

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SANDRA LITTLE COVINGTON, et al.,)	
)	
Plaintiffs,)	
v.)	1:15-CV-399
)	
THE STATE OF NORTH CAROLINA, et al.,)	
Defendants.)	

SPECIAL MASTER’S RECOMMENDED PLAN AND REPORT

On November 1, 2017, the United States District Court for the Middle District of North Carolina sitting as a three-judge panel comprised of the Honorable James A. Wynn, Judge of the United States Court of Appeals for the Fourth Circuit, the Honorable Thomas D. Schroeder, Chief Judge for the Middle District of North Carolina, and the Honorable Catherine C. Eagles, United States District Judge for the Middle District of North Carolina, (hereinafter “the Court”) appointed me as Special Master in the above captioned case. Appointment Order, Nov. 1, 2017, ECF No. 206 (hereinafter the “Order”). The Order directed the Special Master, by December 1, 2017, “to submit a report and proposed plans to remedy the unconstitutional racial gerrymander” of various districts in the 2011 Enacted Senate and House districting plans for the North Carolina General Assembly. *Id.* at 5. Herein provided is the Plan and Report called for in the Court’s Order.

Exhibit 1 presents statewide and selected county maps of the Special Master’s Recommended Plan, along with analogous maps from the Enacted 2011 and 2017 Plans for comparison. Exhibit 2 presents population deviations for all districts in the Special Master’s Recommended Plan, the Enacted 2011 Plan, and the Enacted 2017 Plan. Exhibit 3 presents

Reock and Polsby-Popper compactness statistics for all districts in the Special Master’s Recommended Plan, the Enacted 2011 Plan, and the Enacted 2017 Plan. Exhibit 4 presents a report on splits of county and municipality boundaries for all districts in the Special Master’s Recommended Plan, the Enacted 2011 Plan, and the Enacted 2017 Plan. Exhibit 5 presents a report on splits of 2010 Voter Tabulation Districts (hereinafter “precincts”), as provided by the U.S. Census Bureau, for all districts in the Special Master’s Recommended Plan, the Enacted 2011 Plan, and the Enacted 2017 Plan. Exhibit 6 provides a breakdown of the districts by Voting Age Population for Census-designated racial and ethnic groups for all districts in the Special Master’s Recommended Plan, the Enacted 2011 Plan, and the Enacted 2017 Plan. Exhibit 7 provides statewide and county maps for the Special Master’s Draft Plan, as well as associated statistical reports. Exhibit 8 includes the briefs and maps filed by Plaintiffs in response to the Special Master’s Draft Plan. Exhibit 9 includes briefs provided by the Legislative Defendants in response to the Special Master’s Draft Plan. Exhibit 10 provides color maps of alternatives to the Recommended Senate and House Plans for Guilford County. Exhibit 11 provides a list of the incumbents assigned to each district in the Special Master’s Recommended House and Senate Plans. Exhibit 12 provides the Plaintiffs’ Proposed House and Senate Plans. Exhibit 13 provides the Court’s November 1st Order Appointing the Special Master. In addition to the above, the Court, the parties, and the North Carolina General Assembly have been provided with 2010 Census block equivalency files and shapefiles for the Special Master’s Draft Plan, the Special Master’s Recommended Plan, and alternate plans, as well as a “stat pack” with computer generated reports describing features of the Recommended Plan in detail.

Background

On August 11, 2016, the Court struck down twenty-eight districts in the State House of Representatives and Senate plans enacted in 2011 by the North Carolina General Assembly (hereinafter Enacted 2011 Plans). *Covington v. North Carolina*, 316 F.R.D. 117, 176 (M.D.N.C. 2016), *aff'd in relevant part*, 137 S. Ct. 2211 (2017) (mem.). The Court ruled those districts unconstitutional under the Equal Protection Clause of the Fourteenth Amendment. In particular, the Court found that those districts were drawn with race as their predominant purpose in violation of *Shaw v. Reno*, 509 U.S. 630 (1993), and its progeny, and that neither section 2 nor section 5 of the Voting Rights Act of 1965 justified doing so. 316 F.R.D. at 167-77.

Following the 2016 election and additional proceedings in both the District Court and the United States Supreme Court, the North Carolina General Assembly passed a remedial redistricting plan on August 31, 2017 (hereinafter the Enacted 2017 Plan), approximately one year after the Court's decision striking down the Enacted 2011 Plan. On September 15, 2017, Plaintiffs filed objections to three Senate districts and nine House districts. Plaintiffs contended that Enacted 2017 Senate Districts 28 and 21 and Enacted 2017 House Districts 21 and 57 continued to violate the Equal Protection Clause in that, even in their revised configurations, race continued to be the predominant factor in their construction. They also alleged that certain districts violated the North Carolina State Constitution. They claimed that Enacted 2017 House Districts 36, 37, 40, 41, and 105 were redrawn in violation of the provision of the state constitution that prohibits redistricting more than once per decade. *See* N.C. CONST. art. II, §§ 3(4), 5(4). Because those districts did not adjoin the districts ruled unconstitutional racial gerrymanders, the Plaintiffs argued, redrawing those districts was not necessary to address the constitutional infirmities identified in the Court's decision. They also argued that Enacted 2017

House Districts 10 and 83 violated the state constitution's Whole County Provision, N.C. CONST. art. II, §§ 3(3), 5(3), because the General Assembly could have drawn a plan in which those districts traversed fewer counties or in which fewer counties were split by certain districts. Finally, the Plaintiffs claimed that Enacted 2017 Senate District 41 was noncompact to the point of violating the Whole County Provision. After Legislative Defendants filed their response, the Court held a hearing on those objections on October 12, 2017.

On November 1, 2017, the Court issued the Order appointing a Special Master and raising concerns as to the legality of the Enacted 2017 Plan. In particular, the Court expressed "serious concerns that 2017 Enacted Senate Districts 21 and 28 and 2017 Enacted House Districts 21 and 57 fail to remedy the identified constitutional violation" from the Enacted 2011 Plan. The Order explained:

Among other concerns, some or all of the proposed remedial districts preserve the core shape of the unconstitutional version of the district, divide counties and municipalities along racial lines, and are less compact than their benchmark version. In some cases, the General Assembly's use of incumbency and political data in drawing its proposed remedial districts embedded, incorporated, and perpetuated the impermissible use of race that rendered unconstitutional the 2011 districts. The 2017 Enacted Districts do not appear to cure the constitutional violations found as to 2011 Enacted House Districts 21 and 57 and Senate Districts 21 and 28.

Order at 1-2. In other words, the Court emphasized that, despite the 2017 revisions, the constitutional infirmity identified in some of the 2011 districts remains. The district boundaries may have moved somewhat, but according to the Court, some districts continue to violate, in critical respects, the Constitution's prohibition against unjustified and excessive use of race in the design of districts.

For House districts in Wake and Mecklenburg Counties, the Court expressed a different set of concerns related to the Enacted 2017 Plan’s violation of the North Carolina State Constitution. As described above with respect to the Plaintiffs’ objections to the 2017 Plan, several of the districts in those counties did not need to be redrawn in order to remedy the constitutional infirmity as to racial predominance in the Enacted 2011 House Districts 33, 38, 99, 102, and 107. Because the North Carolina Constitution prohibits redistricting more than once a decade, the Court observed that any lines redrawn in 2017 must be justified by a need to correct some legal infirmity (*e.g.*, unconstitutional racial gerrymandering) in the plan adopted following the decennial census. As the Court has concluded, “[u]nless required by Court order, the General Assembly was prohibited by the North Carolina Constitution from redrawing these districts. N.C. Const. art. II §§ 3(4), 5(4).” Order at 2. As is shown in the Special Master’s Recommended Plan, it was, indeed, possible to reconfigure the districts deemed unconstitutional while retaining the Enacted 2011 districts that did not adjoin them.

The Charge to the Special Master

The Court determined that appointment of a Special Master was necessary because of the “fast approaching filing period for the 2018 election cycle and the specialized expertise necessary to draw district maps.” Order at 4. The Court confronted a problem familiar to redistricting cases. The tightness of the election schedule and especially the impending candidate-filing deadline often makes it extremely challenging, within the necessary time period, to perform all the tasks necessary to have a plan in place. It requires the Court to evaluate a state’s plan, to issue an opinion explaining the legal infirmities therein, to appoint a Special Master (after the parties have had an opportunity to object), to have that Special Master draw a remedial plan (often with input from the parties), to have a hearing and entertain objections to

the Special Master's Plan, to make any warranted changes to the Special Master's Plan, and then to adopt the Plan as the Court's plan. Allowing the Special Master to begin his work once the Court has made its initial determination that a remedial plan will be necessary is one way to ensure that the Court's plan will be ready in time for candidates to know in which districts they will need to file to run for office. Of course, in the end, regardless of the sequencing of the tasks above, the Court will only adopt a plan if it determines, after hearing from the parties, that the plan remedies the legal infirmity the Court has identified in the state's plan.

With these time pressures in mind, the Court issued an order on November 1, 2017, appointing a Special Master and defining his responsibilities. The Court ordered the Special Master to develop, by December 1, 2017, redistricting plans that addressed the infirmities of the Enacted 2017 Plans for the North Carolina General Assembly, as identified in the order and reflected in the Court's earlier opinion in *Covington*, 316 F.R.D. 117. Order at 5. The Order laid out specific criteria that would guide production of the Special Master's Plan, as well as a procedure for developing the plan. *See* Order at 9-10 (detailing principles of the plan and other aspects of the process, such as a bar on ex parte communication, permission for hiring assistants and using state resources, and authorization for a release on a draft plan to garner feedback).

In particular, the Court ordered that “[i]n drawing remedial districts, the Special Master shall”:

- a. Redraw district lines for the Subject Districts and any other districts within the applicable 2017 county grouping necessary to cure the unconstitutional racial gerrymanders. As to House District 57, the redrawn lines shall also ensure that the unconstitutional racial gerrymanders in 2011 Enacted House Districts 58 and 60 are cured. As to 2011 Enacted House Districts 33, 38, 99, 102, and 107, no 2011 Enacted House Districts which do not adjoin those

districts shall be redrawn unless it is necessary to do so to meet the mandatory requirements set forth in Paragraphs 2(b) through 2(e) of this Order, and if the Special Master concludes that it is necessary to adjust the lines of a non-adjointing district, the Special Master shall include in his report an explanation as to why such adjustment is necessary.

- b. Use the 2010 Federal Decennial Census Data;
- c. Draw contiguous districts with a population as close as possible to 79,462 persons for the House Districts and 190,710 persons for the Senate Districts, though a variance up to +/- 5% is permitted and authorized if it would not conflict with the primary obligations to ensure that remedial districts remedy the constitutional violations and otherwise comply with state and federal law, would enhance compliance with state policy as set forth in subsection (f) below, and would not require redrawing lines for an additional district.
- d. Adhere to the county groupings used by the General Assembly in the 2017 Enacted Senate and House Plans;
- e. Subject to any requirements imposed by the United States Constitution or federal law, comply with North Carolina constitutional requirements including, without limitation, the Whole County Provision as interpreted by the North Carolina Supreme Court.
- f. Make reasonable efforts to adhere to the following state policy objectives, so long as adherence to those policy objectives does not conflict with the primary obligations of ensuring that remedial districts remedy the constitutional violations and otherwise comply with state and federal law:
 - i. Split fewer precincts than the 2011 Enacted Districts;
 - ii. Draw districts that are more compact than the 2011 Enacted Districts, using as a guide the minimum Reock (“dispersion”) and Polsby-Popper (“perimeter”) scores . . . ; and

- iii. Consider municipal boundaries and precinct lines.

- g. After redrawing the districts, in view of the policy decision by the General Assembly that efforts to avoid pairing incumbents are in the interest of North Carolina voters, the Special Master may adjust district lines to avoid pairing any incumbents who have not publicly announced their intention not to run in 2018, but only to the extent that such adjustment of district lines does not interfere with remedying the constitutional violations and otherwise complying with federal and state law. Additionally, the Special Master shall treat preventing the pairing of incumbents as “a distinctly subordinate consideration” to the other traditional redistricting policy objectives followed by the State. . . .

- h. Except as authorized in Paragraph 2(g), the Special Master shall not consider incumbency or election results in drawing the districts. . . .

- i. The Special Master may consider data identifying the race of individuals or voters to the extent necessary to ensure that his plan cures the unconstitutional racial gerrymanders and otherwise complies with federal law.

Order at 5-7 (internal citations omitted).

The Court further specified what should be contained in the Special Master’s Report accompanying the Plan:

- a. At least one recommended redistricting plan for each Subject District;

- b. For each county or county grouping encompassing a Subject District, a color map showing the recommended remedial plan;

- c. For each Subject District, an analysis (i) explaining the proposed remedial plan and the recommendation of that plan over the 2017 Enacted Districts or the Plaintiffs’ proposed districts; (ii) covering any matters required elsewhere in this Order; and (iii) discussing any criteria, issues, or questions which the Special Master believes may arise or which will otherwise aid the Court;

- d. A comparison of the Special Master’s districts with the related 2011 and 2017 Enacted Districts as to population deviations; compactness; county, municipal, and precinct splits; incumbency pairing; Black Voting Age Population; and

any other relevant criteria; and

- e. A “stat pack” for the recommended plans.

Order at 12-13.

Creation of the Special Master’s Plan

The one-month deadline for constructing the Recommended Plan required that preliminary work begin immediately following the Appointment Order on November 1. Among other tasks, the preliminary work included becoming familiar with the earlier decisions of the Court, with the filings of the parties to that point, and with the 2011 and 2017 redistricting plans for the North Carolina General Assembly. In addition, drawing the Draft Plan required the purchase of certain software (Maptitude for Redistricting by Caliper Corporation) and hardware.

Given the intense partisan concerns that always surround processes of this sort and the critical importance of nonpartisanship to the legitimacy of the Special Master’s work, the Special Master’s Plan needed to be compliant with the applicable law, transparent in its following of the Court’s Order, and based on the articulated state redistricting principles. Experience in several similar redistricting disputes counseled in favor of gathering much-needed feedback from the parties in the formulation of the plan. Therefore, any draft redistricting plan would need to be submitted to the parties with enough time for them to raise objections and make suggestions. In particular, because the issues surrounding incumbency present knotty problems for any nonpartisan plan of this sort, the Draft Plan would ignore incumbent residence and then be altered following advice from the parties on how to “unpair incumbents” – that is, to the extent possible, to ensure that one and only one incumbent seeking reelection was placed in any given district. This principle was one explicitly called for by the Court’s Order, based on the state’s

articulated goal in its redistricting plan under review. Because the parties are in a better position to know which incumbents plan to run for reelection¹ and whether a proposed redistricting plan might change their electoral calculations, it is necessary to get some input from the parties throughout the process to make sure that any such “unpairing” was something that the incumbents themselves desired. However, per the Court’s Order, the Recommended Plan would honor any request by the parties to unpair incumbents, so long as it did not violate the other criteria in the Order.

That strategy and those goals led to the creation of the Special Master’s Draft Plan. With respect to the 2017 Enacted Districts for which the Court raised concerns as to racial predominance, the Draft Plan provided a limited remedy, constructed of compact districts made of whole precincts that respected political subdivision lines, specifically the boundaries of Census Designated Places (“CDPs”), which usually refer to city boundaries. Of course, sometimes these criteria were in tension with each other – for example, when a city is, itself, noncompact and noncontiguous, as is frequently the case in North Carolina, or when precinct boundaries cross municipal boundaries. Nevertheless, these factors comprise the kind of nonpartisan redistricting principles typical of court-drawn plans. Although any change in district lines will have partisan, electoral, or incumbency-related effects, a redistricting plan adhering to these principles is less open to the charge of partisan manipulation than one based on more amorphous criteria as to how communities “ought” to be represented.

¹ The Court ordered the parties to provide the Special Master by November 8, 2017, with a list of incumbents running for reelection, along with their address and the date they were first elected. *See* Order at 9. The Legislative Defendants provided such a list on November 8, although the Plaintiffs and Defendants could not agree on whether Representative Larry Bell was running for reelection. ECF No. 209. By later notice, Representative Bell confirmed he was not running for reelection. Larry Bell Declaration, Nov. 10, 2017, ECF No. 211. The Plaintiffs and Defendants also disagreed on the address for Senator Trudy Wade. With the release of the Special Master’s Draft Plan and Report, the parties were ordered to submit the data on incumbent address as a geographic layer to be incorporated into Maptitude for Redistricting (the geographic information system used to construct the Special Master’s Plan). The Legislative Defendants did so on November 14, 2017. ECF No. 214.

Construction of the Draft Plan could only proceed, however, after analysis and rejection of the Plaintiffs' proposed remedial plans. In its Order, the Court expressed its "concern[]" that among, other things, some of the districts proposed by Plaintiffs may be the result of impermissible political considerations." Order at 2. The Legislative Defendants, moreover, characterized the Plaintiffs' remedial plan as motivated by partisan concerns. *See* Legislative Defendants' Response to Plaintiffs' Objections at 2, ECF No. 192 ("Plaintiffs' proposed house and senate districts target numerous Republican members of the legislature . . . , the only reason for which appears to be to punish those members for being Republican."); *id.* at 47 ("the Covington plans . . . were motivated primarily by political considerations"). Of course, political considerations admittedly played a role in the Enacted 2011 and 2017 Plans, as they do in most redistricting plans.

The Special Master's Plan, however, could not be drawn on a similarly political basis. First, the Court prohibited the Special Master from considering election results in drawing districts, and permitted consideration of incumbency only to the limited degree of unpairing incumbents after drawing the plan. Order at 7-8. Second, Supreme Court precedent makes clear that courts lack "political authoritativeness" and must act "in a manner free from any taint of arbitrariness and discrimination" in drawing remedial plans. *Wise v. Lipscomb*, 437 U.S. 535, 541 (1978) (quoting *Connor v. Finch*, 431 U.S. 408, 417 (1977)). A nonpartisan approach to redistricting is absolutely critical to bolstering the legitimacy of the Special Master's Plan. Third, the Court tasked the Special Master with remedying a legal problem, not with addressing political unfairness. The Special Master's Plan must be evaluated on the basis of its correction of the state and federal constitutional problems for which the Court has ordered a remedial plan.

It shall make revisions only to the extent necessary to remedy the legal infirmity in the legislature's plan. *See Perry v. Perez*, 565 U.S. 388, 394 (2012).

Given those considerations and the specific criteria for the Special Master's Plans called for in the Court Order, the Plaintiffs' proposed plans could not be adopted as the Special Master's Plan. To be clear, the Plaintiffs' proposals complied with applicable law. The plans were composed of equipopulous districts that complied with one person, one vote, and at least on the face of them, they did not appear to use race as the predominant factor in their creation. However, even leaving the allegation of partisanship aside, the Plaintiffs' plans fell short according to the Court's criteria and redrew more districts than were necessary to remedy the legal violation. In any event, the Special Master's Recommended Plan does a better job in complying with such criteria.

