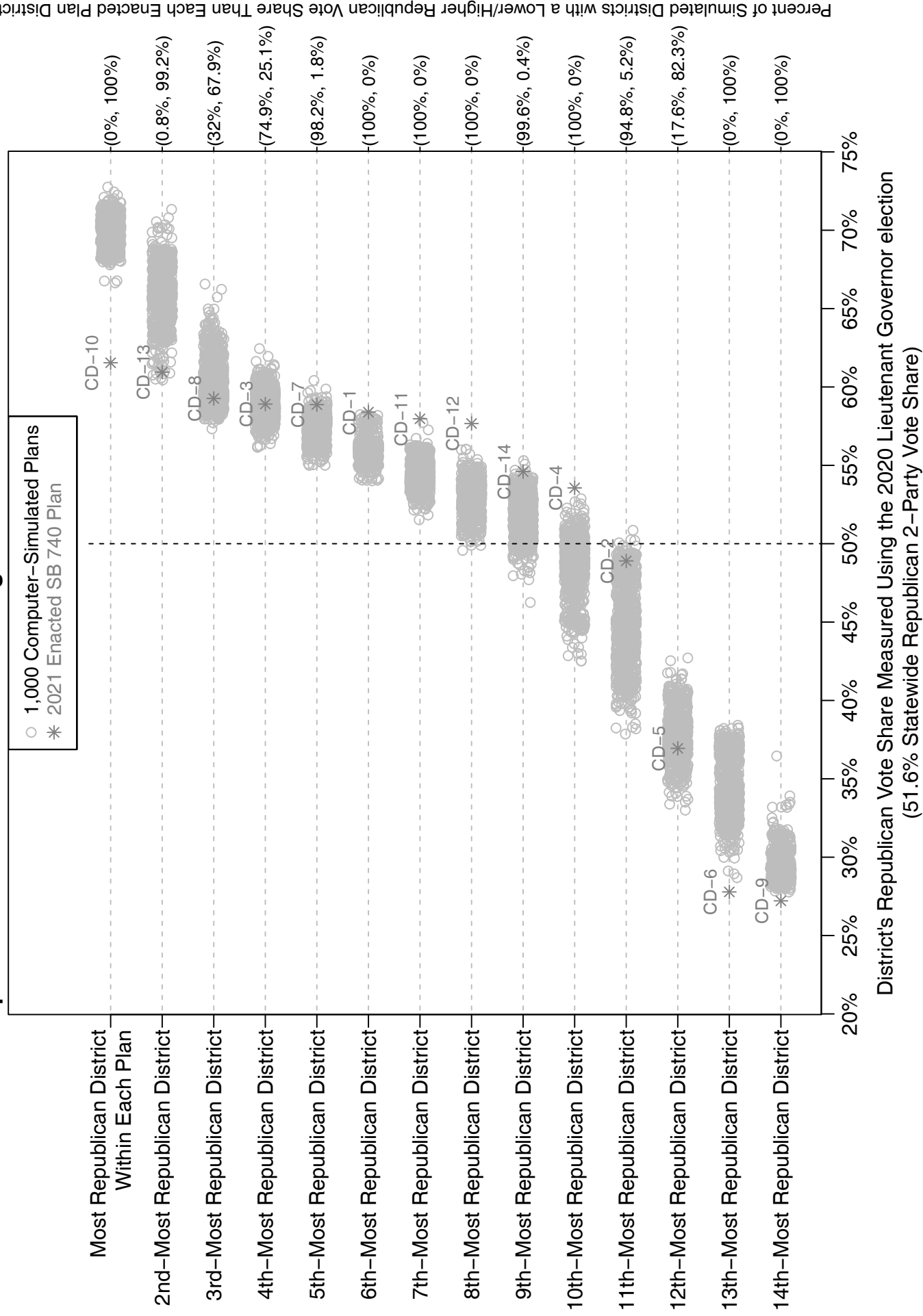
**Figure A6: Comparison of Enacted SB 740 Plan to 1,000 Computer–Simulated Plans:
Districts' Republican Vote Share Measured Using the 2020 Attorney General Election Results**



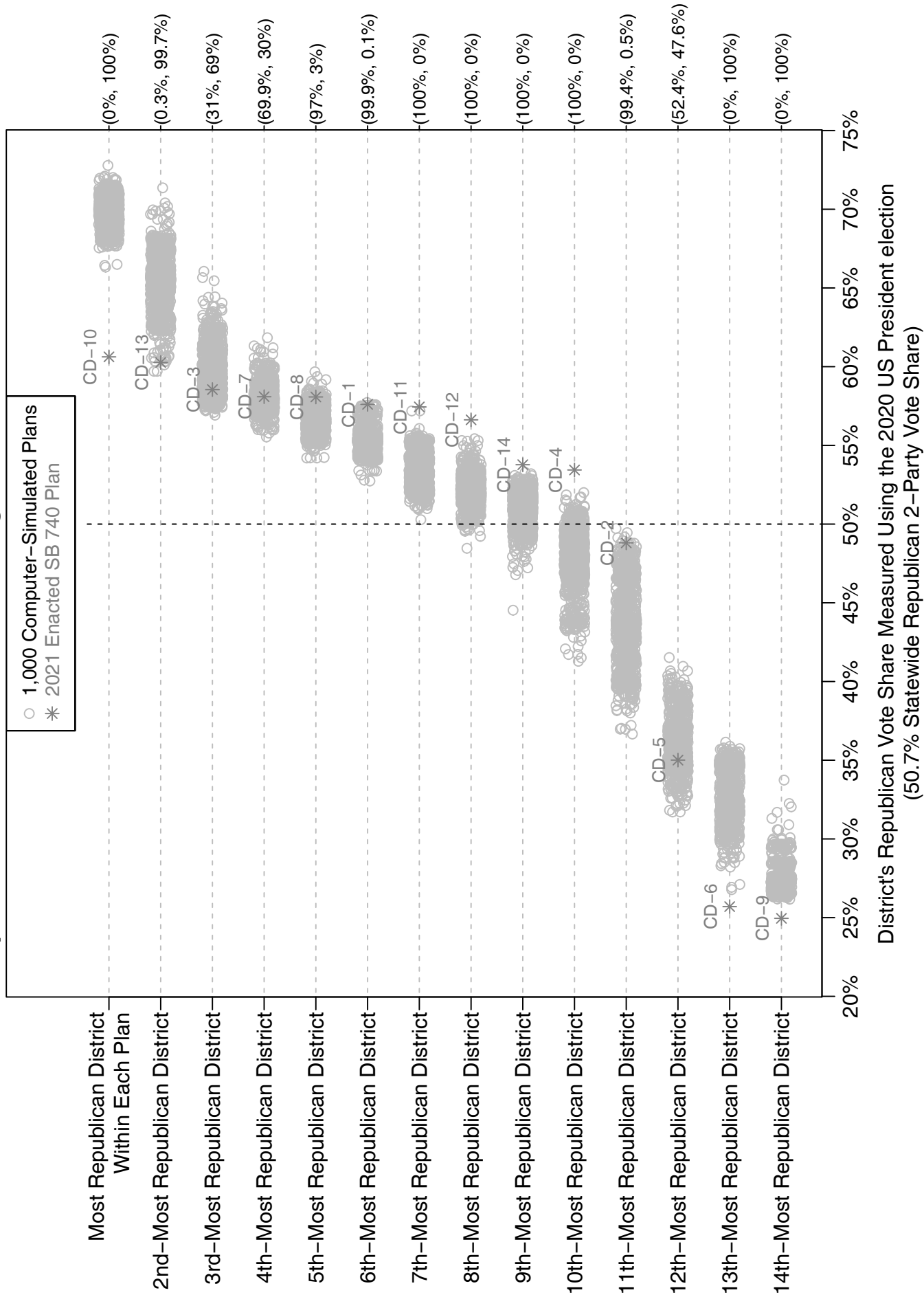
**Figure A7: Comparison of Enacted SB 740 Plan to 1,000 Computer–Simulated Plans:
Districts' Republican Vote Share Measured Using the 2020 Governor Election Results**



