



NORTH CAROLINA GENERAL ASSEMBLY
STATE LEGISLATIVE BUILDING
RALEIGH, NORTH CAROLINA 27603

**Statement by Senator Bob Rucho and Representative David Lewis Regarding the Proposed
2011 Congressional Plan**

July 1, 2011

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

Today we are pleased to release our proposed 2011 Congressional Plan. We believe that our proposed Congressional plan fully complies with applicable federal and state law. We also believe that a majority of North Carolinians will agree that our proposed plan will establish Congressional districts that are fair to North Carolina voters.

Unlike state legislative districts, there are very few constitutional criteria that apply to legislative districts. Some of the factors we considered include the following:

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

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

2. Compliance with “one person one vote.”

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

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

3. Compliance with the Voting Rights Act.

Our proposed plan, if adopted by the General Assembly, will need to be “precleared” under Section 5 of the Voting Rights Act. States have the option of seeking administrative preclearance by the United States Department of Justice or by filing a lawsuit seeking preclearance by the United States District Court of the District of Columbia. To obtain

preclearance, we are obligated to show that the plan is not retrogressive or purposefully discriminatory. We believe that our plan accomplishes this goal.

(a) Districts Represented by Black Incumbents

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

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

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

We met with Congressman Butterfield to discuss these issues. Congressman Butterfield acknowledged that the legal deficiencies of the existing First District could be addressed through the addition of either the minority community located in Wake County or the minority community residing in Durham County. Congressman Butterfield believed that including Wake County in his district would give him the opportunity to represent the communities reflected by Shaw University and St. Augustine College. Between these two options, Congressman Butterfield advised us that he preferred the addition to his district of the minority population in Wake County, as opposed to the minority population in Durham County.

We elected to accommodate Congressman Butterfield's preference. By adding population from Wake County, we have brought the First District into compliance with "one person, one vote." Because African Americans represent a high percentage of the population added to the First District from Wake County, we have also been able to re-establish Congressman Butterfield's district as a true majority black district under the *Strickland* case.

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

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

After we had adopted Congressman Butterfield's preference, and showed a map of our proposal to him, he expressed concern about the withdrawal of his district from Craven and Wayne Counties. Given our decision to add the minority community in Wake County to our proposed First District, the retention of populations in Wayne and Craven would result in the over-population of the First District. We believe that the benefits of adding the black community in Wake County outweighs any negative impacts. Moreover, by replacing these counties with the community in Wake County, we were also able to create a district that was based upon a more compact minority population.

Current District 12, represented by Congressman Watt, is not a Section 2 majority black district. Instead, it was created with the intention of making it a very strong Democratic District. *See Easley v Cromartie* 121 S.Ct. 1452 (2000). However, there is one county in the Twelfth District that is covered by Section 5 of the Voting Rights Act (Guilford).

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

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

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

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

(b) Minority populations in other districts

No district in the 2001 Congressional plan contains a black voting age population in excess of 28.75% except for the First and Twelfth Districts. Our proposed Fourth Congressional District establishes one district with a black voting age population of 29.12%. Our proposed Third Congressional District contains a black voting age population of 23.50%. Our proposed District 8 has a black voting age population of 19.88% and a Native American voting age population of 7.12%. All other proposed districts have been created with a black voting age population of under 18%.

We believe that our proposed plan fully complies with both Section 5 and Section 2 of the Voting Rights Act.

4. Point Contiguity.

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

5. Incumbents.

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

6. Communities of Interest.

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

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

New District 4 is substantially based upon the current version of District 4. We decided to expand the district from Chatham County through Lee and Harnett County and into Cumberland County. Lee and Harnett Counties share with Chatham County many of the same rural and other communities of interest. Moreover, the interests of those residing within the urban areas of Cumberland County are similar to those who live in the urban areas of Orange and

Durham Counties. Finally, all of the counties in our proposed District 4 are in the same media market which should help reduce the costs of campaigns in this district.

7. Whole counties and whole precincts.

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

8. Urban Counties.

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

9. Creating More Competitive Districts.

The federal and state constitutions allow legislatures to consider partisan impacts in making Congressional redistricting decisions. While we have not been ignorant of the partisan impacts of the districts we have created, we have focused on ensuring that the districts will be more competitive than the districts created by the 2001 legislature. Along these lines we wish to highlight several important facts. First, in twelve of our proposed thirteen districts, in the 2008

General Election, more voters voted for Democratic candidate for Attorney General, Roy Cooper than those who voted for the Republican candidate. Second, registered Democrats outnumber registered Republicans in ten of our proposed thirteen districts. Finally, the combination of registered Democrats plus unaffiliated voters constitute very significant majorities in all thirteen districts.