The Plaintiffs submitted two sets of plans as part of this litigation. What they describe in their briefing as "the Plaintiffs' Plans," are presented as Exhibit 12. However, they also included alternative plans for some districts (so-called "*Cromartie* Demonstrative Maps") provided by their expert witness William R. Gilkeson, Jr. *See* Plaintiffs' Objections to Defendants' Remedial Districts and Memorandum of Law, at 2-23, ECF No. 187-7. Neither warranted adoption as the Special Master's Plan.

First, the Plaintiffs' Plans redrew more districts than necessary to remedy the constitutional violations. Their Proposed House and Senate Plans for Guilford County redrew all of the districts there, despite the fact that they challenged only one district in each plan (Enacted 2017 House District 57 and Enacted 2017 Senate District 28), which were the only

Guilford districts for which the Court expressed constitutional concerns.² They also completely reorganized the districts in Wayne, Sampson, and Johnston Counties to deal with the constitutional objection to Enacted 2017 House District 21. Likewise, the plans for Wake and Mecklenburg Counties, while reinstating the Enacted 2011 districts deemed unnecessarily redrawn to cure the Equal Protection violations there, redrew several districts that did not need to be redrawn to harmonize the 2017 and 2011 districts.

Second, in some areas the Plaintiffs' Plans did a poor job of respecting municipal lines. This was especially the case in Guilford County, once again, wherein a single district (Plaintiffs' House District 57) was located within Greensboro, with all of the remaining districts in the County extending from outside Greensboro to pick up slices of the city. The *Cromartie* Demonstrative Map for those districts fared better, but even it placed two districts largely within Greensboro, whereas a third (as demonstrated in the Special Master's Draft and Recommended Plans) is possible. The remaining districts in that alternative plan, therefore, extended from outside Greensboro to take in significant portions of Greensboro.

Finally, several of the Plaintiffs' proposed districts were noncompact. This was especially the case in their proposed House districts for Wayne, Sampson, and Johnston Counties. Plaintiffs' House District 76 followed the border of Johnston County with Nash, Wilson, and Wayne Counties, but it then snaked south to follow Wayne County's border with Sampson, Duplin and Lenoir. Plaintiffs' District 28 occupied most of southern Johnston County but entered Sampson County with a fishhook-style intrusion. Similarly, Plaintiffs' Senate Plan for Guilford County, while attempting to place two districts that straddle Greensboro, contained

² This is also the case for the *Cromartie* Demonstrative Maps. That proposal for the Guilford Senate Districts unnecessarily redraws the Guilford County portion of Senate District 29, which is primarily anchored in Randolph County.

one district (Plaintiffs' District 28) which spanned nearly the entire midsection of the county, but also needlessly traveled southwest to split the CDP of High Point. As a result, Plaintiffs' Senate Districts 24 and 29 filled in the "leftover" territory in northern and southern Guilford County in a decidedly noncompact fashion.

For these reasons, along with the general warning issued by the Court to avoid adopting a plan tainted by political considerations, the Special Master declined to adopt the Plaintiffs' Plan and set out to craft the Draft Plan and eventually, the Recommended Plan. The remainder of this Report explains why the Special Master's Recommended Plans solve the constitutional problems the Court identified in the 2017 Enacted Plans, and are superior according to the criteria the Court laid down in its order.

Release of the Special Master's Draft Plan and Order

The Special Master's Draft Plan and Order were released on November 13, 2017, to give the parties an opportunity to propose revisions and, in particular, to make suggestions as to how to unpair incumbents. *See* Exhibit 7. The Draft Plan also included an order to the parties to submit objections and revisions by November 17, 2017. Reply briefs were to be submitted by November 21, 2017, at which time the parties were "encouraged to identify which proposed changes of the plaintiffs and defendants, if any, were jointly supported by the parties." *Id.* at 19. The parties were also ordered to supply by November 14, 2017, in electronic form, a geographic layer . . . that includes the location of the residences of all current incumbents in the North Carolina General Assembly." *Id.* The Legislative Defendants did so on November 14.

The parties filed their responses to the Special Master's Draft Plan on November 17, 2017. *See* Exhibits 8 and 9. The Plaintiffs offered several suggestions related to unpairing certain incumbents. In particular, they proposed revisions (two scenarios, in fact) that would unpair two incumbents in Draft Plan House District 59, by moving Draft Plan District 58 south to pick up the residence of Representative Amos Quick. They also proposed several changes to the Draft Plan's districts in Wake County. They proposed restoring a split precinct in House District 40 that was split in the 2011 Plan. They also proposed revisions that would unpair incumbents placed together into Draft Plan House District 49. In particular, Plaintiffs proposed moving the boundaries of Draft Plan House District 34 so that it would capture the residence of Representative Grier Martin. Although the Special Master's Draft Plan paired incumbents in other districts, as well, the Plaintiffs did not propose changes to any other districts.

The Legislative Defendants took a different approach in their response to the Special Master's Draft Plan. *See* Legislative Defendants' Response to Special Master's Draft Report, Nov. 17, 2017, ECF No. 215. They did not propose changes to any specific districts. Indeed, they argued it was "inappropriate for the Court to authorize the special master to ask legislative defendants to comment on, or propose revisions of, districts drawn by the special master when the legislative defendants do not themselves speak for the entire General Assembly." *Id.* at 5. Instead, the Defendants reiterated their earlier objections to the appointment of the Special Master, argued that the Court and Special Master were without jurisdiction or authority to craft a remedial plan, and maintained that the Court's Order misinterpreted the North Carolina State Constitution. As mentioned above, the Legislative Defendants also argued that the Special Master's Draft Plan "improperly engaged in racial sorting" by adopting racial targets for the redrawn districts. However, the Legislative Defendants did not offer any suggestions as to how

to unpair incumbents or how to redraw individual districts, except insofar as they urged the adoption of the 2017 Plan.

On November 21, 2017, the parties filed reply briefs addressing the proposed revisions to the Special Master's Draft Plan. Because the Legislative Defendants had objected to any revisions to the Enacted 2017 Districts and suggested none of their own, the Plaintiffs limited their reply to legal arguments as to the requirements of the North Carolina Constitution and the precedent regarding race-based redistricting. *See* Plaintiffs' Response to Legislative Defendants' November 17, 2017 Filing, November 21, 2017, ECF No. 217. The Legislative Defendants, in their reply, objected *en masse* to all of the changes proposed by the Plaintiffs. Legislative Defendants' Response to Plaintiffs' Proposed Modifications to Special Master's Draft Plan, Nov. 21, 2017, ECF No. 218. They reiterated their position as to racial targeting in the Special Master's Draft Plan, and raised new concerns as to split precincts in House District 21, respect for municipal lines in Greensboro and Fayetteville, and the noncompactness of certain Guilford County districts. They also alleged that the Plaintiffs' proposed revisions only attempted to unpair Democrats, and as such, should not be honored by the Special Master in revising the Draft Plan. The Legislative Defendants, however, did not offer any suggestions as to how other incumbents might be unpaired, let alone concrete suggestions as to how the Draft Plan should be revised. In their view, the Special Master should advocate for the General Assembly and urge the Court to adopt the 2017 Enacted Plan.

As explained in greater detail in the descriptions of the individual districts, feedback from the parties led to several changes to the Special Master's Draft House Plan. In response to the Legislative Defendants' concern as to split precincts in Draft House District 21, the Special Master's Recommended House Plan repairs all of the split precincts but one (located in the

Sampson County portion of the district), which is equal to the number of split precincts in the Enacted 2017 version of the district. The Recommended House Plan also responds to the Plaintiffs' concerns as to the incumbent pairing in the Wake County districts. Based on criticism from the Legislative Defendants and suggestions from the Plaintiffs, the Recommended Plan modified the Guilford County House districts from the Draft Plan. As a result of these modifications, the districts in the Recommended House Plan are more compact, do not pair any incumbents, and disturb fewer districts from the 2017 Enacted Plan. No changes were made to the Draft Senate Plan to produce the Recommended Senate Plan.

Overview of the Special Master's Recommended Plan

The Court's Order mandated that the Special Master's Final Plan and Report contain an evaluation of the recommended districts and a comparison with the Enacted 2011 and 2017 Plans. Specifically, the Order requested "a comparison of the Special Master's Districts with the related 2011 and 2017 Enacted Districts as to population deviations; compactness; county, municipal and precinct splits; incumbency pairing; Black Voting Age Population; and any other relevant criteria." Order at 12-13. A detailed description of each district follows, but a few general points as to the redrawn districts can provide some context. Tables displaying data on the redrawn Senate Districts 21 and 28 and House Districts 21 and 57 are included within the text here, adjoining districts are further described in the detailed descriptions of the districts, and full statistics for all districts are included as attached Exhibits.

First, all of the districts in the Special Master's Plan comply with the law. The Court identified several areas of federal and state law in its order. The Special Master's plan must

comply with the equal population requirement (“one person, one vote”) of the Fourteenth Amendment to the United States Constitution. It also must avoid running afoul of that same Amendment’s prohibition against unjustified racial predominance in districting, which was the central constitutional flaw the Court identified in the Enacted 2011 Districts. Finally, the Special Master’s Plan must comply with the requirements of the North Carolina Constitution, including the Whole County Provision referenced above.³

The Special Master’s Recommended Plan complies with one person, one vote. The Court directed that the Special Master’s Plan be comprised of “contiguous districts with a population as close as possible to 79,462 persons for the House Districts and 190,710 persons for the Senate Districts, though a variance up to +/- 5% is permitted and authorized” to comply with the other criteria in the Order. Order at 6. All of the districts in the Special Master’s Recommended Plan comply with one person, one vote, in that their total population according to the 2010 Census was within five percent of the “ideal” population for each district. *See* Table A below and Exhibit 2. In some areas, as with the House Districts in Wayne and Sampson Counties, this proved quite difficult (as is revealed in both the Enacted 2017 Plan and the Special Master’s Recommended Plan). The district deviations there necessarily equal five percent because the Whole County Provision of the State Constitution requires working within a county grouping to achieve equipopulous districts, if possible. For example, if a county’s population totals 210% of the ideal district population, then two districts, each exactly 105% of an ideal population district, must be drawn. The deviations in the districts of the Special Master’s

³ Of course, the Special Master’s Plan must also comply with the Voting Rights Act. *See* 52 U.S.C § 10301. No violations of the Voting Rights Act have been alleged with respect to the districts under review. Moreover, remedial plans for violations of the Voting Rights Act might require consideration of the kind of election data that the Court has barred the Special Master from considering in the construction of the Recommended Plan.

Recommended Plan do not materially differ from those in the 2011 or 2017 Plans, as all comply with one person, one vote.

Table A. Comparison of Population Deviations from Ideal Size Among Selected Districts⁴

District	<u>Population Deviation</u>					<u>Percent Deviation</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017
Senate 21	-7,508	-6,394	-7,196	-312	+802	-3.9%	-3.4%	-3.8%	-0.1%	+0.4%
Senate 28	8,729	6,428	7,404	-1,325	+976	4.6%	3.4%	3.9%	-0.7%	+0.5%
House 21	3,558	3,972	3,969	+411	-3	4.5%	5.0%	5.0%	+0.5%	0.0%
House 57	-118	3,293	3,841	+3,723	+548	-0.1%	4.1%	4.8%	+4.7%	+0.7%

Second, the Special Master’s Recommended Plan complies with the constitutional prohibition on the predominant use of race in the construction of districts. *See Ala. Legis. Black Caucus v. Alabama*, 135 S. Ct. 1257, 1267 (2015). As is evident from the maps and accompanying statistics, the Recommended Plan is guided by traditional districting principles, such as compactness, contiguity, and respect for precinct and municipal boundaries. Unlike several districts in the 2011 and 2017 Enacted Plans, districts in the Special Master’s Recommended Plan do not track precincts based on their racial composition, nor (contrary to the Legislative Defendants’ assertions) do they set out to hit some preordained racial target. The fact that the districts happen to reduce the Black Voting Age Population (BVAP) in the redrawn districts, while increasing it in adjoining districts, is to be expected whenever a plan replaces racial predominance with other redistricting principles. *See* Table B below and Exhibit 6. The Special Master’s Recommended Plan addresses the constitutional infirmity in the underlying

⁴ The Special Master is greatly indebted to Professor Patrick Egan of the NYU Department of Politics for assistance in producing the tables, images, and exhibits for this Report and the Draft Report. Professor Egan did not play a role in construction of the plans themselves.

districts by redrawing them irrespective of the race of the inhabitants the districts would then capture. That practice is abundantly clear from the district boundaries, which track municipal lines wherever possible.

Traditional districting principles, such as compactness and respect for political subdivision lines, are the touchstones against which courts often measure racial predominance. Although racial predominance, like any other motivation, can be proven by way of direct or circumstantial evidence, violation of traditional districting principles, such as compactness, can “be persuasive circumstantial evidence that race for its own sake, and not other districting principles, was the legislature’s dominant and controlling rationale in drawing its district lines.” *Miller v. Johnson*, 515 U.S. 900, 913 (1995); *see also Covington*, 316 F.R.D. at 129 (“In general, [a *Shaw* claim] requires proof that ‘the legislature subordinated traditional race-neutral districting principles, including . . . compactness, contiguity, and respect for political subdivisions . . . to racial considerations.’”) (quoting *Miller*, 515 U.S. at 916). As such, a remedial plan grounded on these traditional districting principles will be less likely to replicate – even inadvertently – any racial predominance in the underlying plan.

Indeed, for this very reason, the Special Master’s Plan is inoculated against the kind of attack that the Legislative Defendants seek to lodge with respect to racial predominance. In their briefs addressing the Special Master’s Draft Plan, the Legislative Defendants argue that “[t]he special master has improperly engaged in racial sorting to create districts with a mechanical target of black voting age population between 39% and 43.6%.” Legislative Defendants’ Response to Special Master’s Draft Report, at 15, ECF No. 215. They maintain that by frankly stating that the Special Master’s Draft Plan removed “any residuum of racial predominance that

may have been expressed in the 2017 configuration of the district” the Special Master must have carefully constructed the remedial districts to hit race-based targets.⁵ *Id.* at 18.

That claim is false, and the maps themselves belie that interpretation.⁶ The Special Master’s Plan removes the racial predominance of the Enacted 2017 Districts by replacing the constitutionally tainted districts with others that adhere to explicitly race-neutral criteria. To be sure, the Court authorized the Special Master to consider racial data in the construction of the plans “to the extent necessary to ensure that his plan cures the unconstitutional racial gerrymanders.” Order at 8-9. However, as is clear from the Special Master’s Draft Plan, the remedial districts were drawn not with any racial target in mind, but in order to maximize compactness, preserve precinct boundaries, and respect political subdivision lines.

This approach grew directly from the Court’s Order. The Court expressed concerns with the Enacted 2017 Districts, in that “some or all of the proposed remedial districts preserve the core shape of the unconstitutional version of the district, divide counties and municipalities along racial lines, and are less compact than their benchmark version.” Order at 2. To address those identified legal problems, the Special Master’s Draft Plan does not preserve the core shape of the

⁵ In their reply brief, the Legislative Defendants correct their misinterpretation of the Draft Report’s mention of removing any “residuum of racial predominance.” *See* Legislative Defendants Response to Plaintiffs’ Proposed Modifications to Special Master’s Draft Plan, Nov. 17, 2017, at 3 n.4. ECF Doc. 218. In a footnote they acknowledge: “To the extent the special master is referring to an alleged “residuum” of race in the 2017 plans from the 2011 version of the districts, it is unclear why the 2011 plans have any relevance to the special master’s work. Absent a Section 5 preclearance requirement, the baseline plans for analysis are the 2017 plans enacted by the legislature. The 2017 plans stand or fall on their own as to any alleged racial gerrymandering.” *Id.* The Legislative Defendants correctly understand the Special Master’s intended use of the word “residuum of racial predominance,” as referring to the constitutional infirmities identified in the 2011 Plan that remained in the 2017 Plan. Indeed, the point made in the Special Master’s Draft Plan was precisely the one suggested by the Court in its Order, when it expressed concerns that preserving the core shape and other characteristics of the 2011 Districts perpetuated the unconstitutional features of those districts. *See* Order at 2. The 2017 plans cannot “stand on their own” if they substantially preserve the 2011 districts already deemed unconstitutional. Indeed, the task assigned to the Special Master was to design a plan that cures any constitutional infirmity remaining in the 2017 Plan that the Court had identified already in its decision striking down the analogous 2011 Districts.

⁶ The actual statistics as to Black Voting Age Population in the districts undermine this claim as well, but that issue is addressed in the discussion of the districts themselves.

unconstitutional version of the district, avoids dividing counties and municipalities, and attempts to enhance compactness. Hitting some arbitrary racial target was not a goal of the Special Master’s Plan. Rather, the Special Master sought to create remedial districts that, without question, extirpated the unconstitutional racial predominance from the 2011 Districts that the Court has identified as reemerging in the Enacted 2017 Plan.

Table B. Comparison of Black Voting Age Population (BVAP) % Among Selected Districts

District	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
Senate 21	51.5%	47.5%	42.1%	-9.4%	-5.4%
Senate 28	56.5%	50.5%	43.6%	-12.9%	-6.9%
House 21	51.9%	42.3%	39.0%	-12.9%	-3.3%
House 57	50.7%	60.8%	38.4%	-12.3%	-22.4%

Finally, different considerations factored into the creation of the plan for the districts in Wake and Mecklenburg Counties, given that the Plan was designed to remedy a different type of legal violation there. (One should note, however, that certain districts in those counties, which the Special Master retained, such as Recommended District 38, fall outside the supposed race-based range that the Defendants allege was motivating the Special Master in the construction of the remedial districts.) The Court’s Order was quite specific in its goal to recreate the districts from the 2011 plan that did not adjoin the unconstitutional districts. As explained in greater detail below, in order to deal with the excess population created by merging two different redistricting plans together, several of the districts in Wake County, but only three additional districts in Mecklenburg County needed to be redrawn. The principle guiding the Special Master’s plans for those counties was simply to draw compact districts that achieved population

equality, using whole precincts to the extent possible, while redrawing the minimal number of districts necessary to resolve the state constitutional problem.⁷

In addition to these legal requirements, the Court urged the Special Master to “make reasonable efforts to adhere to the following state policy objectives.” Order at 6-7. Those included splitting fewer precincts than the 2011 Enacted Districts, drawing districts that are more compact than the 2011 Enacted Districts (using the Reock and Polsby-Popper measures), and considering municipal boundaries and precinct lines. The Special Master’s Recommended Plans comply with all these additional objectives.

To the extent possible, each district in the Special Master’s Recommended Plan is made of whole precincts. In its evaluation of the Enacted 2011 Plan, the Court noted that, of the 2,692 precincts in North Carolina, the Enacted 2011 Senate Plan split 257 precincts, and the Enacted 2011 House Plan split 395 precincts. *Covington*, 316 F.R.D. at 137. The Court noted evidence that precincts were split in the Enacted 2011 Plans “for the purpose of separating voters according to race.” *Id.* The split precincts in the Special Master’s Recommended Plan either are required by one person one vote, as in House District 21, or they were mandated by the Court when it directed the Special Master to restore the 2011 Districts in Wake and Mecklenburg Counties. As a result, the total number of split precincts in the Special Master’s Plan is higher than the Enacted 2017 Plans, but much lower than the Enacted 2011 Plans. *See* Table C below and Exhibit 5. In the four districts about which the Court raised concerns as to racial predominance only two precincts are split by the Special Master’s Recommended Plan. In contrast, the Enacted 2011 Plan, which did not pay much attention to precinct lines, split eighty-

⁷ In a short email to the Court on November 13, I confirmed that this was the correct interpretation of their Order.

eight precincts in just these four districts and the Enacted 2017 Plan split a total of seven precincts for those four districts.