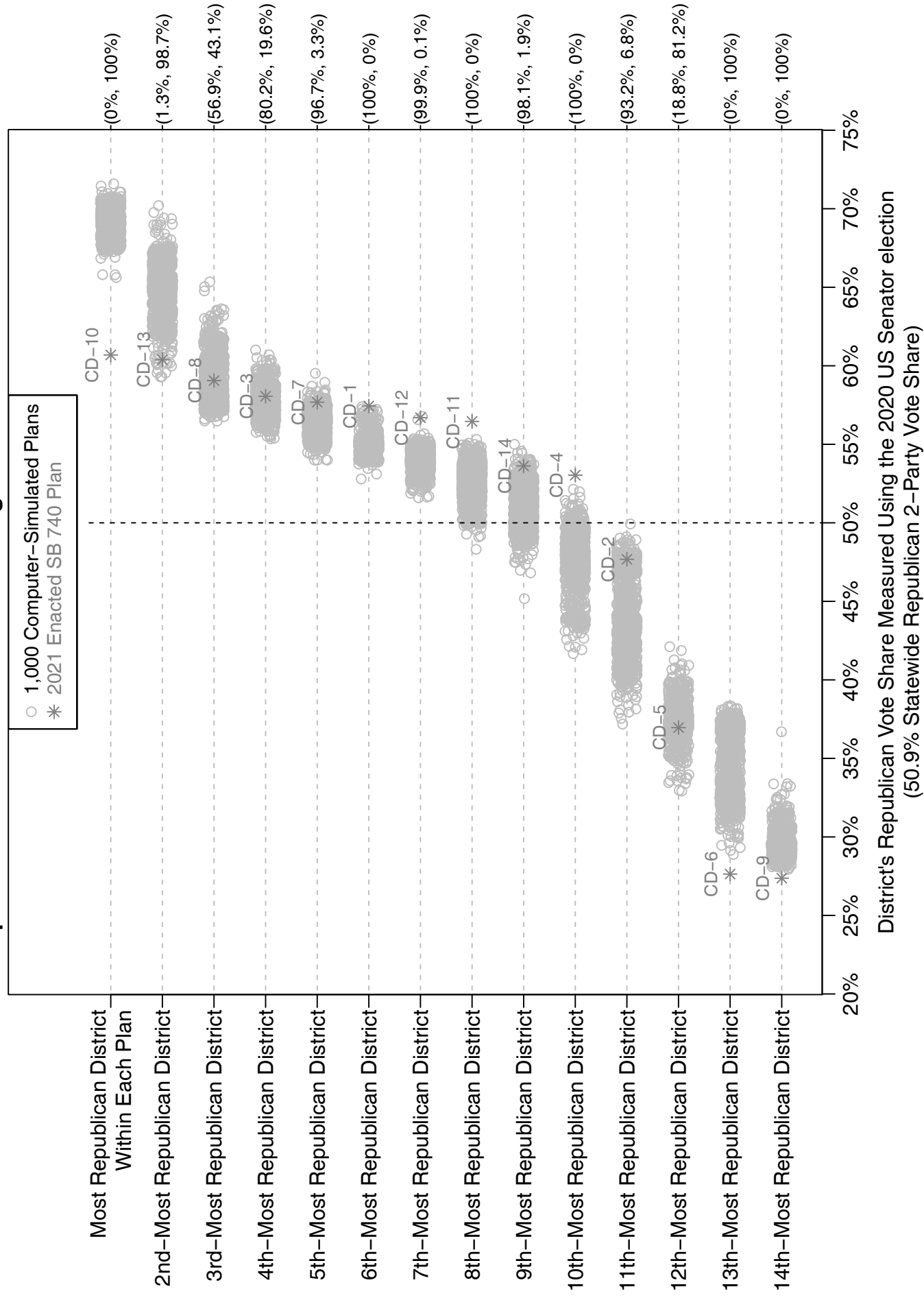
**Figure A8: Comparison of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans:
Districts' Republican Vote Share Measured Using the 2020 Lieutenant Governor Election Results**