Table C. Comparison of Precinct (VTD) Splits Among Selected Districts

District	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
Senate 21	33	3	0	-33	-3
Senate 28	15	2	0	-15	-2
House 21	25	2	2	-23	0
House 57	15	0	0	-15	0

The Court also ordered the Special Master to “draw districts that are more compact than the 2011 Enacted Districts.” Order at 7. Compactness is a traditional districting principle, an aesthetic value, and a geometric concept. See 316 F.R.D. at 141 (comparing mathematical measures of compactness with “an ‘eyeball’ approach”) (quoting *Bush v. Vera*, 517 U.S. 952, 960 (1996)). In evaluating the Enacted 2011 Plan, the Court concluded that compactness was “given little consideration” and that “compactness was subordinated to . . . racial goals throughout the redistricting.” *Id.* at 138. It noted, in particular, the lack of compactness in the majority-minority districts in the plan, which suggested the predominant role of race in their construction. *Id.* at 142-66. Compactness measures for the four remedial districts are presented in Table D below; scores for the entire plan appear in Exhibit 3.

The Court urged the evaluation of district compactness (at least as comparing the Special Master’s Plan to the Enacted 2011 Districts) based on two particular mathematical scores: the Reock and the Polsby-Popper Measures. The Reock test is “an area-based measure that . . . computes the ratio of the area of the district to the area of the minimum enclosing circle for the

district.” Caliper Corporation, *Maptitude for Redistricting: Supplemental User’s Guide*, 117-19 (2010) (citations omitted). The Polsby-Popper test “computes the ratio of the district area to the area of a circle with the same perimeter: $4(\pi)\text{Area}/(\text{Perimeter squared})$.” *Id.* (citations omitted). For both measures, a score of 0 is the least compact, and a score of 1 is the most compact.

These particular measures served as significant constraints in formulating the Recommended Plan. Both measures compare a district to a circle, and circles cannot tessellate to serve as building blocks for larger shapes, let alone for counties and municipalities that often have irregular boundaries. No districting plan can be made up of districts with perfect Reock or Polsby-Popper compactness scores. Moreover, many shapes that appear visually compact, such as longer rectangles, will score poorly according to these measures, even though they may perform well according to “the eyeball test.”⁸ (Indeed, a perfect square district will merely earn a Reock score of 0.66.) For this reason, mathematical scores of compactness ordinarily need to be supplemented with a common sense appreciation for the geometric constraints imposed by the irregular precinct building blocks of a plan, as well as the noncompact shapes of political subdivisions, such as counties and cities.

With those caveats, the Special Master’s Recommended Plan scores well on the compactness measures the Court’s Order suggested for evaluation. Unsurprisingly, the Special Master’s Plan scores better than the extremely noncompact districts in the Enacted 2011 Plan. It also has higher Reock and Polsby-Popper Scores than the 2017 Districts. Indeed, Recommended Senate District 28, which comes about as close as one can to creating a circle out of whole

⁸ As will be seen in the longer description of individual districts below, the peculiarity of these measures explains some of the changes made in Guilford County from the Draft House Plan to the Recommended House Plan.

precincts, has one of the highest compactness scores one will see in a districting plan – a Reock score of .70.

Table D. Comparison of Compactness Scores Among Selected Districts

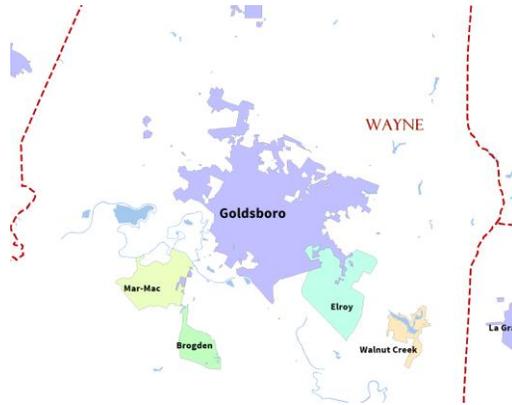
District	<u>Reock</u>					<u>Polsby-Popper</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
Senate 21	.34	.42	.48	+.14	+.06	.06	.25	.35	+.29	+.10
Senate 28	.25	.40	.70	+.45	+.30	.12	.17	.28	+.16	+.11
House 21	.19	.29	.40	+.21	+.11	.08	.12	.28	+.20	+.16
House 57	.39	.37	.44	+.05	+.07	.17	.28	.37	+.20	+.09

The Court’s Order requires the Special Master to consider municipal boundaries. Order at 7. The Court determined that “little to no attention was paid to political subdivisions” in the Enacted 2011 Plan. 316 F.R.D. at 138. The 2017 Plan fares better, but in the areas of concern to the Court, several districts continue to ignore municipal boundaries.

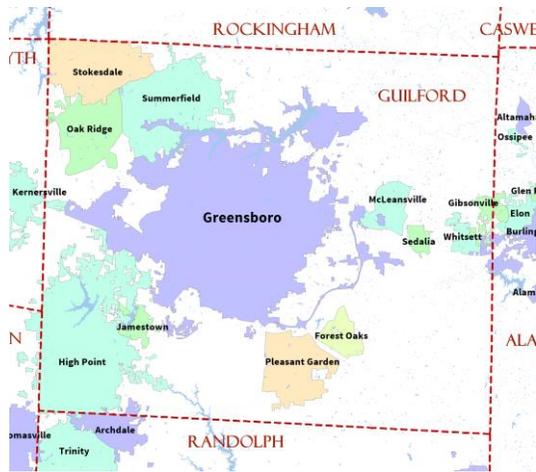
To be clear, municipalities must be split by any redistricting plan. Because the population of towns and cities does not subdivide neatly into units equal to the ideal population of a district, several districts must traverse municipal boundaries. Moreover, respecting municipal boundaries often conflicts with the goals of compactness and avoiding precinct splits. As displayed in the maps below, several North Carolina cities are themselves bizarrely shaped and even noncontiguous, due to annexations. Precincts also split towns and cities, so that a plan made up of whole precincts will often split municipal boundaries. Moreover, some precincts span two municipalities, such that a decision to follow precinct lines will lead to splits of municipalities.

Boundaries of Selected Census Designated Places (CDPs)

Goldsboro



Greensboro



Raleigh



As difficult a principle as respecting political subdivisions may be for any North Carolina redistricting plan to follow, the Special Master’s Recommended Plan pays great attention to the boundaries of municipalities. *See* Table E below and Exhibit 4. The plan does this, not only because such a consideration is a traditional districting principle ordered by the Court, but also to avoid any charges of racial predominance or partisan bias. Unlike respecting “communities of interest,” municipal boundaries are the kinds of non-partisan guideposts that a court-drawn plan can follow without being accused of playing favorites among contending definitions of relevant communities deserving of protection.

The power of this principle in determining the boundaries of the Special Master’s Recommended Plan is evident from a simple examination of the district maps. For example, Recommended Senate District 28, like Recommended House District 61, is almost entirely contained by the boundaries of Greensboro. By altering the lines in House Districts 21 and 22, the Recommended Plan respects (to the extent possible given precinct lines) the boundaries of Clinton and retains the portion of Enacted House District 21 that contains (also to the extent possible given precinct lines) the city of Goldsboro. To be sure, the Special Master’s Recommended Plan must split certain municipalities to comply with the law and other principles ordered by the Court. But municipal boundaries guided the drawing of the Recommended Plan to an extent that distinguishes it from both the Enacted 2011 and 2017 Plans.

Table E. Comparison of Municipality (CDP) Splits Among Selected Districts

District	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
Senate 21	5	4	2	-3	-2
Senate 28	4	2	1	-3	-1
House 21	10	7	7	-3	0
House 57	2	1	2	0	+1

Finally, the Court ordered the Special Master to avoid pairing incumbents. However, the Court made clear that “the Special Master shall treat preventing the pairing of incumbents as ‘a distinctly subordinate consideration’ to the other traditional redistricting policy objectives followed by the state.” Order at 7 (quoting *Ga. State Conf. of NAACP v. Fayette Cty. Bd. of Comm’rs*, 996 F. Supp. 2d 1353, 1363 (N.D. Ga. 2014)). The Court also made clear that such unpairing should occur “[a]fter redrawing the districts” and “only to the extent that such adjustment of district lines does not interfere with remedying the constitutional violations and otherwise complying with federal and state law.” *Id.* (emphasis added).

As the Court’s Order recognizes, incorporation of incumbency-related concerns necessarily puts the Special Master and any court in a difficult position. *See* Order at 6 (quoting *Wise v. Lipscomb*, 437 U.S. 535, 541 (1978) (noting that courts lack “political authoritativeness” and must act “in a manner free from any taint of arbitrariness or discrimination” in drawing remedial districts))). While recognizing that any change in district lines will have political and partisan effects, it is critical that the process of line-drawing be nonpartisan and transparent in its treatment of incumbency. To achieve that goal and to respect the Court’s Order that incumbency be considered only “after redrawing the districts,” the Special Master drew the Draft Plan without consideration of incumbency and released it to the parties and the public. The parties

were then invited to make suggestions as to how incumbents should be unpaired. The Plaintiffs did so; the Legislative Defendants refused, but nevertheless objected to all of the Plaintiffs' suggested modifications as motivated by partisanship.

Per the Court's Order, the Special Master's Recommended Plan unpairs all incumbents to the extent possible. Indeed, no incumbents are paired in the Recommended House Plan, and only two incumbents remain paired in the Recommended Senate Plan (in Recommended Senate District 27). To avoid even the appearance of partisanship, no incumbents paired in the Draft House Plan remain paired in the Recommended House Plan. With respect to the incumbent pairing in Recommended Senate District 27, the Special Master has provided the Court with two scenarios that resolve the pairing in the event the Court comes to a different determination as to whether doing so conflicts with the other principles in the plan. See Exhibit 10. Moreover, since the Draft Plan was released prior to the incorporation of incumbency in the Recommended Plan, the Court has available to it a plan that ignores incumbency should it determine that the incumbent unpairings conflict with the other principles identified in the Court's Order. As difficult as it is to incorporate incumbency into a nonpartisan plan built around other traditional districting principles, the Special Master's Recommended Plan is successful in doing so.

Detailed Description of the Districts in the Special Master's Recommended Plan

Senate Districts 19 and 21

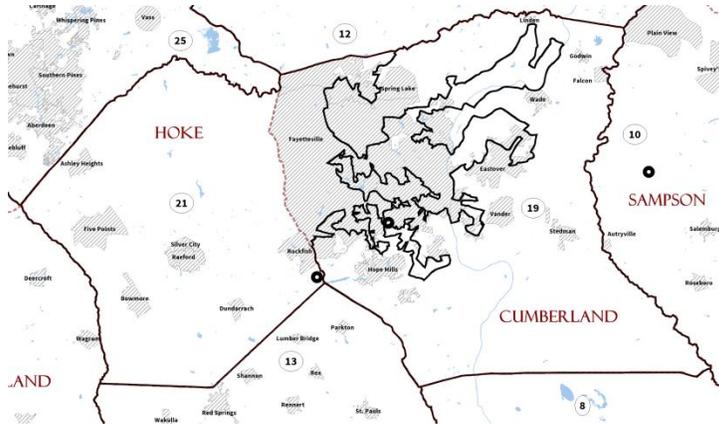
The Court struck down District 21 in the 2011 Senate Plan as a violation of the Fourteenth Amendment's prohibition on excessive race consciousness in districting. *See Covington*, 316 F.R.D. at 146-47 (describing it as a noncompact, majority-minority district that

split precincts and municipalities along racial lines). The Court continues to harbor serious constitutional concerns with the district as redrawn in 2017. *See* Order at 1. These arise, no doubt, because of the district's noncompact shape in the Enacted 2017 Plan – in particular, the long extension into Fayetteville that seems surgically designed to capture heavily African American precincts, while evading heavily white precincts.

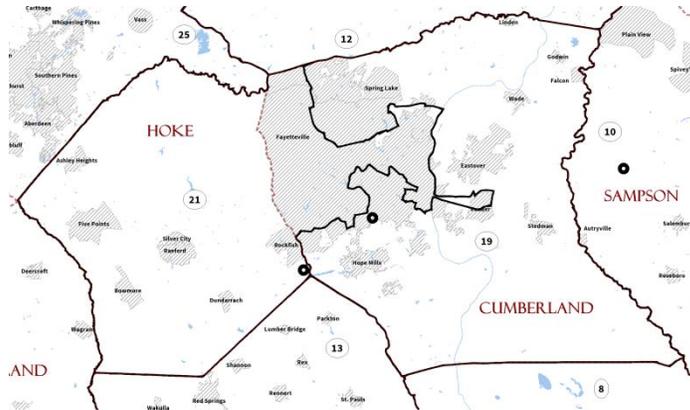
The Special Master's Recommended Plan attempts to remedy any constitutional infirmity in Enacted 2017 District 21 by utilizing whole precincts to create a compact district that, like its predecessors, spans Hoke and Cumberland counties. It begins by uniting split precincts in the northern part of the district; thereby moving Fort Bragg and Spring Lake into District 21. Doing so avoids the axe-like shape of the intrusion into Fayetteville that characterized the Enacted 2017 version of the district. Unlike the 2017 version of the district, Recommended District 21 is constructed of whole precincts – not a single one is divided in the construction of this district. The district includes just enough of Fayetteville so as to comply with one person, one vote. The boundaries of the district are determined by the shape of the precinct boundaries. As noted in Table F below, the Recommended Districts split fewer precincts and achieve much higher compactness scores than either the Enacted 2011 or Enacted 2017 versions of the districts. No changes were made to these districts between the Draft Plan and the Recommended Plan.

North Carolina Senate: Hoke and Cumberland Counties

2011 Plan



2017 Plan



Special Master's Recommended Plan

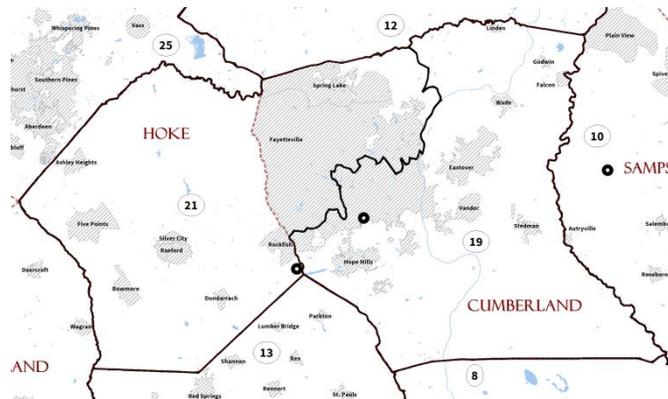


Table F. Cumberland and Hoke Counties: Comparison of Senate Plans

Population Deviations from Ideal Size

District	<u>Population Deviation</u>					<u>Percent Deviation</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017
19	-7,529	-8,643	-7,841	312	-802	-3.9	-4.5	-4.1	0.2	-0.4
21	-7,508	-6,394	-7,196	-312	802	-3.9	-3.4	-3.8	-0.1	0.4
average	-7,519	-7,519	-7,519	0	0	-3.9	-4.0	-4.0	-0.1	0.0

Measures of Compactness

District	<u>Reock</u>					<u>Polsby-Popper</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
19	.45	.45	.51	.06	.06	.05	.20	.30	.25	.10
21	.34	.42	.48	.14	.06	.06	.25	.35	.29	.10
average	.40	.44	.50	.10	.06	.06	.23	.33	.27	.10

Splits of Municipalities and Precincts

District	<u>Municipalities (CDPs)</u>					<u>Precincts (VTDs)</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
19	5	4	2	-3	-2	33	3	0	-33	-3
21	5	4	2	-3	-2	33	3	0	-33	-3
total	10	8	4	-6	-4	66	6	0	-66	-6

Black Voting Age Population (BVAP) %

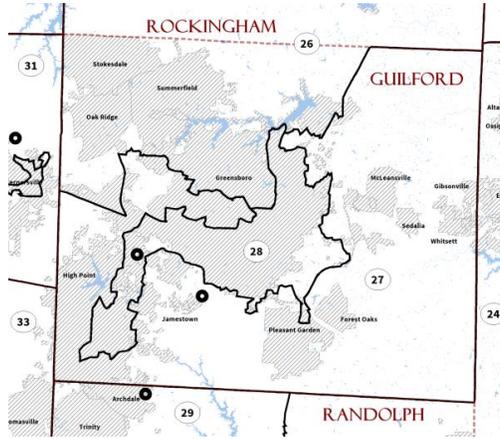
District	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
19	22.5	26.0	31.7	9.2	5.7
21	51.5	47.5	42.1	-9.4	-5.4

Senate District 28 and the Surrounding Districts in Guilford County

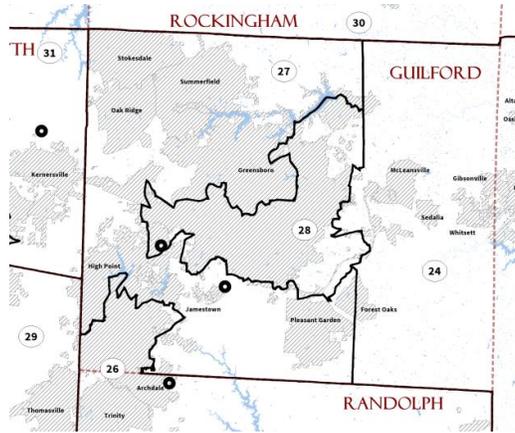
For similar reasons explained above as to District 21, the Court struck down the 2011 version of Senate District 28. *See Covington*, 316 F.R.D. at 147-48 (describing Enacted 2011 Senate District 28 as a non-compact, majority-minority district that split municipalities so as “to achieve the 50%-plus-one goal”). The 2017 incarnation of the district is much more compact than its predecessor and is largely contained within the CDP of Greensboro. However, the Court continues to harbor constitutional concerns as to racial predominance with regard to the district’s 2017 configuration, no doubt because of the District’s tracking of the African American precincts in Greensboro. As expressed in the Special Master’s Recommended Plan, the newly configured district is a compact district – a circle of precincts, which is the shape privileged by the Reock and Polsby-Popper compactness measures set out as criteria in the Court’s Order. The newly drawn district is contained almost completely within the city (CDP) of Greensboro, and is made up of whole precincts. 2017 Enacted Senate District 26 remains untouched, per the Court’s order that the Special Master’s Plan may only alter districts adjoining the Subject Districts. District 24 is slightly changed by moving west to the Greensboro CDP border to accommodate the new boundaries of District 28. District 27 “retreats” from most of central Greensboro so as to contain much of the outskirts of Greensboro along with nearby towns of Summerfield, Oak Ridge, and Stokesdale.