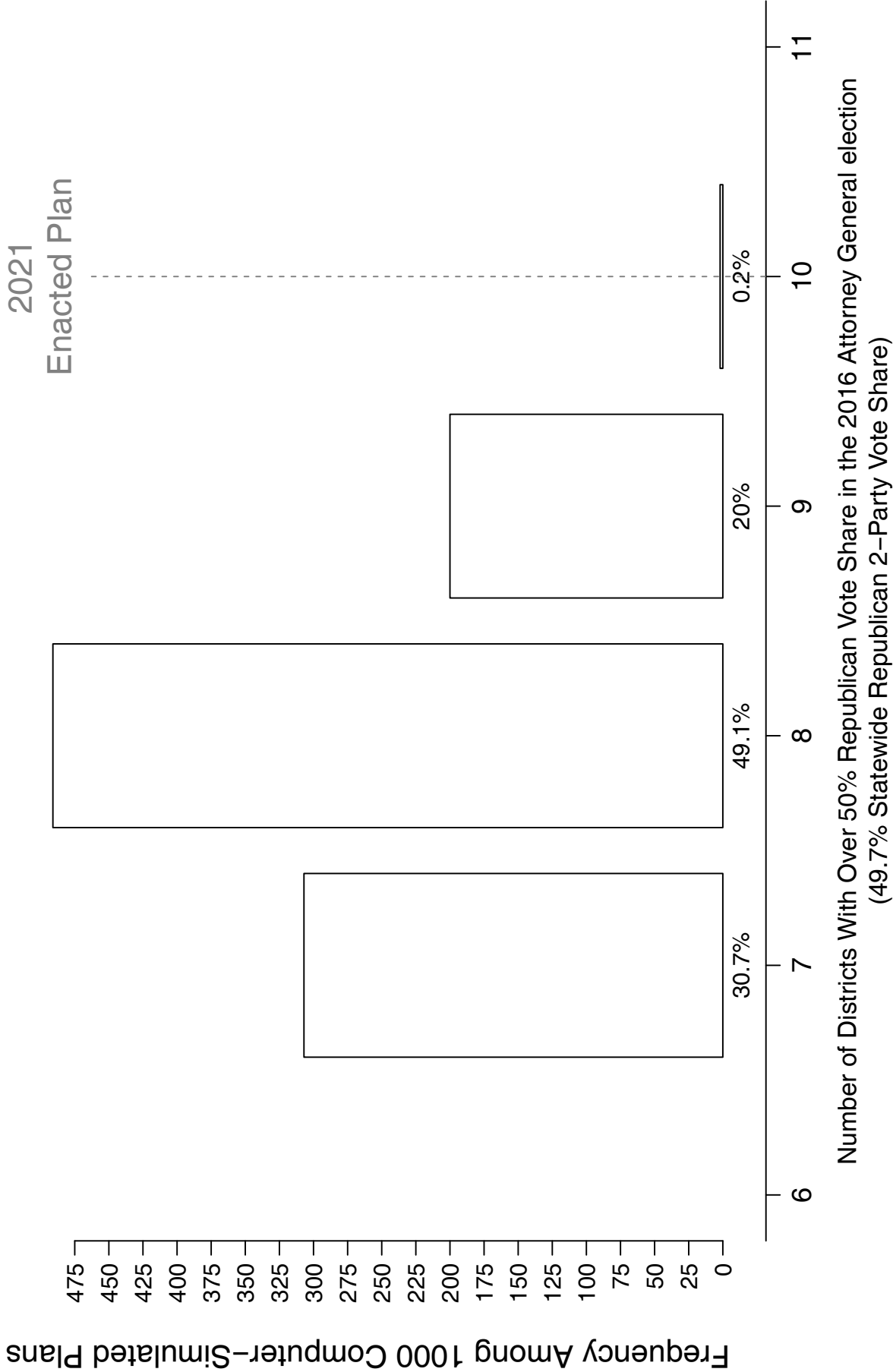
**Figure A9: Comparison of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans:
Districts' Republican Vote Share Measured Using the 2020 US President Election Results**



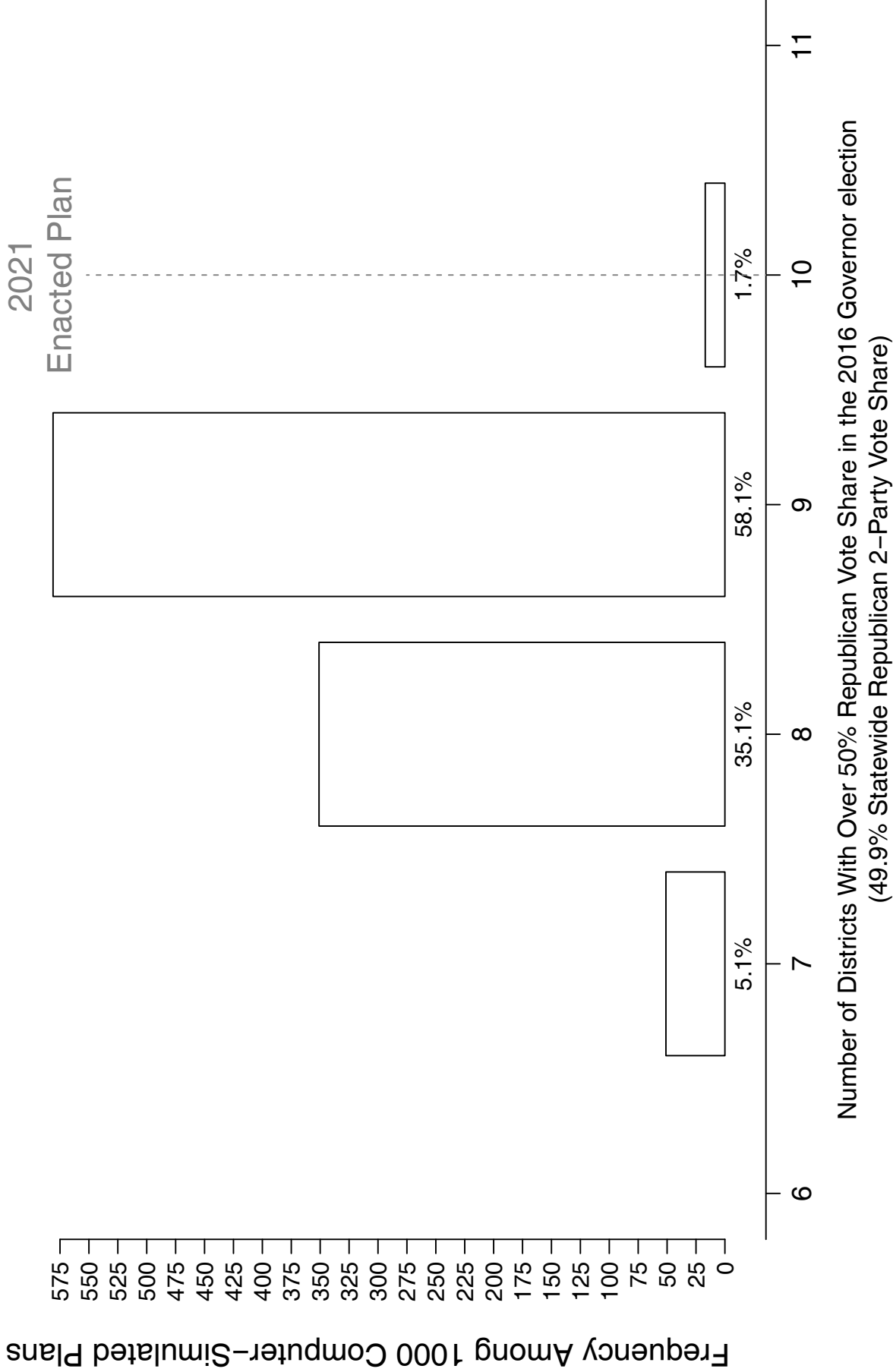
**Figure A10: Comparison of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans:
Districts' Republican Vote Share Measured Using the 2020 US Senator Election Results**



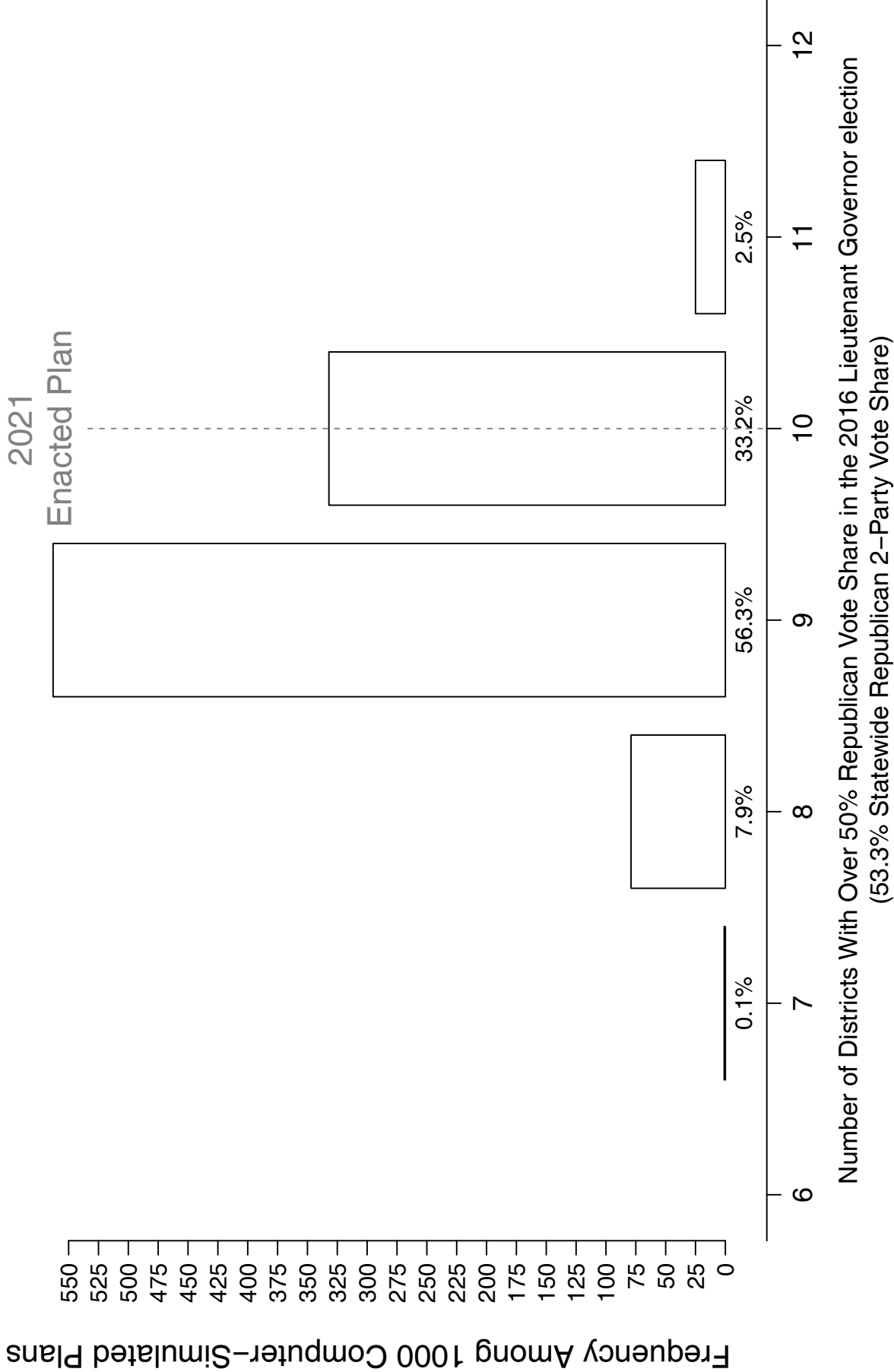
**Figure B1: Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
Number of Districts With Over 50% Republican Vote Share in the 2016 Attorney General election
(49.7% Statewide Republican 2-Party Vote Share)**