North Carolina Senate: Guilford County

2011 Plan



2017 Plan



Special Master's Recommended Plan

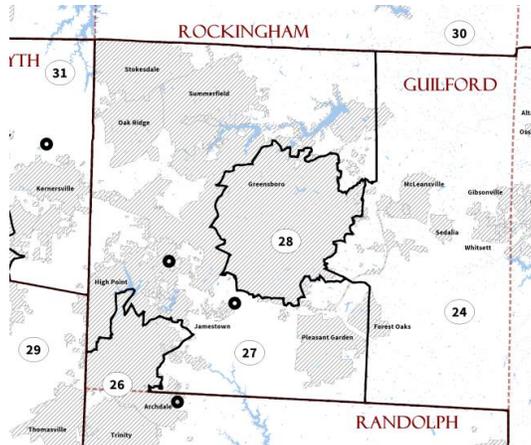


Table G. Comparisons of Senate Plans for Guilford County

Population Deviations from Ideal Size

District	<u>Population Deviation</u>					<u>Percent Deviation</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017
27	456	4,653	-756	300	-3,897	0.2	2.4	-0.4	0.2	-2.0
28	8,729	6,428	7,404	-1,325	976	4.6	3.4	3.9	-0.7	0.5
abs avg	4,593	5,541	4,080	-513	-1,461	2.4	2.9	2.2	-0.2	-0.7

Measures of Compactness

District	<u>Reock</u>					<u>Polsby-Popper</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
27	.39	.43	.46	.07	.03	.13	.15	.20	.07	.05
28	.25	.40	.70	.45	.30	.12	.17	.28	.16	.11
average	.32	.42	.58	.26	.17	.13	.16	.24	.12	.08

Splits of Municipalities and Precincts

District	<u>Municipalities (CDPs)</u>					<u>Precincts (VTDs)</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
27	8	6	6	-2	0	14	1	0	-14	-1
28	4	2	1	-3	-1	15	2	0	-15	-2
total	12	8	7	-5	-1	29	3	0	-29	-3

Black Voting Age Population (BVAP) %

District	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
27	17.0	12.7	18.3	1.3	5.6
28	56.5	50.5	43.6	-12.9	-6.9

As stated earlier in the discussion of incumbency, Recommended Senate District 27 is the only district in the Recommended Plans that contains two incumbents. It pairs Senator Gladys Robinson with Senator Trudy Wade. Neither the Plaintiffs nor the Defendants have urged the Special Master to unpair these incumbents. To resolve this incumbent pairing would require significant restructuring of the district.

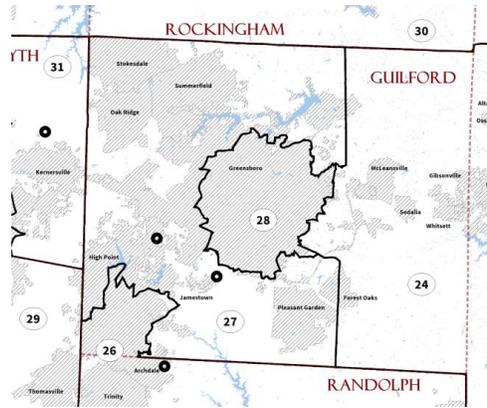
While not resolving this incumbent pairing in the Recommended Plan, the Special Master has provided the Court with two scenarios that would unpair these incumbents. The easiest way to do so would be to draw Senator Wade's residence into Recommended Senate District 28. The scenario provided below and in Exhibit 10 – titled Alternate Senate Plan 1 – demonstrates how this could be done with minimal disruption to the plan. The scenario “trades” the precinct containing Senator Wade's residence with one to the east, moving Senator Wade into Recommended District 28. The Special Master has not recommended this alternative because it effectively takes both Senator Wade and Senator Robinson out of the territory that comprises most of their present districts. However, if the Court were looking to unpair incumbents with minimal disruption to the Recommended Plan, this scenario would provide the easiest path to doing so.

It is also possible to draw Senator Robinson's residence into District 28, for which she currently serves as the incumbent. The most minimal way to do so, as depicted below in Guilford Senate Alternate 2, is to connect the precincts between her home and Recommended District 28. Enacted 2017 Senate District 28 splits the precinct containing her home, as does Guilford Senate Alternate 2, but moving the entire precinct could achieve the same result. These moves must be compensated for elsewhere in the plan. This alternative plan does so by moving three precincts in the northern part of Recommended District 28 into District 27, but any number

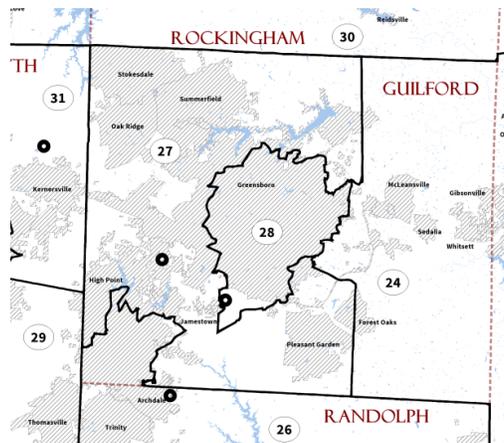
of precincts along the outside of District 28 could achieve the same result. The only reason the Special Master has not included this revision in the Recommended Plan is that it does decrease the compactness of District 28, and causes District 28 to traverse into High Point. Also, no one has yet called for this kind of revision. However, the two incumbents could be unpaired without violating any provision of state or federal law.

North Carolina Senate: Guilford County Alternate Plans

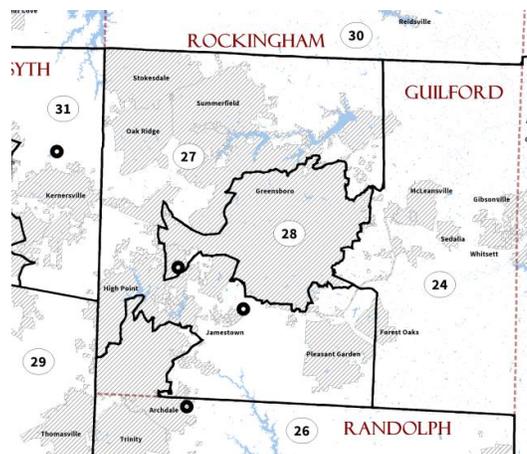
Special Master's Recommended Plan



Alternate 1



Alternate 2



House Districts 21 and 22

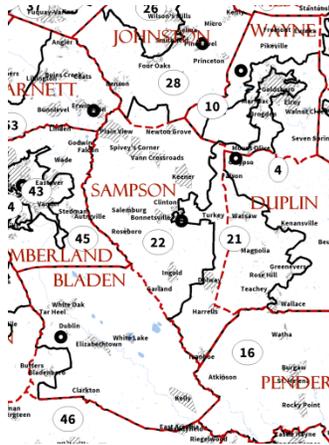
As with the Senate Districts described above, the Court struck down Enacted 2011 House District 21 as a violation of the Equal Protection Clause of the Fourteenth Amendment. 316 F.R.D. at 155-56. In its 2011 incarnation, the district spanned portions of three counties, divided seven municipalities and multiple precincts, in order to reach majority-minority status. *Id.* The Enacted 2017 version, which remains somewhat bizarre in shape, continues to join Goldsboro in Wayne County with portions of eastern Sampson County splitting the town of Clinton in half. The Court's suspicions as to the remaining racial predominance in Enacted 2017 House District 21 grow, no doubt, from the fact that the included precincts in Sampson are correlated with the racial percentages in those precincts. More specifically, the district continues to include the more heavily African American precincts in the County, while excluding the heavily white precincts nearby.

The Special Master's Recommended House Plan addresses the district's lack of compactness by placing the Sampson County precincts closest to the Wayne County border into Recommended District 21. It thereby avoids the selective inclusion of heavily African American precincts that characterized the 2011 and 2017 versions of the district. The District continues to retain its configuration in Wayne County, which is principally defined by the boundaries of Goldsboro. It extends up to the boundaries of Clinton and only includes a tiny portion of it (83 people) because of a small intrusion by the nearby precinct. Because Districts 21, 22 and 10 approach the upper limit (almost exactly five percent deviation) of what is permissible under one-person, one-vote, a precinct must be split in Sampson County. This is true for both the Enacted 2017 House Plan as well as the Recommended House Plan. The Special Master's Draft House District 21 split more than one precinct to gain additional compactness for the district and

to avoid the small intrusion into Clinton. Given the Legislative Defendants' expressed concerns as to split precincts, the Special Master's Recommended Plan made small revisions so that only one precinct in Sampson County is split, as in the Enacted 2017 District 21.

North Carolina House: Bladen, Sampson and Wayne Counties

2011 Plan



2017 Plan



Special Master's Recommended Plan



Table H. Comparisons of House Plans for Bladen, Sampson and Wayne Counties

Population Deviations from Ideal Size

District	<u>Population Deviation</u>					<u>Percent Deviation</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017
21	3,558	3,972	3,969	411	-3	4.5	5.0	5.0	0.5	0.0
22	3,503	3,972	3,975	472	3	4.4	5.0	5.0	0.6	0.0
abs avg	3,531	3,972	3,972	442	0	4.4	5.0	5.0	0.6	0.0

Measures of Compactness

District	<u>Reock</u>					<u>Polsby-Popper</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
21	.19	.29	.40	.21	.11	.08	.12	.28	.20	.16
22	.43	.48	.46	.03	-.02	.20	.20	.26	.06	.06
average	.31	.39	.43	.12	.05	.14	.16	.27	.13	.11

Splits of Municipalities and Precincts

District	<u>Municipalities (CDPs)</u>					<u>Precincts (VTDs)</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
21	10	7	7	-3	0	25	2	2	-23	0
22	3	4	3	0	-1	11	1	1	-10	0
total	13	11	10	-3	-1	36	3	3	-33	0

Black Voting Age Population (BVAP) %

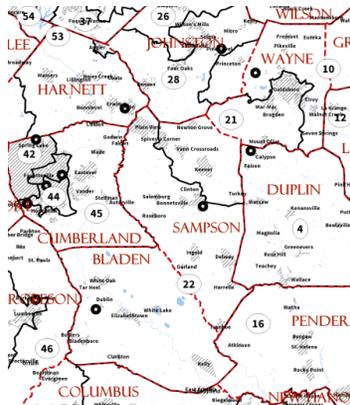
District	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
21	51.9	42.3	39.0	-12.9	-3.3
22	26.8	28.2	31.5	4.7	3.3

North Carolina House: Bladen, Sampson and Wayne Counties Comparison with Draft Plan

2017 Plan



Special Master's Draft Plan



Special Master's Recommended Plan



House District 57 and Surrounding Districts in Guilford County

The Court determined that Enacted 2011 House Districts 57, 58, and 60 in Guilford County were drawn with race as their predominant factor. 316 F.R.D. at 163-64. The Court found that those three districts “contain[ed] 70.67% of the city of Greensboro, but manage[d] to capture 88.39% of Greensboro’s African-American voting age population.” *Id.* at 164. Several of the most non-compact features of those districts are cut away in the Enacted 2017 versions of the districts. However, the Court continues to harbor concerns as to racial predominance in Enacted 2017 District 57, no doubt because the district retains a Black Voting Age Population (BVAP) of 60.75% by largely tracking the heavily African American precincts in northeastern Greensboro in a reverse “L shaped” pattern.

The directions from the Court with respect to redrawing this district are more specific than for others in the remedial plan. “As to House District 57,” the Court’s Order directs, “the redrawn lines shall also ensure that the unconstitutional racial gerrymanders in 2011 Enacted House Districts 58 and 60 are cured.” Order at 5. This direction presents additional constraints as to how the districts adjoining District 57 must be drawn. In particular, in redrawing District 57, one must make sure not to recreate one of the districts previously struck down. However, of the Enacted 2011 House Districts determined to be unconstitutional, only Enacted 2017 House District 57 continues to pose a constitutional problem for the Court and needs to be redrawn.

The Special Master’s Recommended Plan redraws House District 57, but keeps intact the other “Subject Districts” (House Districts 58 and 60) as redrawn in the 2017 Plan. In redrawing House District 57, the Recommended Plan creates it as a north Greensboro district, made up of whole precincts, which largely follows the city lines. It takes one precinct out of Enacted 2017

House District 59 that contains the section of northeastern Greensboro to the east of Lake Townshend. Its northern boundary is determined by the precincts that track the northern city limits of Greensboro, which it takes from Enacted 2017 District 62. Its eastern boundary also follows the precincts that include northeastern Greensboro. Its northwest boundary includes enough precincts so as to include the residence of Representative John Blust, who is the only incumbent included in the district. The district includes a majority of the people who were drawn into the Enacted 2017 version of his district (42,350 of the 80,732 people in the Enacted 2017 version of the district). It fills in by moving south so as to create a compact district with a Reock score of .44 and a Polsby-Popper score of .37. It is therefore more compact than the Enacted 2017 version of the district, which has a Reock Score of .37 and a Polsby-Popper Score of .28, or the Enacted 2011 version of the District, which had a Reock score of .39 and Polsby-Popper score of .17.

The Recommended Plan makes minor changes to District 59. Because of the precinct in northeastern Greensboro transferred from Enacted 2017 District 59 into Recommended District 57, Recommended District 59 moves west over the northern boundary of Recommended District 57 to include two additional precincts. It extends up to its current boundary in Summerfield – that is, the northwestern boundary of Enacted 2011 House District 59.

Recommended House District 62 extends along the western expanse of Guilford County. Because of the territory it cedes to Recommended House Districts 59 and 57, it must move south to comply with one person, one vote. It therefore contains the portions of Enacted 2017 House Districts 61 and 62 that had touched the county border, up to the point where its boundaries are determined by Enacted 2017 House District 60. It extends into Greensboro just slightly in order to pick up the necessary population to comply with one person, one vote. (Most of its population

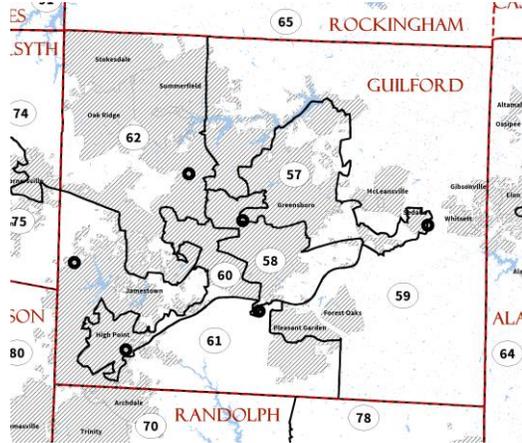
and its incumbent are from Enacted House District 61, but the Recommended Plan keeps the same numbering as the Enacted 2017 Plan for ease of comparison.)

Recommended House District 61 is a compact district fully contained within central Greensboro. It extends to the eastern border of the city, picking up the southernmost section of Enacted 2017 House District 57 and a majority (48,789) of its people. Unlike the Enacted 2017 House District 57, though, it extends west, meeting Recommended District 62 where it enters Greensboro. Its southern border is determined by the northernmost boundaries of Enacted 2017 District 58 (which remains unchanged in the Recommended Plan).

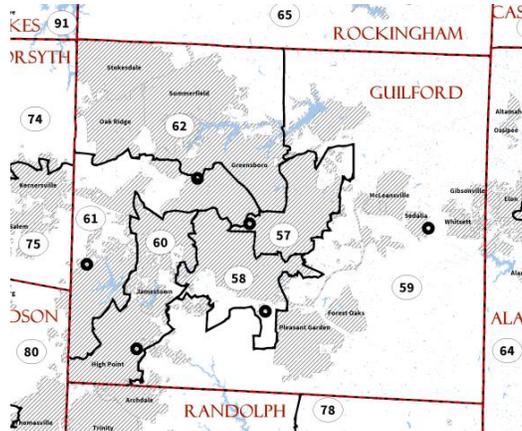
The Recommended Guilford County House Districts provide a narrowly tailored remedy to address the constitutional infirmity identified by the Court in Enacted 2017 District 57. They do so while splitting zero precincts, and achieving a higher average compactness score (on both the Reock and Polsby-Popper measures) than the Enacted 2011 plan, per the Court's order. They respect the boundaries of Greensboro by anchoring three districts largely within its borders. They do this while retaining two of the Enacted 2017 Districts in their entirety, making minimal changes to a third, and pairing no incumbents in a single district.

North Carolina House: Guilford County

2011 Plan



2017 Plan



Special Master's Recommended Plan

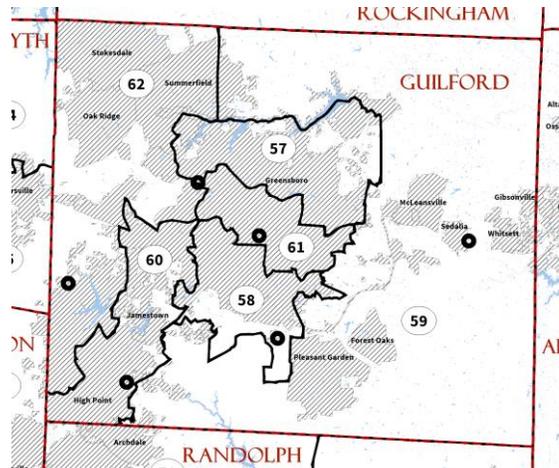


Table I. Comparison of House Plans for Guilford County

Population Deviations from Ideal Size

District	<u>Population Deviation</u>					<u>Percent Deviation</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017
57	-118	3,293	3,841	3,723	548	-0.1	4.1	4.8	4.7	0.7
58	-407	2,675	2,675	2,268	0	-0.5	3.4	3.4	2.9	0.0
59	3,813	445	-5	-3,808	-440	4.8	0.6	0.0	-4.8	-0.6
60	1,065	2,394	2,394	1,329	0	1.3	3.0	3.0	1.7	0.0
61	3,600	1,557	292	-3,308	-1,265	4.5	2.0	0.4	-4.1	-1.6
62	3,681	1,270	2,437	-1,244	1,167	4.6	1.6	3.1	-1.5	1.5
abs avg	2,114	1,939	1,941	-173	2	2.7	2.4	2.4	-0.3	0.0

Measures of Compactness

District	<u>Reock</u>					<u>Polsby-Popper</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
57	.39	.37	.44	.05	.07	.17	.28	.37	.20	.09
58	.38	.44	.44	.06	.00	.20	.18	.18	-.02	.00
59	.40	.39	.41	.01	.02	.21	.25	.23	.02	-.02
60	.22	.29	.29	.07	.00	.08	.21	.21	.13	.00
61	.30	.32	.37	.07	.05	.13	.22	.28	.15	.06
62	.48	.47	.30	-.18	-.17	.36	.50	.31	-.05	-.19
average	.36	.38	.38	.01	-.01	.19	.27	.26	.07	-.01

Splits of Municipalities and Precincts

District	<u>Municipalities (CDPs)</u>					<u>Precincts (VTDs)</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
57	2	1	2	0	1	15	0	0	-15	0
58	1	2	2	1	0	15	0	0	-15	0
59	6	6	7	1	1	11	0	0	-11	0
60	2	4	4	2	0	16	0	0	-16	0
61	5	3	1	-4	-2	12	0	0	-12	0
62	4	1	4	0	3	7	0	0	-7	0
total	20	17	20	0	3	76	0	0	-76	0

Black Voting Age Population (BVAP) %

District	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
57	50.7	60.8	38.4	-12.3	-22.4
58	51.1	42.7	42.7	-8.5	0.0
59	13.6	22.2	18.8	5.2	-3.4
60	51.4	40.1	40.1	-11.3	0.0
61	15.3	11.5	40.3	25.0	28.9
62	13.3	14.0	11.5	-1.9	-2.5

Response to Criticism of the Draft House Plan for Guilford County, Explanation of Changes Made in the Recommended Plan, and Provision of Alternative Plans

Several considerations led to revisions from the Special Master’s Draft Plan to the Recommended Plan in Guilford County. First, the Plaintiffs made recommendations as to unpairing incumbents in Draft Plan District 59, to which the Legislative Defendants objected. Second, the Legislative Defendants, while not suggesting any changes, broadly criticized the plan as disrespecting state policy choices. Finally, in analyzing those criticisms and evaluating

the plan, the Special Master sought to improve the compactness of the districts to ensure that they met the Court's criterion that the Special Master's plan score higher than the Enacted 2011 Districts on the Reock and Polsby-Popper measures.