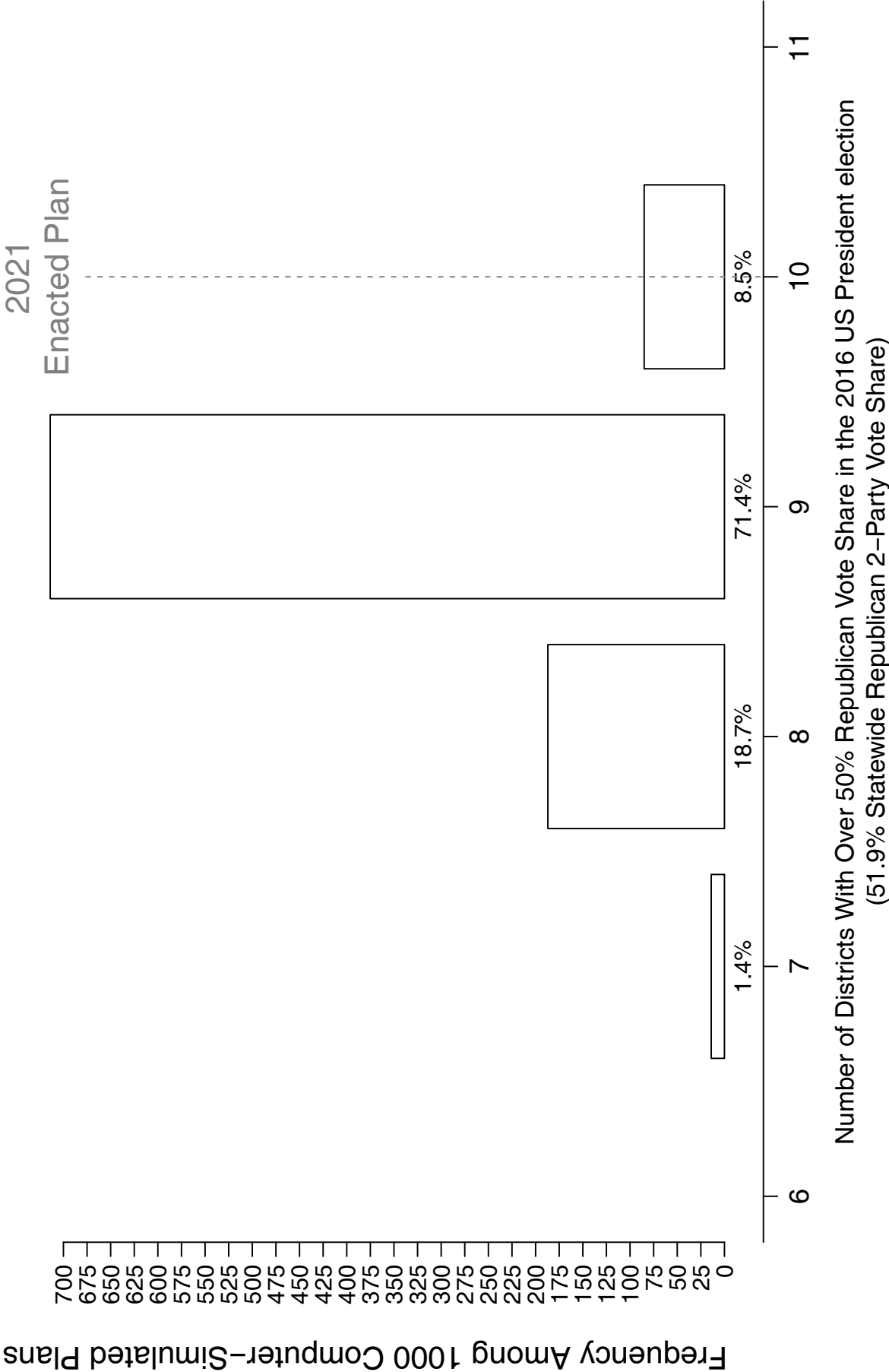
**Figure B2: Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
Number of Districts With Over 50% Republican Vote Share in the 2016 Governor election
(49.9% Statewide Republican 2-Party Vote Share)**



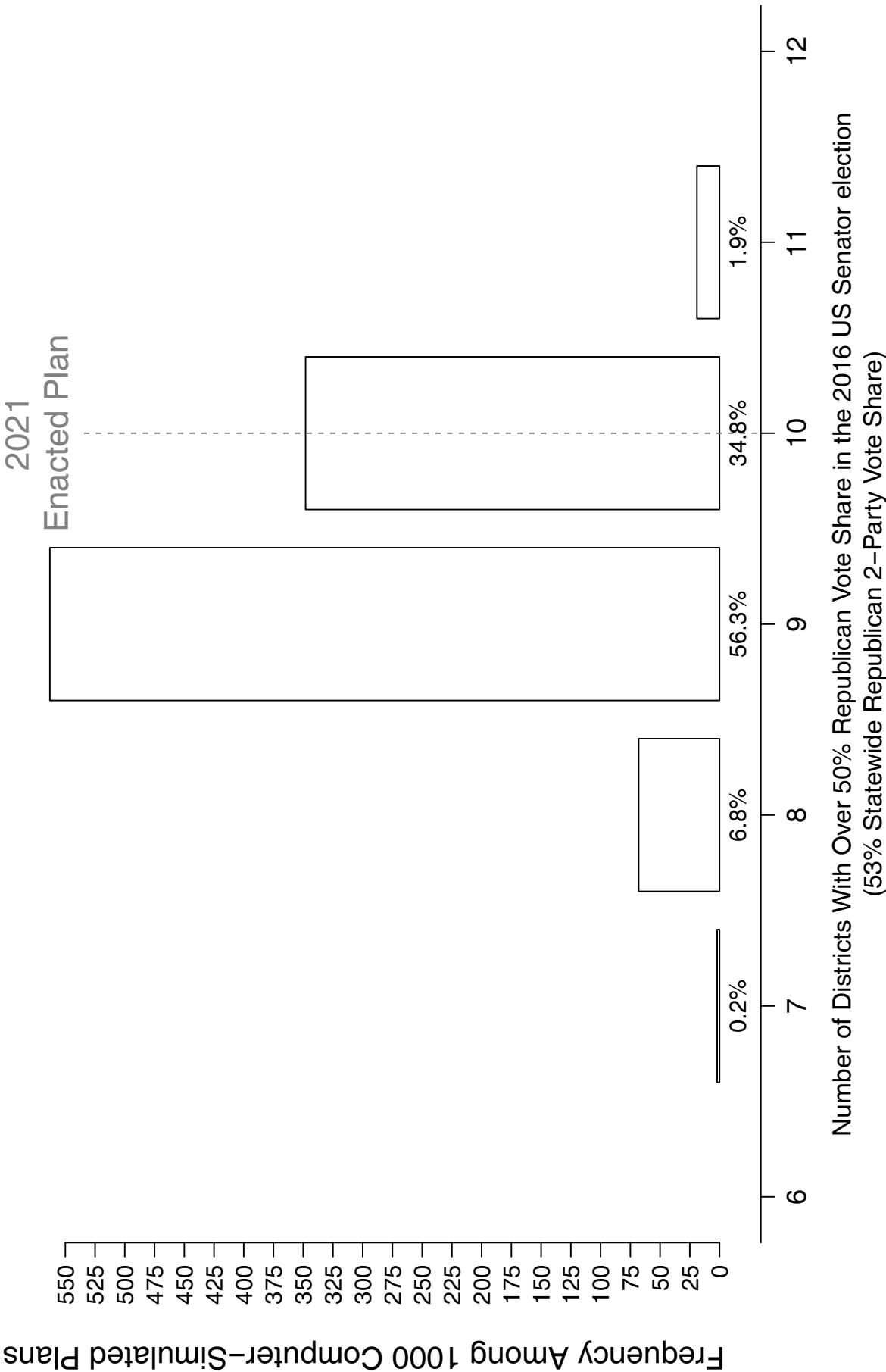
**Figure B3: Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
Number of Districts With Over 50% Republican Vote Share in the 2016 Lieutenant Governor election
(53.3% Statewide Republican 2-Party Vote Share)**



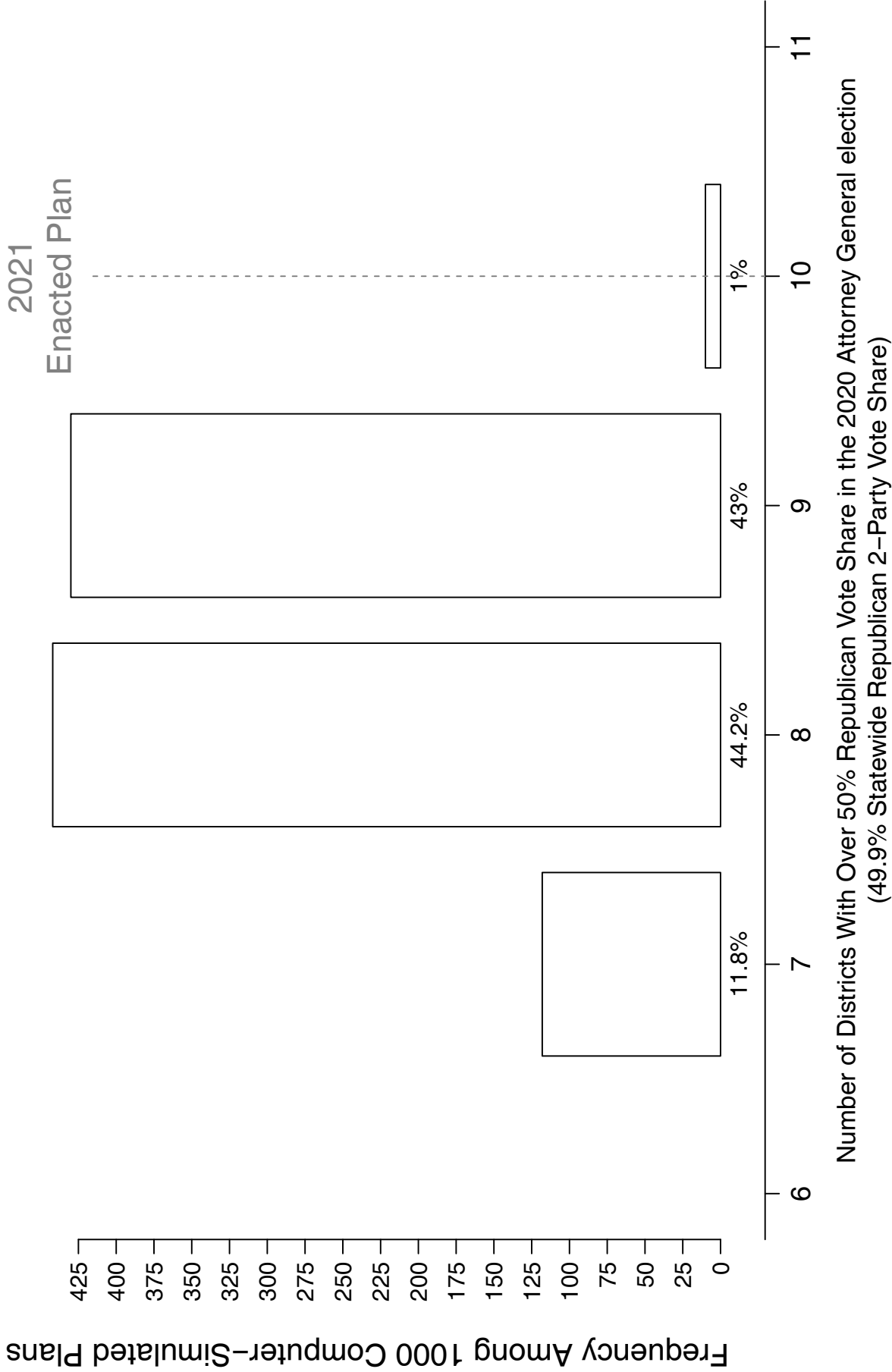
**Figure B4: Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
Number of Districts With Over 50% Republican Vote Share in the 2016 US President election
(51.9% Statewide Republican 2-Party Vote Share)**



**Figure B5: Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
Number of Districts With Over 50% Republican Vote Share in the 2016 US Senator election
(53% Statewide Republican 2-Party Vote Share)**



**Figure B6: Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
Number of Districts With Over 50% Republican Vote Share in the 2020 Attorney General election
(49.9% Statewide Republican 2-Party Vote Share)**



**Figure B7: Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
Number of Districts With Over 50% Republican Vote Share in the 2020 Governor election
(47.7% Statewide Republican 2-Party Vote Share)**