The Recommended Plan does not pair any incumbents. Moreover, every single incumbent retains a majority of his or her constituency from the 2017 Enacted Plan. By retaining Enacted 2017 House District 58, which had been altered by the Draft Plan, it now avoids the incumbent pairing in that district from the Draft Plan and need not address the Legislative Defendants' criticisms of potential partisanship in the Plaintiffs' plan to unpair them. Moreover, by retaining two Enacted 2017 House Districts (58 and 60) in their entirety, and a third (59) with minor revisions, the Recommended Plan respects, to the extent possible, the policy decisions the legislature made regarding Guilford County districts. It alters districts only to the extent necessary to remedy the constitutional infirmity in Enacted 2017 District 57.

Second, the Legislative Defendants made the following unfounded criticisms of the Special Master's Draft Plan. First, they argued that the plan "negated the legislature's policy choice to create a suburban district that followed city lines." Defendants' Reply Brief, at 3 n.2 ECF No. 218. If such was the legislature's goal, it failed to achieve it with the 2017 Enacted Districts. Neither Enacted 2017 District 61 nor 62 (the supposed suburban districts Legislative Defendants reference) track city lines. Quite the opposite, they both intrude substantially into the city of Greensboro. Roughly 36,000 of the inhabitants of Enacted 2017 District 61 (almost half of the district's population) reside within the Greensboro CDP limits. The majority of people (51,747 out of 80,732) living in Enacted 2017 District 62, live within Greensboro. In contrast, for both the Recommended and Draft Plans, 80 percent of the district's inhabitants are outside of

the Greensboro CDP (65,385 out of 81,899 for the Recommended Plan, and 72,946 out of 82,023 for the Draft Plan).⁹

Third, the Legislative Defendants argued that the Draft Plan created less compact districts in Greensboro. Defendants Reply Brief, at 3 ECF No. 218. While mere visual examination suggests this criticism seems misplaced, a plan could be created with higher compactness scores for the Reock and Polsby-Popper measures preferred by the Court, while also remedying the constitutional problems with Enacted 2017 House District 57 and redrawing as few districts as possible. The Recommended Plan, thereby, complies with the Court's Order to "draw districts that are more compact than the 2011 Enacted Districts, using as a guide the Reock ('dispersion') and Polsby-Popper ('perimeter') scores." Order at 8. Whereas the average Reock and Polsby-Popper scores for the Enacted 2011 Guilford County Districts were .36 and .19, respectively, the averages for the Recommended Plan are .38 and .26 (which is roughly the same as the Enacted 2017 Plans). Compactness scores for a majority of the Guilford County districts in the Recommended Plan are now superior to those in both the Enacted 2011 and Enacted 2017 Plans.

The final criticism lodged by the Legislative Defendants against the Draft Plan was that it engaged in racial targeting. That criticism was unfounded with respect to the Draft Plan, and remains so with the Recommended Plan. The race-neutral criteria that animated both plans are apparent on their face. By replacing Enacted House District 57 with Recommended House Districts 57 and 61, the plan remedies the perceived constitutional infirmity that arises from Enacted 2017 House District 57's tracking of the African American population in eastern

⁹ For some reason, the Legislative Defendants also suggest that the "Special Master gave less consideration to Greensboro municipal lines in House District 57." Defendants Reply Brief at 3, ECF No. 218. I confess, I do not understand the criticism. Draft District 57 followed the municipal lines of Greensboro. It contained (and tracked) some of the non-contiguous portions of Greensboro that are northeast of the central city, but Enacted 2017 District 57 did so as well.

Greensboro. It does so by drawing compact, horizontal districts going east-west, made of complete precincts, rather than following the reverse L-shaped pattern of the Enacted 2017 Districts. Recommended House District 57 has a BVAP of 38.4% and Recommended House District 61 has a BVAP of 40.3%. They achieve these levels not through intentional targeting, but through an attempt to avoid what the Court suggests are the constitutionally suspect geographic choices made in construction of the 2011 and 2017 districts. These decreases in the African American population are to be expected from a plan that remedies a district judged to be racially predominant.

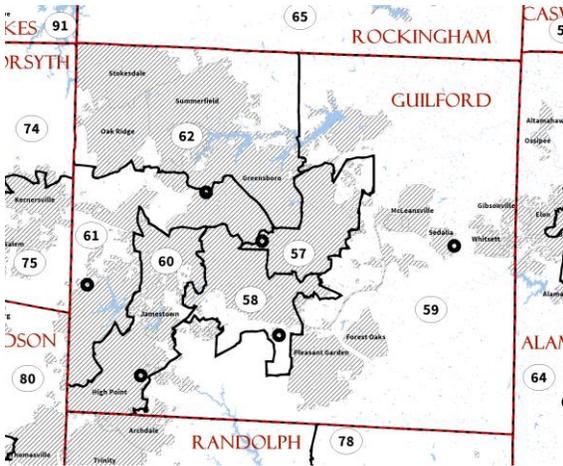
To be clear, the Special Master considers the Draft House Plan for Guilford County to be one the Court can adopt, and should be considered as an option. However, the Recommended Plan does a better job in satisfying the Court's articulated criteria and in responding to the parties' concerns. The Draft Plan alters more districts than the Recommended Plan in order to fit three districts completely within Greensboro. In doing so, it has lower scores on the Court's preferred compactness measures. However, were the Court to adopt the Draft Plan, it would remedy the perceived constitutional infirmity of the districts in Guilford County.

Per the Court's request in its Order for the Special Master to discuss "issues, or questions which the Special Master believes may arise or which will otherwise aid the Court," Order at 13, the Special Master wants to alert the Court to yet another option to address the issue of incumbency, precinct splits, and municipality splits in northwest Greensboro. The Recommended Plan resolves the incumbency pairing from the Draft Plan in northwestern Greensboro in a compact way that includes all of the Greensboro precincts that follow the CDP lines and that includes Representative Blust's residence and a majority of his constituents under the Enacted 2017 House Plan. One of those precincts straddles both Greensboro and

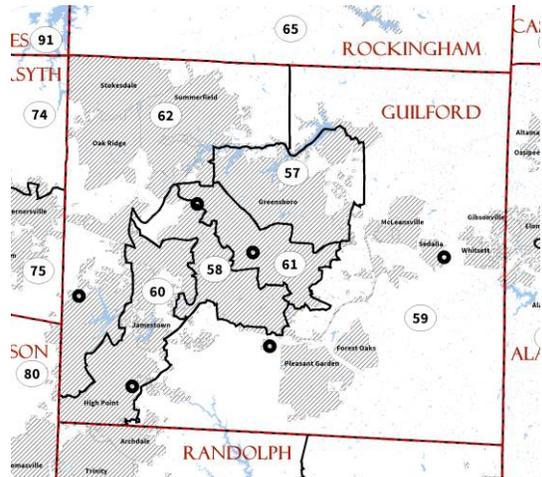
Summerfield (containing roughly 700 people in the CDP of Summerfield). That precinct is included in Recommended House District 57 because doing so increases the compactness of the district and the plan. However, to avoid one more intrusion over municipal borders, the precinct could be split or it could easily be taken out, with single precinct “trades” occurring between Recommended District 62, 61, and 57. Such a plan is presented below and in Exhibit 10 as the Guilford Alternate House Plan. The Special Master endorses this plan as an alternative to the Recommended Plan. The change was not made in the Recommended Plan, however, because it would lower the compactness scores of the districts and the plan on the Reock and Polsby-Popper measures preferred by the Court.

North Carolina House: Guilford County Plan Comparisons

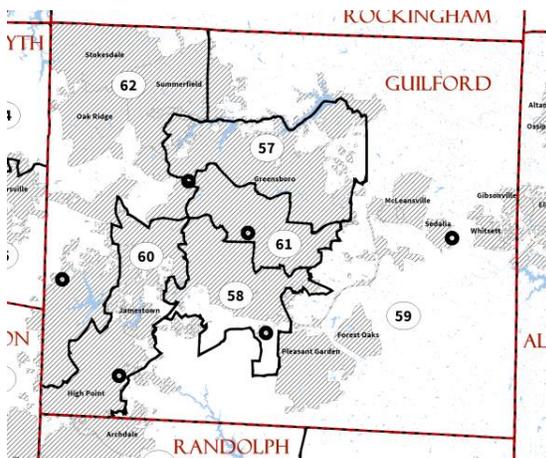
2017 Plan



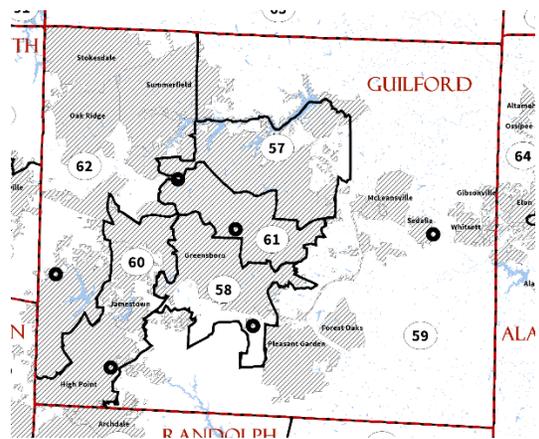
Special Master's Draft Plan



Special Master's Recommended Plan



Alternate Plan



Wake County Districts

In Wake County, the Court struck down Enacted 2011 House Districts 33 and 38 as racially predominant in violation of the Equal Protection Clause. 316 F.R.D., at 159-60. Only one of the benchmark districts (i.e., those existing immediately prior to enactment of the 2011 plan) had BVAP percentages over 40 percent. However, the Court found that the Enacted 2011 Plan split municipalities, precincts, communities of interest, and neighborhoods along racial lines to hit a racial target in those districts that exceeded 50 percent. The Court concluded, “[w]hen viewed in light of the strong statewide evidence, it is clear that Defendants drew district boundaries in Wake County with the primary goal of creating two majority-black districts. The district specific evidence supports our finding that race predominated in drawing of House Districts 33 and 38.” *Id.*, at 160.

The legal infirmity in the districts in Wake County is characteristically different than those in the previous districts described and therefore requires a different type of remedy. The Court has not called into question any of the 2017 districts that themselves were redrawn to address the racial predominance of their prior incarnations. Rather, the Court has called into question under the North Carolina Constitution the Enacted 2017 Districts that were unnecessarily redrawn to address racial predominance in the Enacted 2011 Districts. In Wake County, the districts deemed unnecessary to be redrawn are 2011 House Districts 36, 37, 40 and 41. By redrawing those districts, which did not adjoin the unconstitutional districts in Wake County, the 2017 Enacted Plan raises concerns for the Court under the provision of the state constitution that prohibits redistricting more than once a decade. *See* N.C. CONST. art. II, §§ 3(4), 5(4).

To address this violation of the state constitution, the Court has ordered the Special Master to recreate the Enacted 2011 House Districts 36, 37, 40 and 41 in their 2011 form. Once redrawn, it becomes necessary to reallocate populations among the districts that did, in fact, adjoin the previously unconstitutional districts. Reinstating these particular 2011 districts, most of which adhere to the western and southern county boundaries, provides an exterior frame within which the reallocation of population must occur. The remaining Enacted 2017 districts are the basemap from which the Special Master's Recommended Plan is created, but significant redrawing must occur in some districts because of the "leftover" territory that remains once the 2011 districts are reinstated. (The task is similar to fitting several square pegs into a round hole – the pegs need to be reshaped if they are going to "fit.")

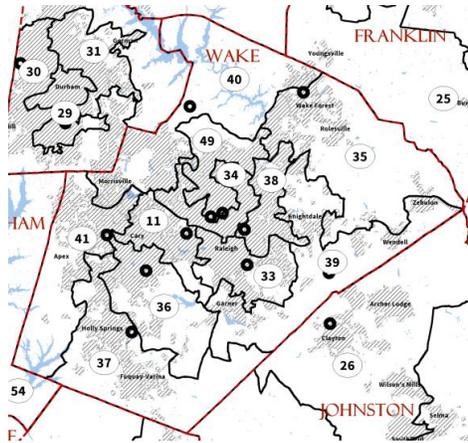
For the most part, the configurations of the Wake County districts in the Recommended Plan are determined by attaching to each of the Enacted 2017 House Districts the "leftover territory" that exists immediately next to them once the 2011 Districts are reinstated. For example, Enacted 2017 House District 33 moves to the Johnston County border to pick up the territory left there once House District 36 reassumes its 2011 form. Because Recommended House District 33 moves southeast to the border, Recommended District 11 must fill in the "gap" left behind by both 33 and 36. Once 2011 Enacted House District 40 is recreated, Enacted 2017 District 49 is pushed east and Enacted 2017 District 34 is pushed north to assume their form in the Recommended Plan. Enacted 2017 Districts 38 and 39 are kept completely intact, while Enacted 2017 District 35 undergoes very minor alterations to respond to the recreation of Enacted 2011 House District 40.

Per the Court's instruction, the Recommended Plan for Wake County is far superior on compactness scores and precinct splits to the 2011 Enacted Plan. Recreating the 2011 Districts –

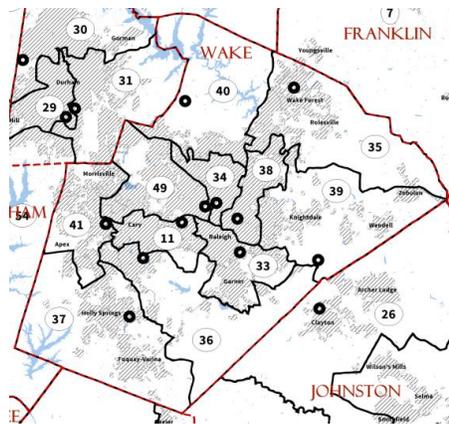
some of which were noncompact and split precincts – will naturally increase the number of precinct splits and decrease (just slightly) the compactness scores of the Recommended Plan as compared to the 2017 Enacted Plan. Altering only the districts necessary to remedy the identified state constitutional problems with the Enacted 2017 Districts, while reinstalling the Enacted 2011 Districts, leaves limited options for reconfiguring the districts. This is a virtue, not a vice, of the Court’s Order, the principles from which largely determine the reconfiguration of the districts in Wake County.

North Carolina House: Wake County

2011 Plan



2017 Plan



Special Master's Recommended Plan

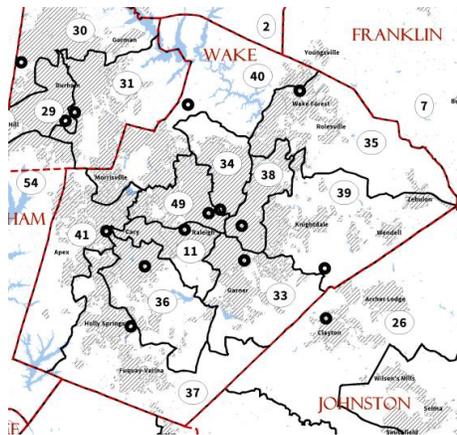


Table J. Comparisons of House Plans for Wake County

Population Deviations from Ideal Size

District	<u>Population Deviation</u>					<u>Percent Deviation</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017
11	3,755	3,804	2,879	-876	-925	4.7	4.8	3.6	-1.1	-1.2
33	3,106	3,182	3,880	774	698	3.9	4.0	4.9	1.0	0.9
34	3,621	-1,514	3,363	-258	1,849	4.6	-1.9	4.2	-0.4	2.3
35	-1,566	3,266	-2,520	954	-746	-2.0	4.1	-3.2	1.2	-0.9
36	3,911	2,464	3,911	0	1,447	4.9	3.1	4.9	0.0	1.8
37	3,856	2,490	3,856	0	1,366	4.9	3.1	4.9	0.0	1.8
38	3,941	3,599	3,599	-342	0	5.0	4.5	4.5	-0.5	0.0
39	1,932	3,593	3,593	1,661	0	2.4	4.5	4.5	2.1	0.0
40	-2,853	1,213	-2,853	0	1,640	-3.6	1.5	-3.6	0.0	2.1
41	3,404	1,277	3,404	0	2,127	4.3	1.6	4.3	0.0	2.7
49	3,804	3,537	3,799	-5	262	4.8	4.5	4.8	0.0	0.3
abs avg	3,250	2,722	3,423	173	702	4.1	3.4	4.3	0.2	0.9

Measures of Compactness

District	<u>Reock</u>					<u>Polsby-Popper</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
11	.31	.41	.33	.02	-.08	.19	.34	.26	.07	-.08
33	.47	.45	.54	.07	.09	.22	.29	.41	.19	.12
34	.39	.34	.44	.05	.10	.10	.29	.43	.33	.14
35	.43	.32	.35	-.08	.03	.26	.33	.35	.09	.02
36	.37	.31	.37	.00	.06	.34	.21	.34	.00	.13
37	.34	.44	.34	.00	-.10	.22	.48	.22	.00	-.26
38	.31	.32	.32	.01	.00	.18	.30	.30	.12	.00
39	.22	.43	.43	.21	.00	.11	.40	.40	.29	.00
40	.28	.52	.28	.00	-.24	.24	.38	.24	.00	-.14
41	.28	.42	.28	.00	-.14	.25	.40	.25	.00	-.15
49	.43	.44	.46	.03	.02	.16	.44	.31	.15	-.13
average	.35	.40	.38	.03	-.02	.21	.35	.32	.11	-.03

Splits of Municipalities and Precincts

District	<u>Municipalities (CDPs)</u>					<u>Precincts (VTDs)</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
11	2	3	3	1	0	9	1	3	-6	2
33	2	2	2	0	0	13	1	2	-11	1
34	2	1	1	-1	0	14	0	0	-14	0
35	5	3	3	-2	0	2	1	1	-1	0
36	5	5	5	0	0	5	3	5	0	2
37	4	4	4	0	0	4	1	4	0	3
38	2	1	1	-1	0	13	0	0	-13	0
39	6	3	3	-3	0	15	1	1	-14	0
40	5	1	5	0	4	4	0	4	0	4
41	4	4	4	0	0	7	0	7	0	7
49	1	3	2	1	-1	3	0	5	2	5
total	38	30	33	-5	3	89	7	32	-57	25

Black Voting Age Population (BVAP) %

District	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
11	14.8	14.3	16.5	1.7	2.2
33	51.4	44.2	45.1	-6.3	0.9
34	17.0	15.8	13.1	-3.9	-2.7
35	17.4	15.6	16.2	-1.2	0.7
36	7.7	9.3	7.7	0.0	-1.5
37	13.8	14.3	13.8	0.0	-0.5
38	51.4	48.3	48.3	-3.1	0.0
39	26.5	35.5	35.5	9.0	0.0
40	9.8	7.7	9.8	0.0	2.0
41	7.4	8.1	7.4	0.0	-0.7
49	8.9	12.8	13.3	4.4	0.5

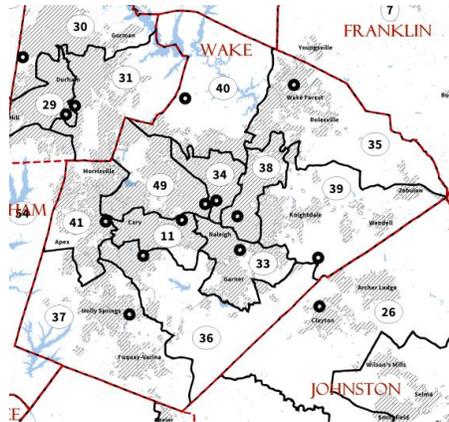
Explanation of Changes from the Draft House Plan to the Recommended House Plan for Wake County

In response to Plaintiffs' suggestions related to the incumbent pairing in the Draft Plan, the Recommended Plan makes minor changes. These involve a swap between Draft House Districts 34 and 49, to unpair the two incumbents there, while ensuring that Recommended House District 41 complies with the Court's Order that it retain its configuration under the Enacted 2011 Plan. The Recommended Plan adopts these minor revisions because they do not undermine the other features of the plan, and as a result, no incumbents are then paired in the Recommended House Plan.