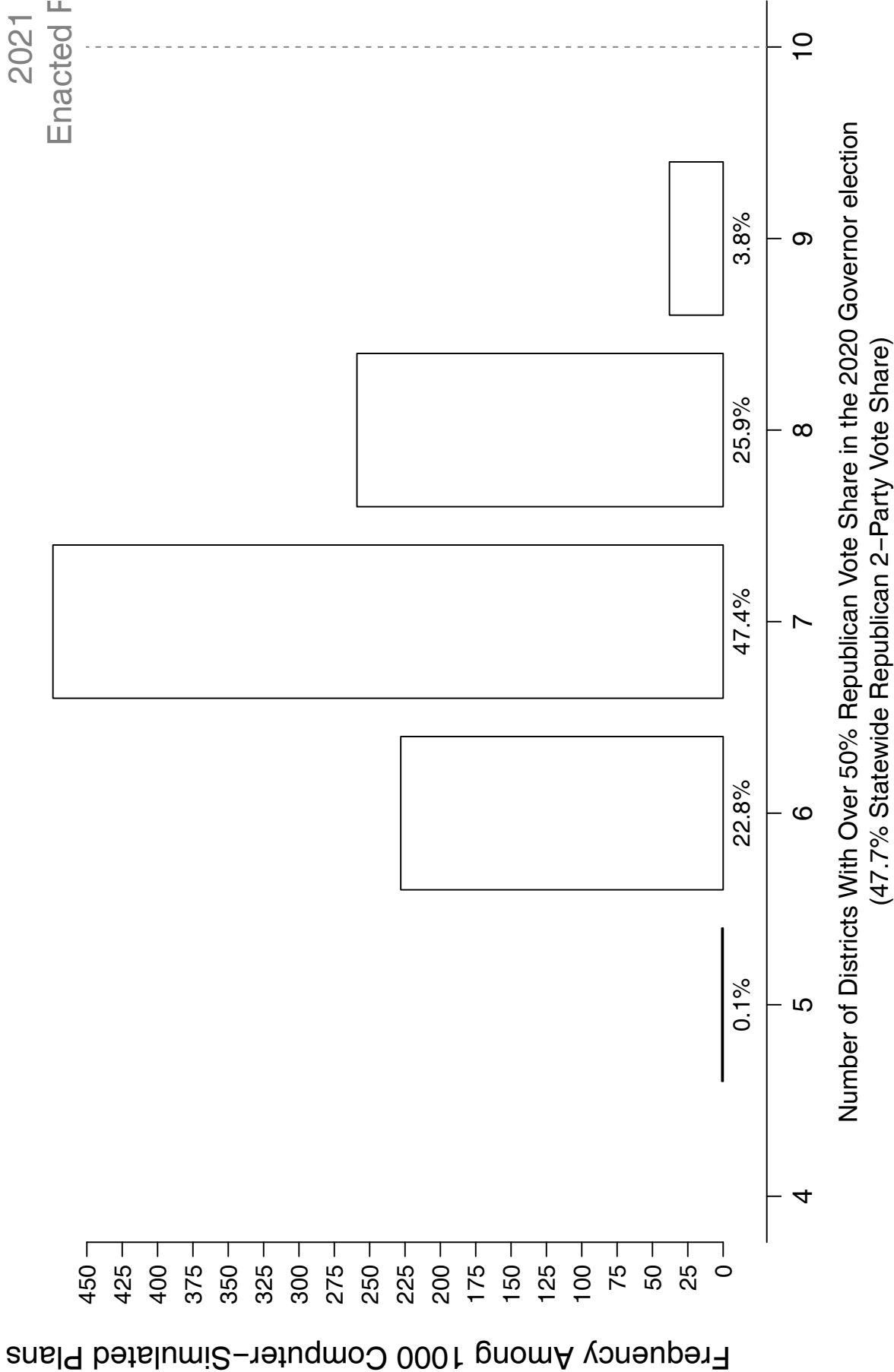
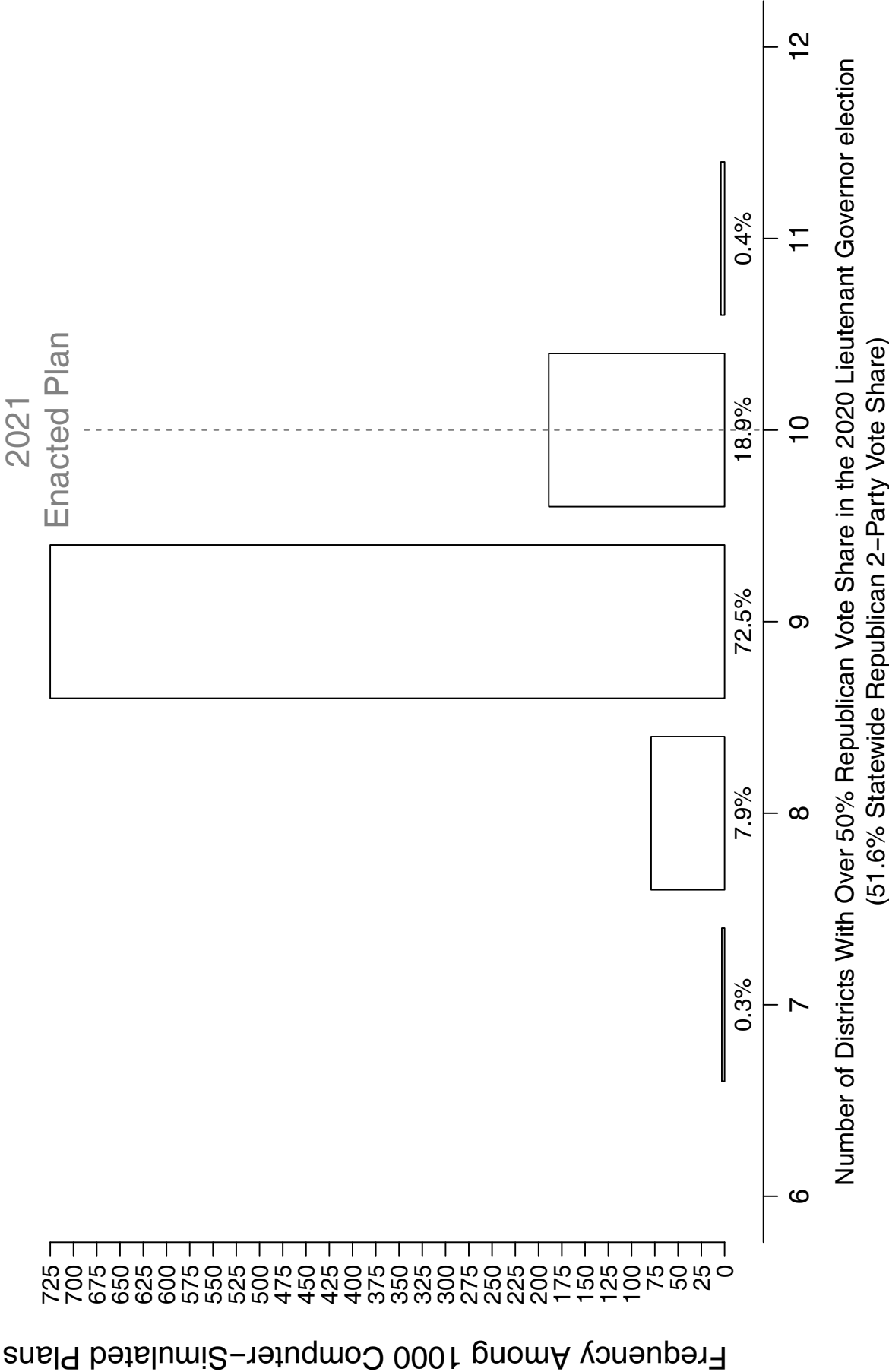
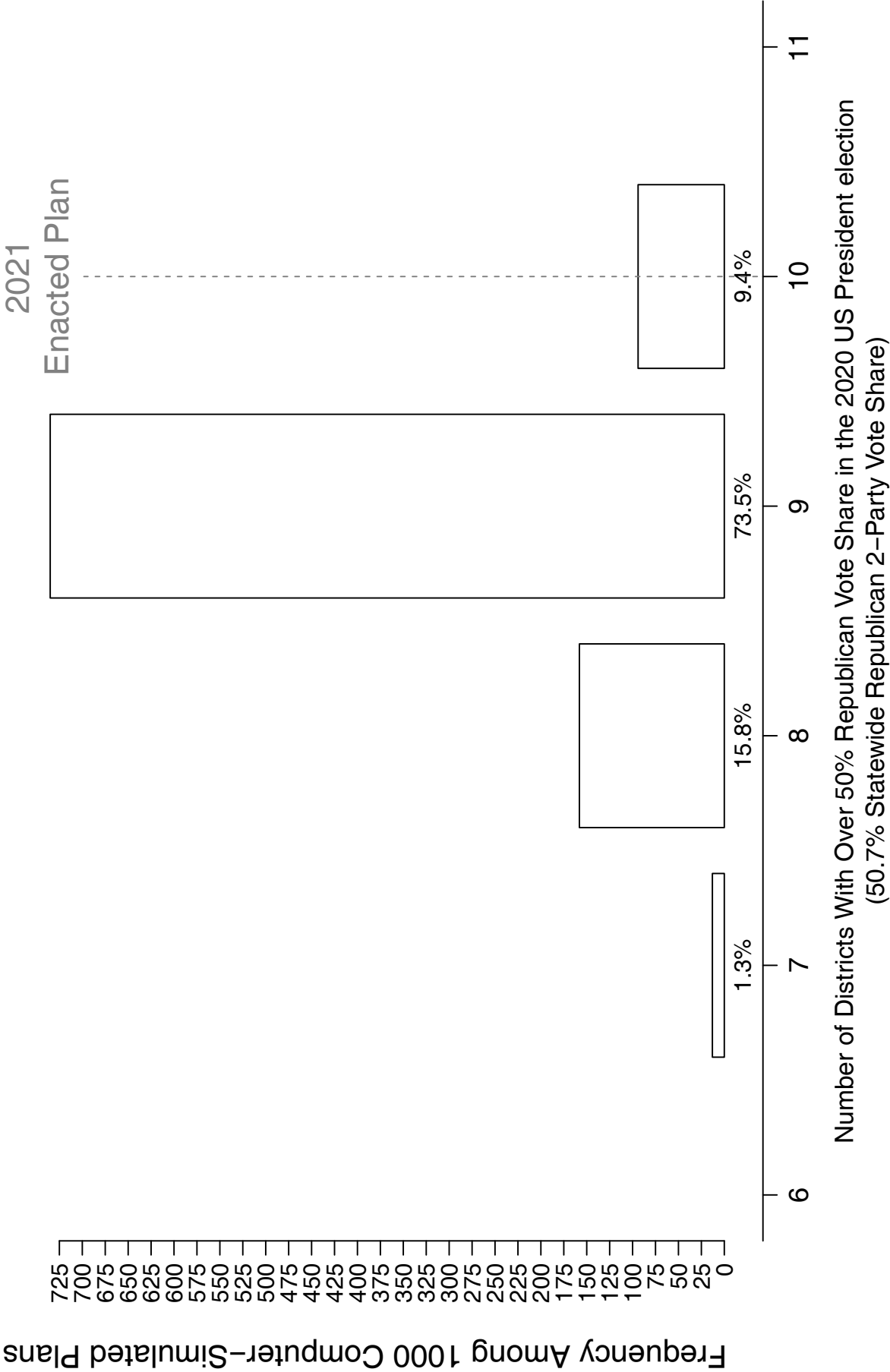


Figure B8: Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
Number of Districts With Over 50% Republican Vote Share in the 2020 Lieutenant Governor election
(51.6% Statewide Republican 2-Party Vote Share)



**Figure B9: Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
Number of Districts With Over 50% Republican Vote Share in the 2020 US President election
(50.7% Statewide Republican 2-Party Vote Share)**



**Figure B10: Comparisons of Enacted SB 740 Plan to 1,000 Computer-Simulated Plans
Number of Districts With Over 50% Republican Vote Share in the 2020 US Senator election
(50.9% Statewide Republican 2-Party Vote Share)**