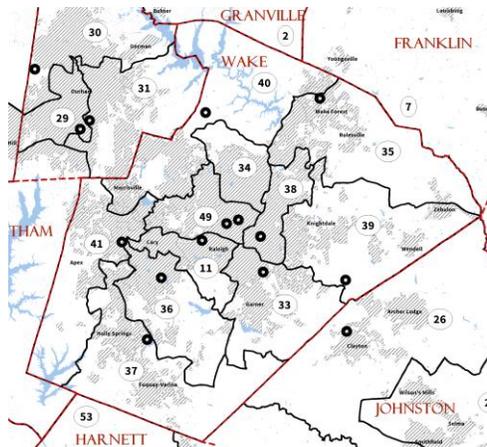
The suggested change is explained in full in Plaintiffs' Response and Proposed Modification to the Special Master's Draft Plan included in Exhibit 8. Representatives Cynthia Ball and Grier Martin were both paired in Draft House District 49. They are easily unpaired by moving Draft District 34 south to pick up the precincts between its border and Representative Martin's residence, and then compensating by moving two nearby precincts into District 49. This can be done while also ensuring that Enacted House District 40 is restored to its 2011 version. This modification ensures that no incumbents are paired in the Special Master's Recommended House Plan.

North Carolina House: Wake County Comparisons with Draft Plan

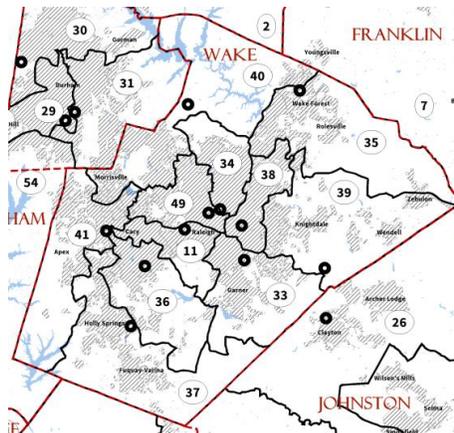
2017 Plan



Special Master's Draft Plan



Special Master's Recommended Plan



Mecklenburg County Districts

In Mecklenburg County, the Court struck down Enacted 2011 Districts 99, 102, and 107 as unconstitutional racial gerrymanders. The Court found that the legislature had increased the BVAP percentages over the benchmark plan so as to intentionally create majority-minority districts. It did so by drawing districts that tracked the precincts with significant African American population shares and even broke precincts in order to fulfill that goal. *See* 316 F.R.D. at 164-65.

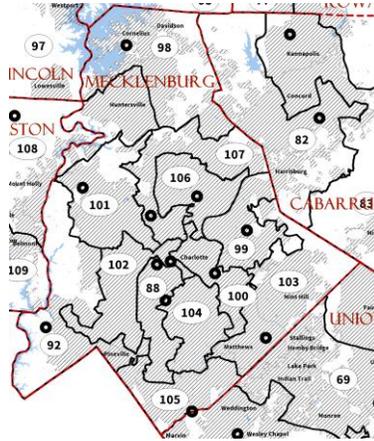
The Court, however, does not harbor any suspicions about residual racial predominance in any of those districts. Rather, the legal problem to be solved in Mecklenburg, as in Wake, concerns the districts that were unnecessarily redrawn to deal with the constitutional infirmity in the Subject Districts. Because the Court ordered only the recreation of 2011 Enacted House District 105, which exists in the southernmost corner of Mecklenburg County, only three additional districts, which border it, needed to be redrawn.

Once Enacted 2011 House District 105 is recreated, Districts 92, 103, and 104 need to be redrawn to fill in the space vacated as 105 retreats to the border. The Recommended House Plan for Mecklenburg County makes the minimum changes necessary to address the state constitutional problem identified by the court. Each of those districts from the Enacted 2017 Plan then converges on the northern border of Enacted 2011 District 105. As District 105 moves south, Districts 92, 103, and 104 move into the territory closest to each one of those districts. The exact configurations are determined by a decision to keep precincts whole (outside of those already split by 2011 Enacted District 105), to keep the districts in the area relatively compact and contiguous, and to make only the changes necessary to remedy the constitutional violation.

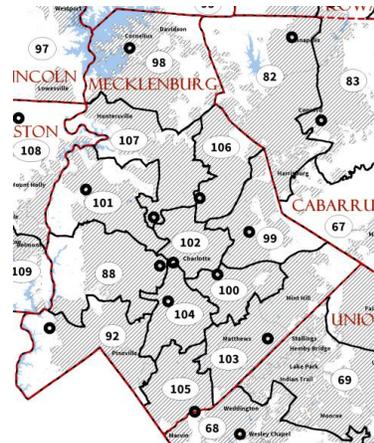
The precincts in this area of Mecklenburg County are themselves quite noncompact so any remedial plan, limited to these three districts, will have lower compactness scores than their predecessor districts. The recreation of 2011 Enacted District 105, which is less compact than 2017 Enacted District 105, also inevitably affects the compactness of its adjoining districts.

North Carolina House: Mecklenburg County

2011 Plan



2017 Plan



Special Master's Recommended Plan

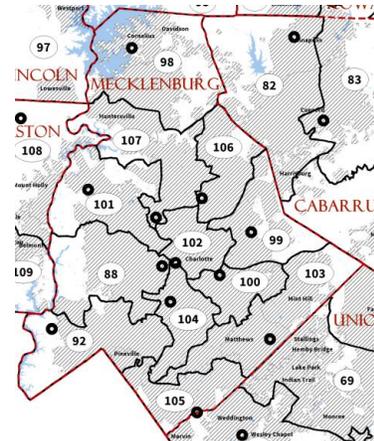


Table K. Comparisons of House Plans for Mecklenburg County

Population Deviations from Ideal Size

District	<u>Population Deviation</u>					<u>Percent Deviation</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017	2011 Plan	2017 Plan	Rec. Plan	chg in abs dev from 2011	chg in abs dev from 2017
92	-1,751	-2,290	-2,224	473	-66	-2.2	-2.9	-2.8	0.6	-0.1
103	-3,790	-3,081	-1,656	-2,134	-1,425	-4.8	-3.9	-2.1	-2.7	-1.8
104	-3,389	-2,593	-3,829	440	1,236	-4.3	-3.3	-4.8	0.6	1.6
105	-3,750	-3,495	-3,750	0	255	-4.7	-4.4	-4.7	0.0	0.3
abs avg	3,170	2,865	2,865	-305	0	4.0	3.6	3.6	-0.4	0.0

Measures of Compactness

District	<u>Reock</u>					<u>Polsby-Popper</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
92	.16	.44	.40	.24	-.04	.10	.25	.29	.19	.04
103	.34	.27	.19	-.15	-.08	.18	.32	.25	.07	-.07
104	.55	.49	.35	-.20	-.14	.33	.35	.29	-.04	-.06
105	.37	.49	.37	.00	-.12	.30	.37	.30	.00	-.07
average	.36	.42	.33	-.03	-.10	.23	.32	.28	.06	-.04

Splits of Municipalities and Precincts

District	<u>Municipalities (CDPs)</u>					<u>Precincts (VTDs)</u>				
	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
92	3	2	2	-1	0	11	0	2	-9	2
103	5	5	4	-1	-1	12	0	3	-9	3
104	2	2	1	-1	-1	9	2	3	-6	1
105	3	1	3	0	2	7	1	7	0	6
total	13	10	10	-3	0	39	3	15	-24	12

Black Voting Age Population (BVAP) %

District	2011 Plan	2017 Plan	Rec. Plan	chg from 2011	chg from 2017
92	18.2	30.2	28.0	9.8	-2.2
103	13.1	7.7	8.1	-5.0	0.4
104	8.2	6.2	6.8	-1.4	0.6
105	9.5	8.3	9.5	0.0	1.3

CONCLUSION

The Special Master's Recommended Plans for the North Carolina Senate and House of Representatives eliminate all of the constitutional infirmities the Court has identified in the plans enacted by the North Carolina General Assembly in 2017. The Court has appointed the Special Master to solve specific and identified problems in the existing state redistricting plans. The Recommended Plans do so. They represent a limited response to a select number of districts that require alteration to comply with the law.

The role a Special Master serves in a redistricting dispute is determined by the purpose for which he or she is appointed. In this case, it was to provide an available remedy for identified violations of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and of the North Carolina Constitution's prohibition on redistricting more than once a decade. At times, the Legislative Defendants have asked the Special Master to advocate on their behalf or to speak for the Court. *See* Legislative Defendants' Response to Special Master's Draft Report, at 2, 5, 11, 12, ECF No. 215. The Special Master declines both of those invitations. Even on the expedited schedule in the present case (as in many redistricting cases, given the election calendar), there will be ample time for the parties to present arguments

regarding the Court's evaluation of the 2017 Enacted Plans for the North Carolina Senate and House of Representatives.

With this Report and Plan, the Special Master has provided the Court with redistricting plans that satisfy the criteria stated in the Order. The Recommended Districts solve the legal problems the Court has identified, while complying with one person, one vote, promoting compactness, reducing precinct splits, following municipal lines, and avoiding almost all pairings of incumbents. With the Draft Plan and other alternatives, the Special Master has also provided options to the Court should it wish to strike the balance among the criteria in the Order in a different way than done with the Recommended Plans. If, with the benefit of a hearing and additional briefing, the Court requires modification of the Recommended Plan, the Special Master stands ready to provide additional assistance.

SUBMITTED, this the 1st day of December, 2017.

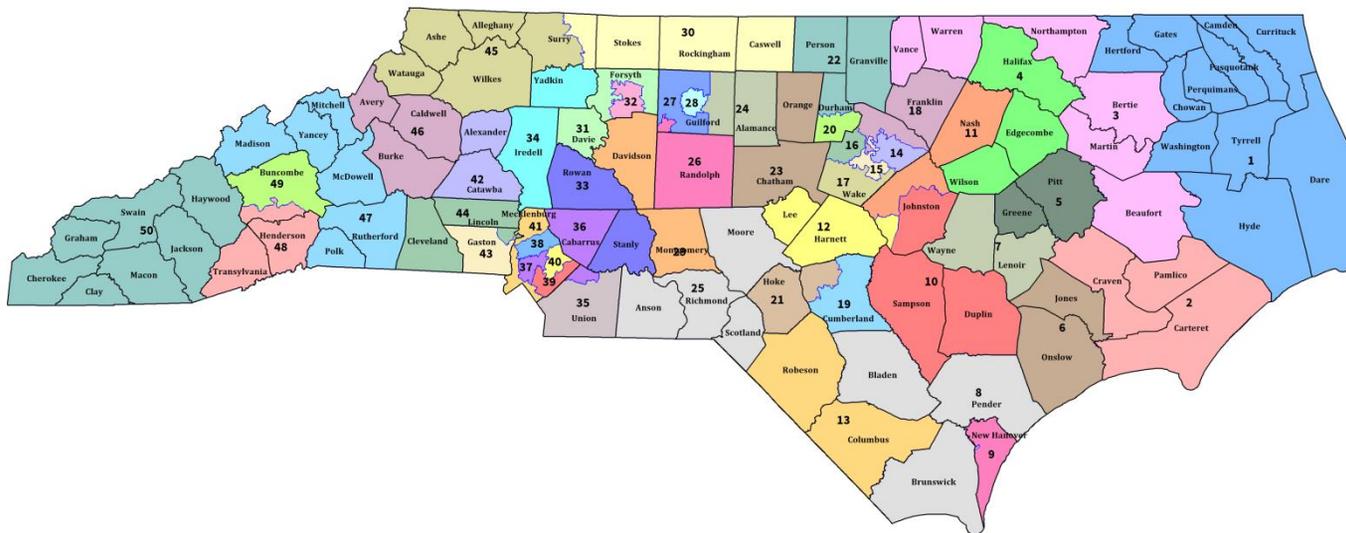
A handwritten signature in black ink, appearing to read 'N. Persily', written in a cursive style.

Nathaniel Persily
Special Master

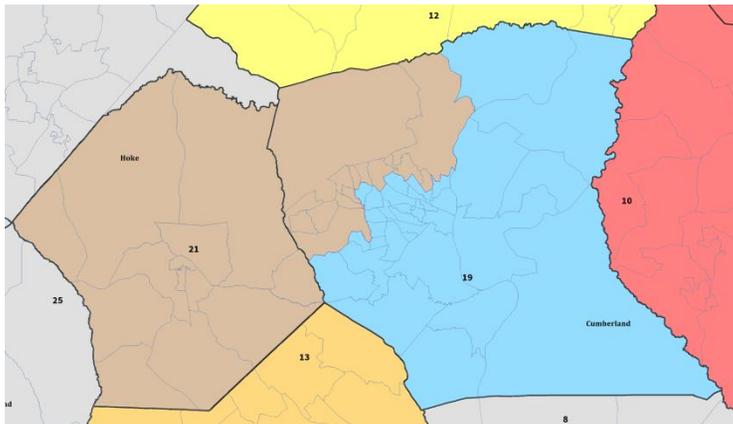
EXHIBITS

Exhibit 1

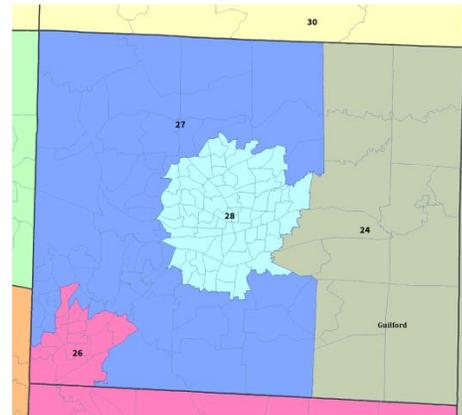
North Carolina Senate Special Master's Recommended Plan



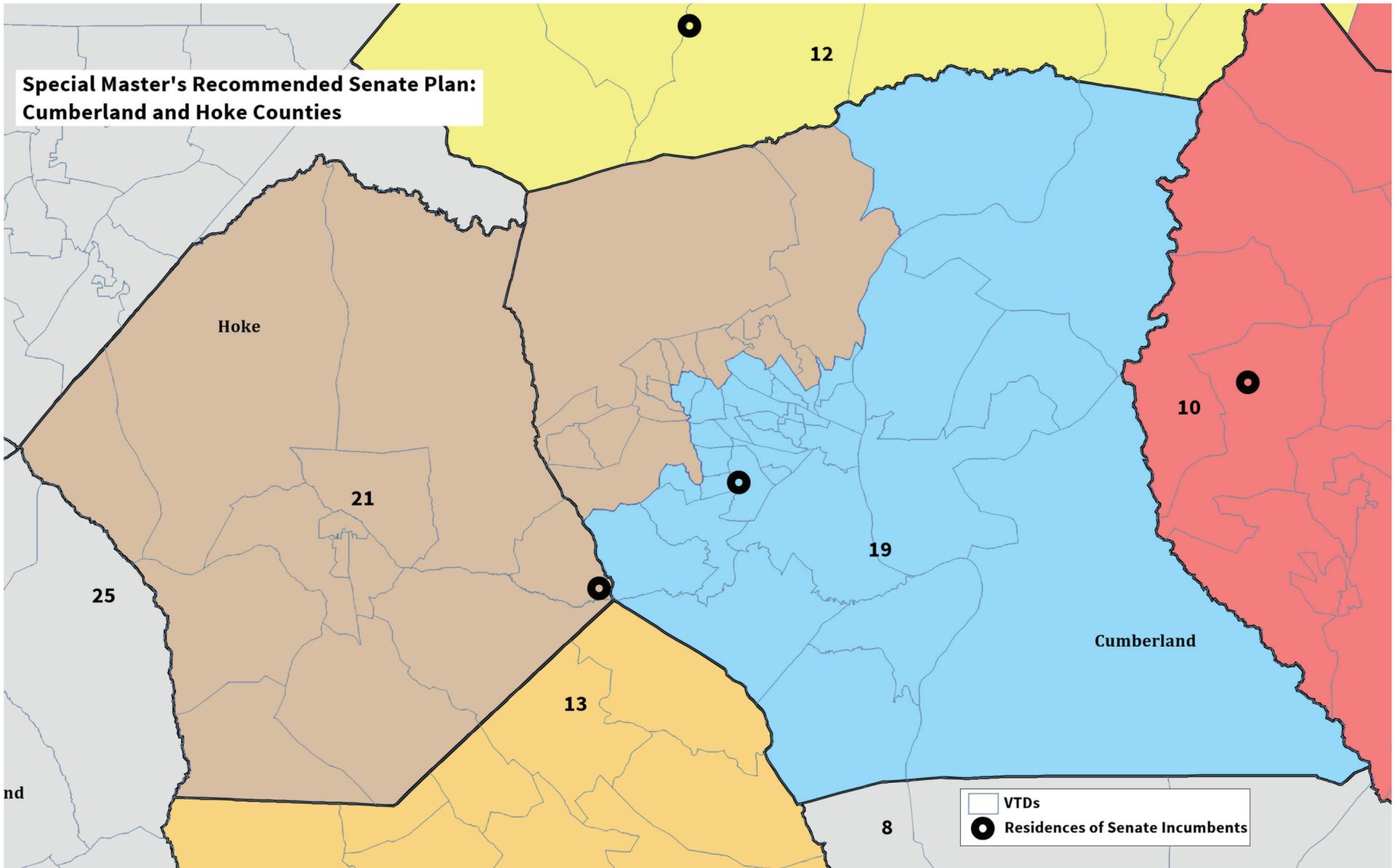
Cumberland and Hoke Counties



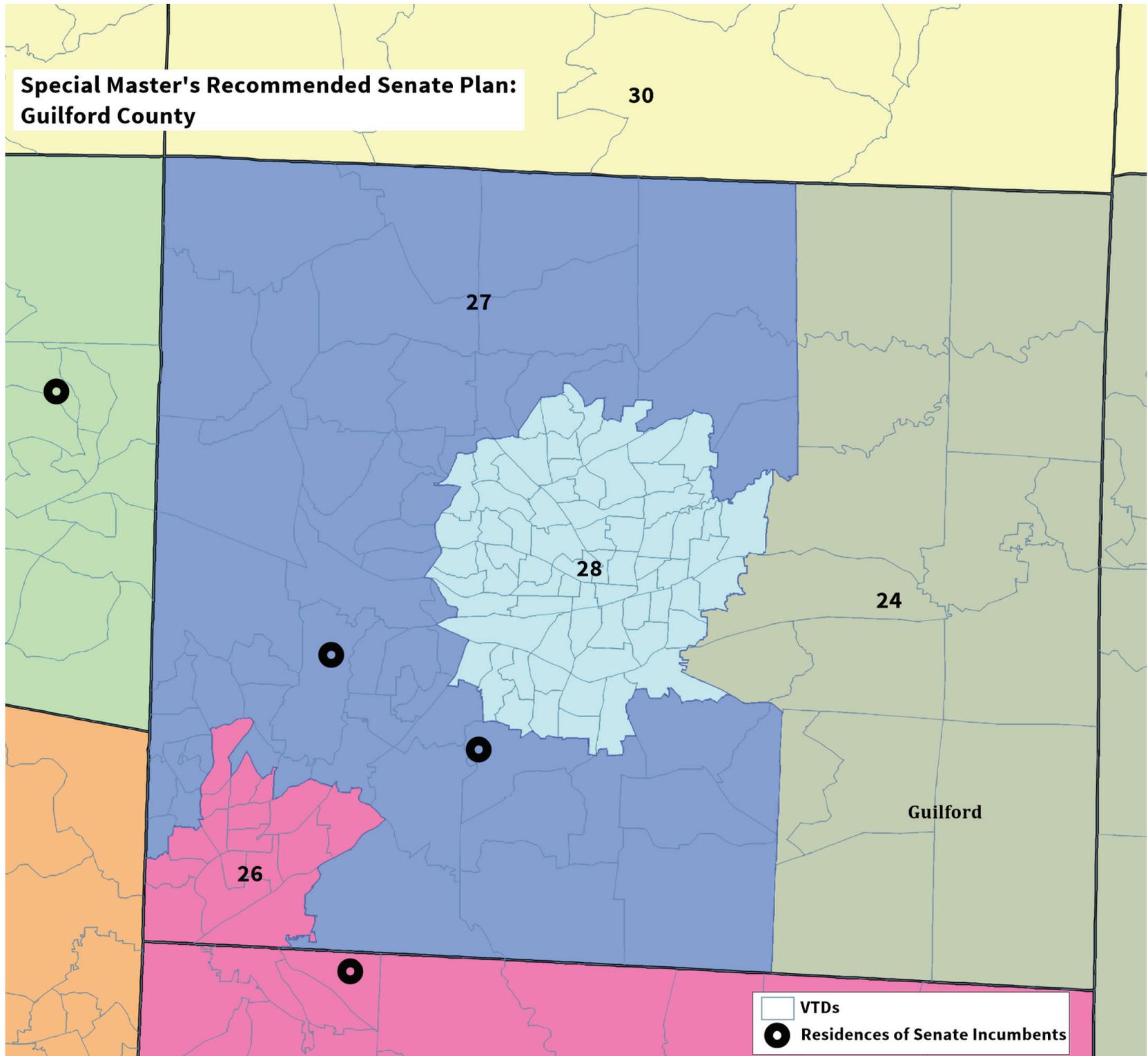
Guilford County



**Special Master's Recommended Senate Plan:
Cumberland and Hoke Counties**

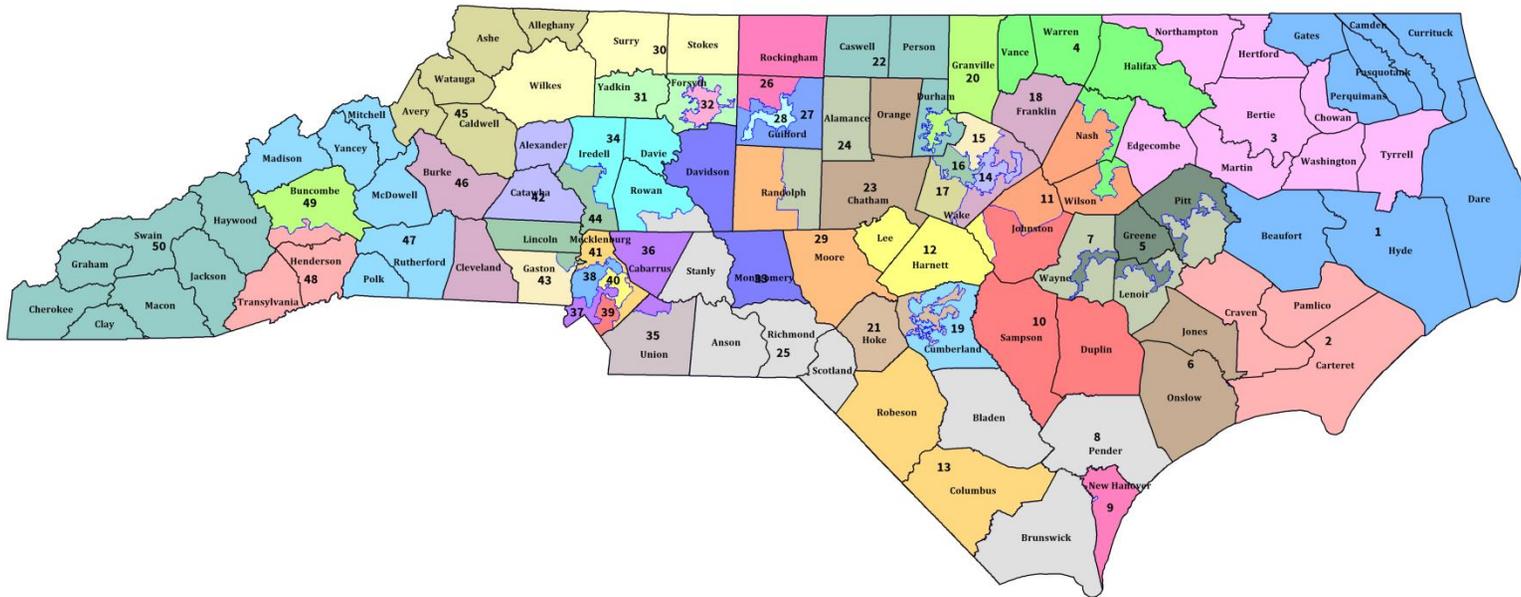


**Special Master's Recommended Senate Plan:
Guilford County**

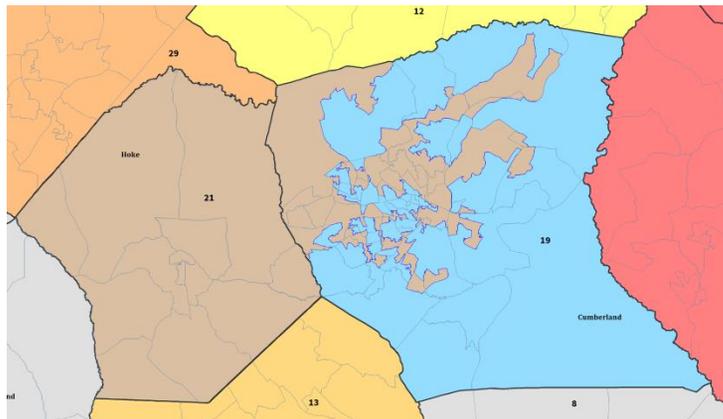


□ VTDs
● Residences of Senate Incumbents

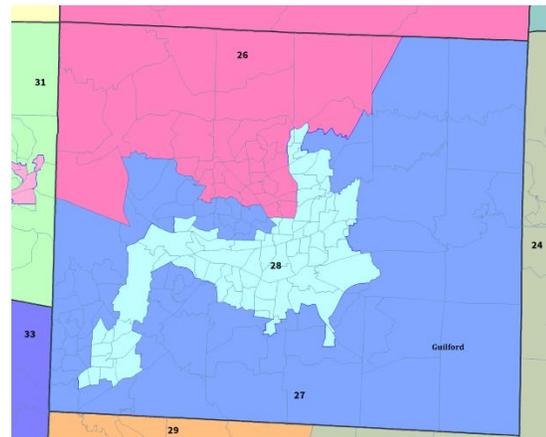
North Carolina Senate 2011 Enacted Plan



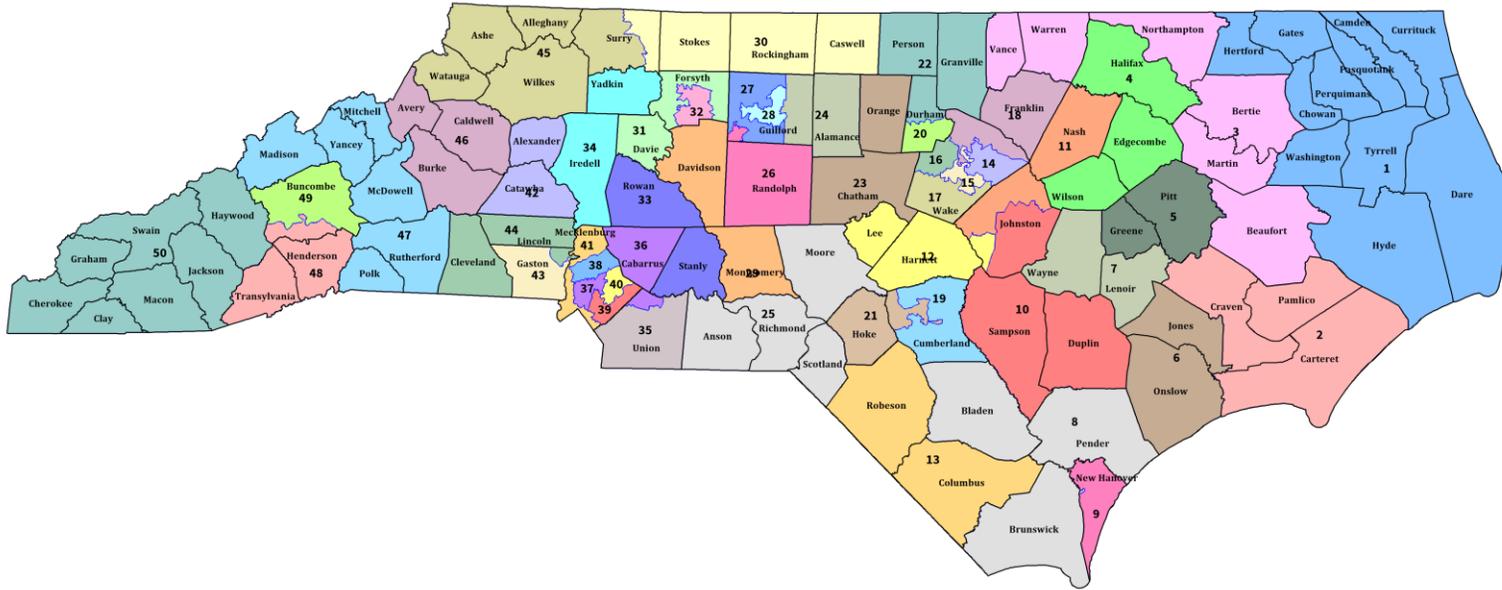
Cumberland and Hoke Counties



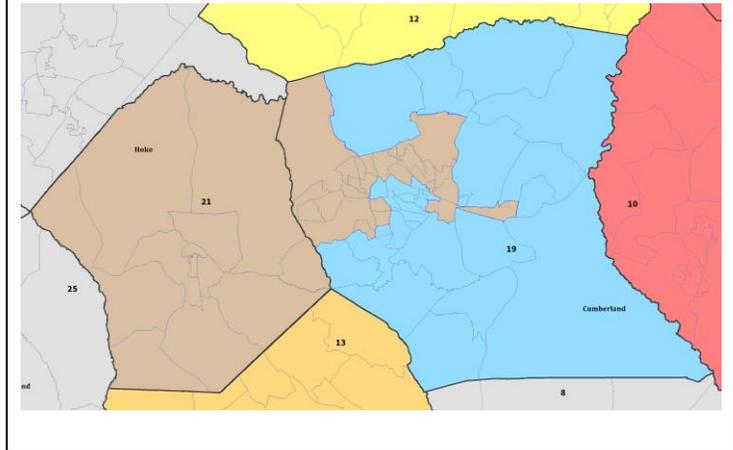
Guilford County



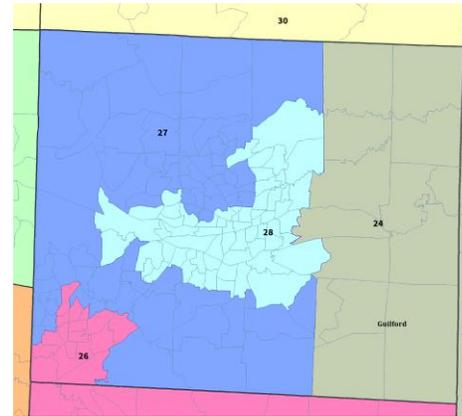
North Carolina Senate 2017 Enacted Plan



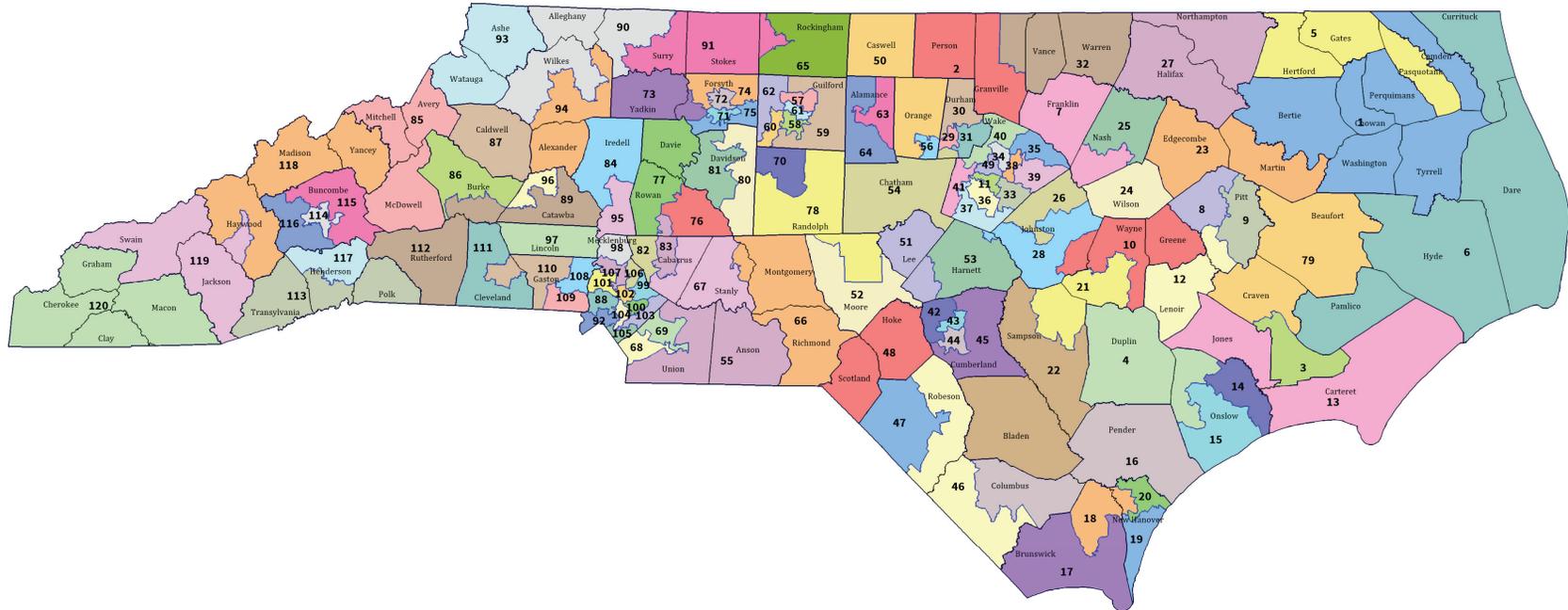
Cumberland and Hoke Counties



Guilford County

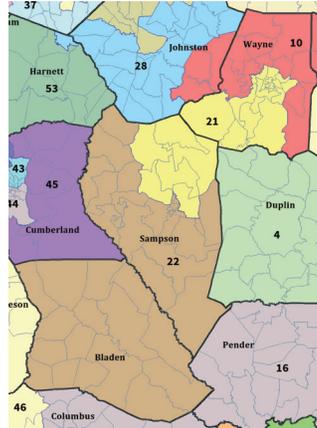


North Carolina House Special Master's Recommended Plan

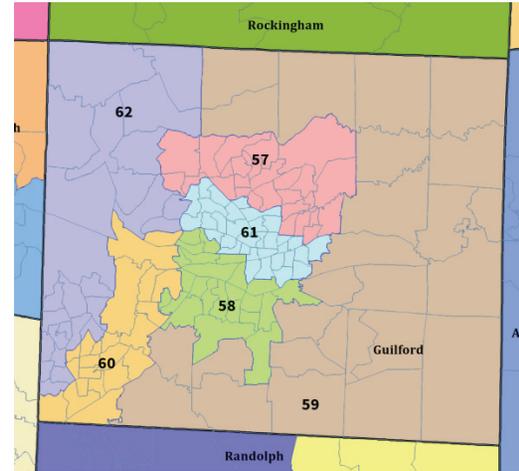


North Carolina House Special Master's Recommended Plan

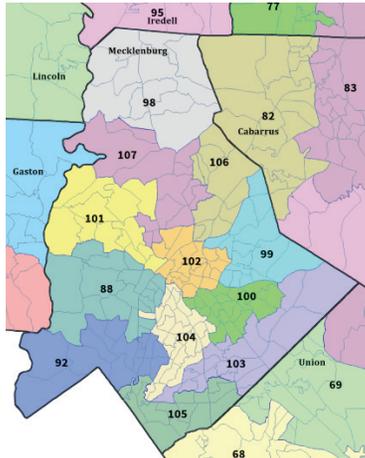
Bladen, Sampson and Wayne Counties



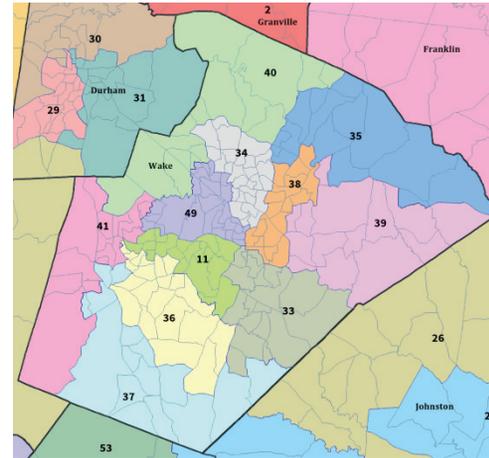
Guilford County



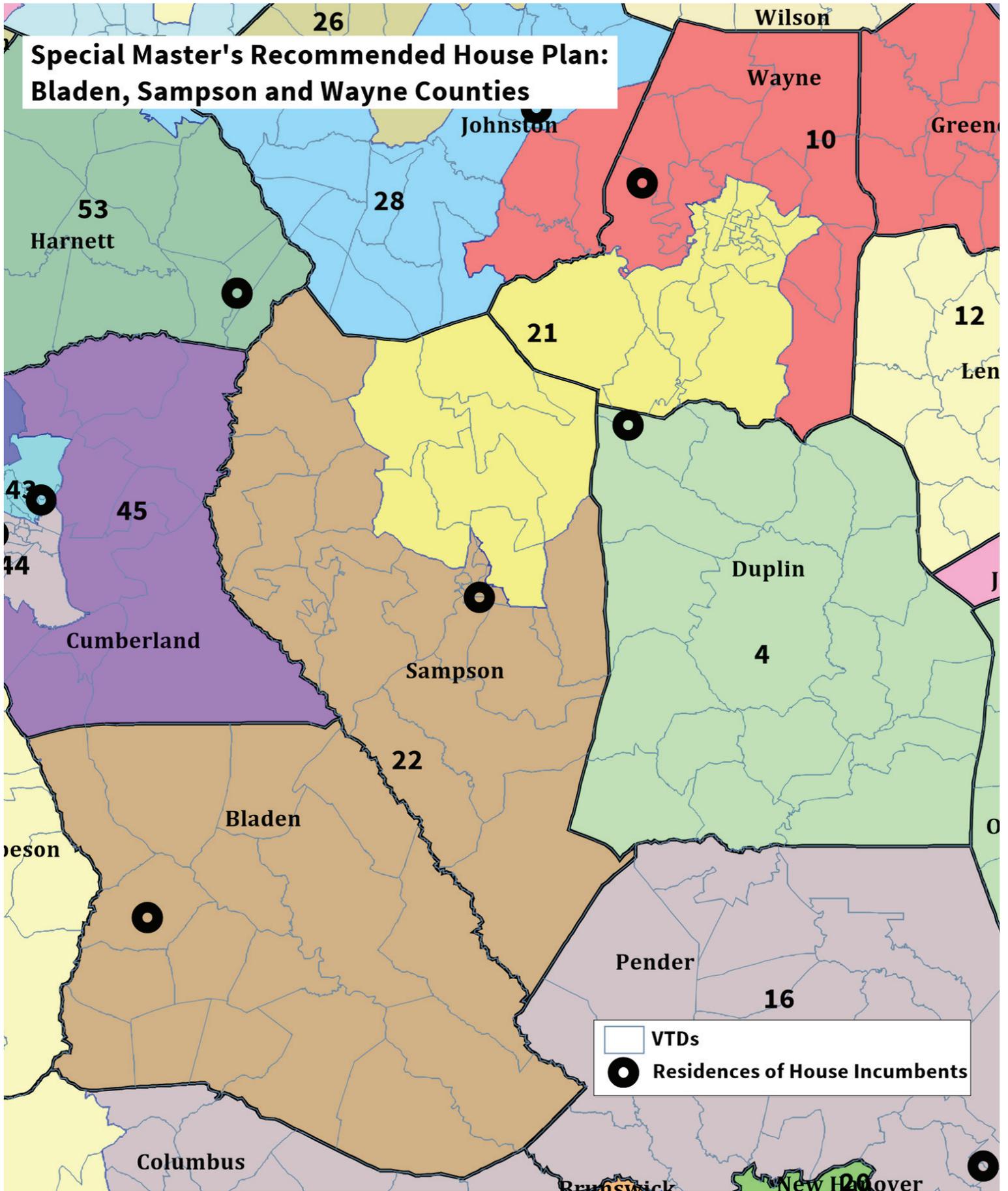
Mecklenburg County



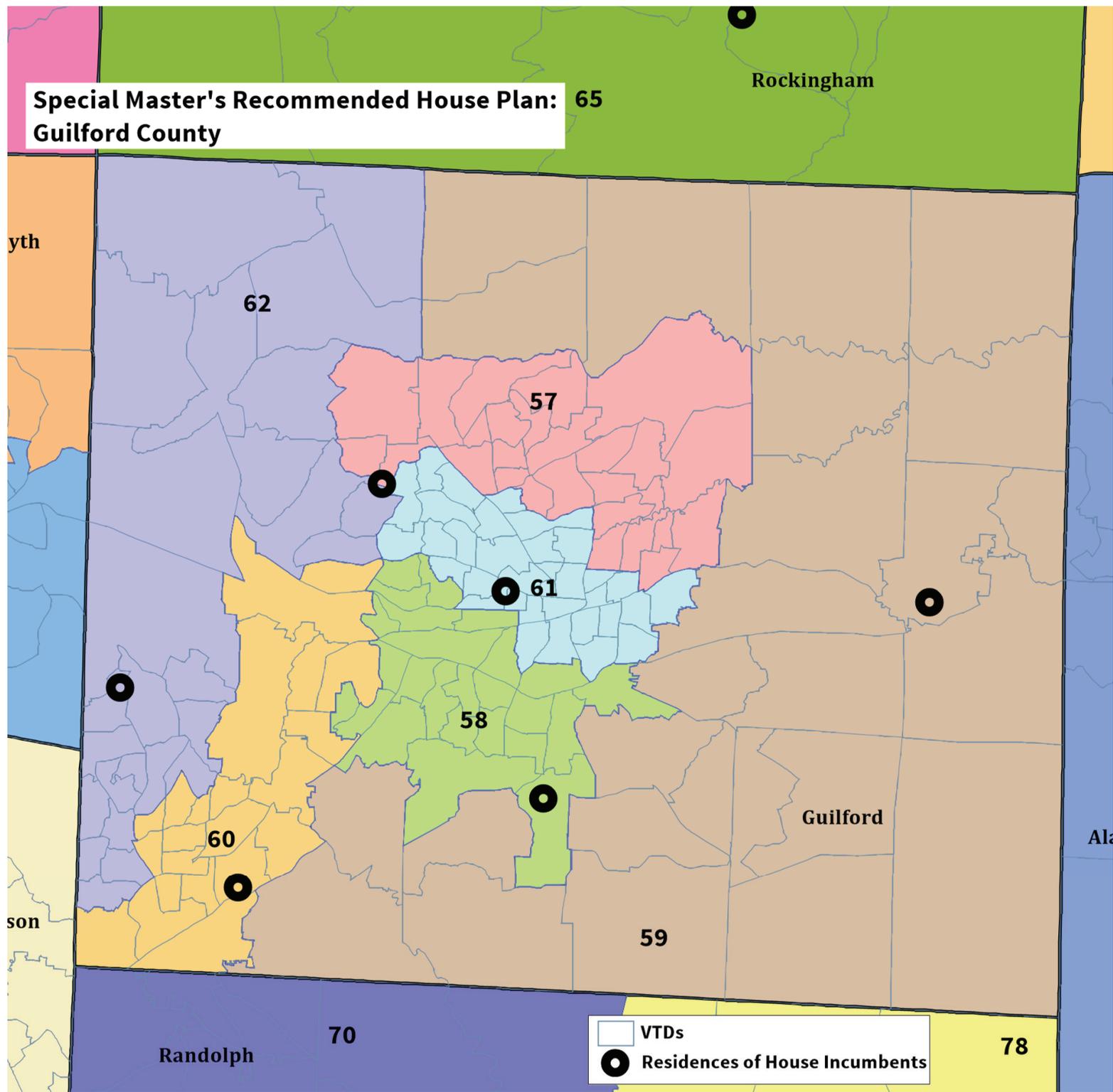
Wake County



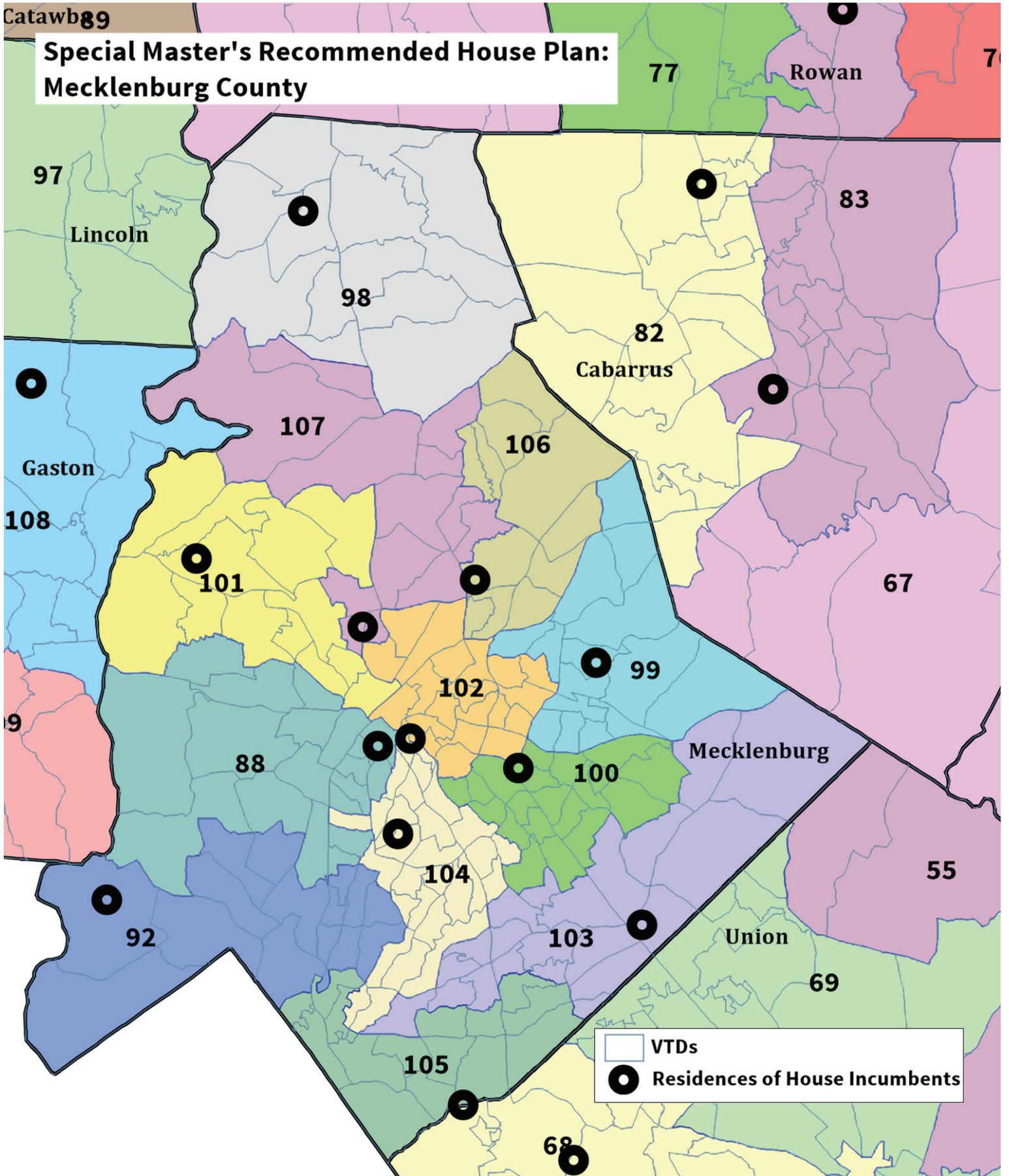
Special Master's Recommended House Plan: Bladen, Sampson and Wayne Counties



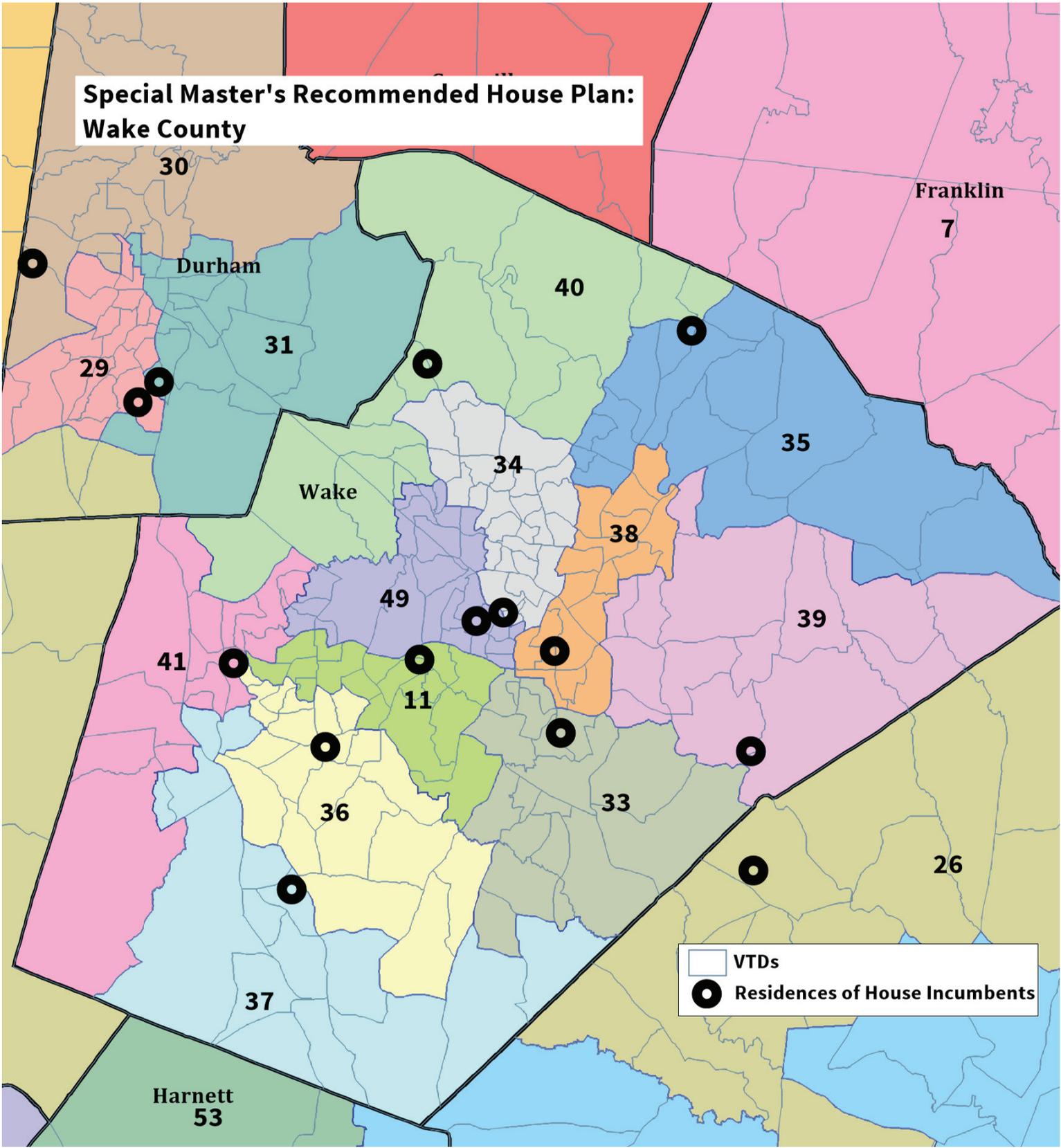
**Special Master's Recommended House Plan: 65
Guilford County**



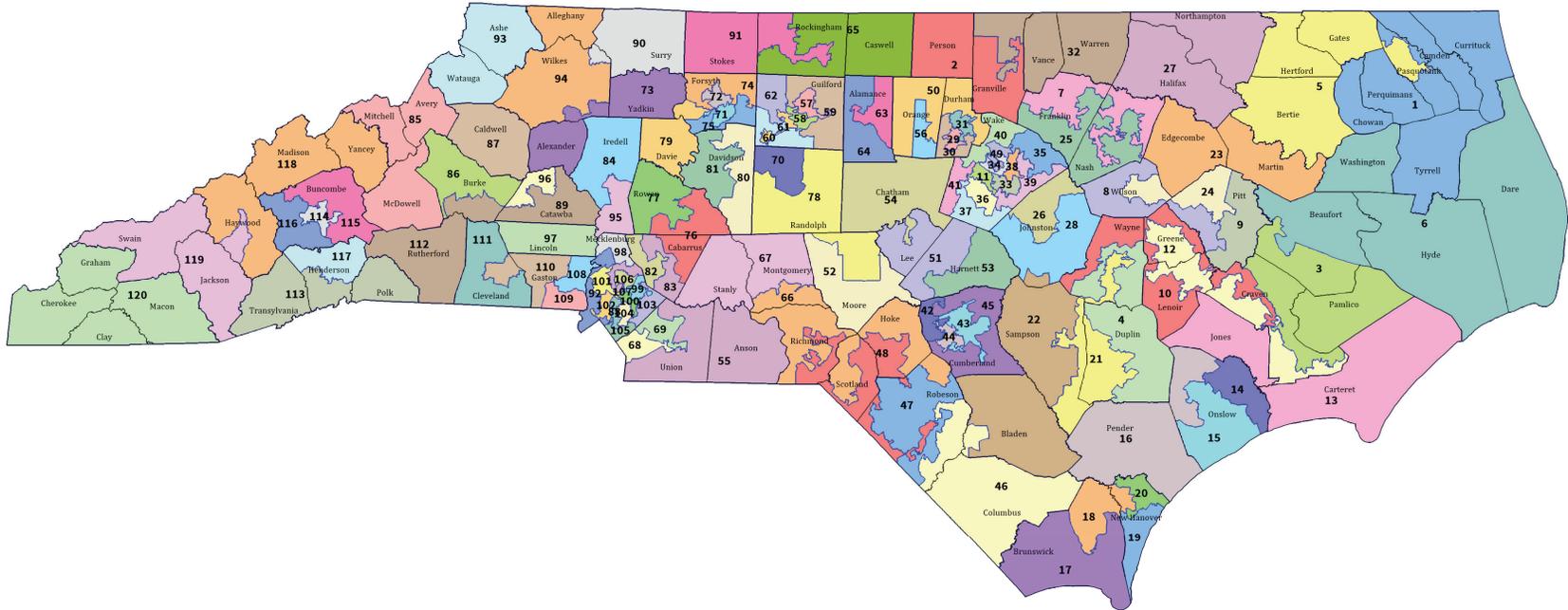
Special Master's Recommended House Plan: Mecklenburg County



**Special Master's Recommended House Plan:
Wake County**

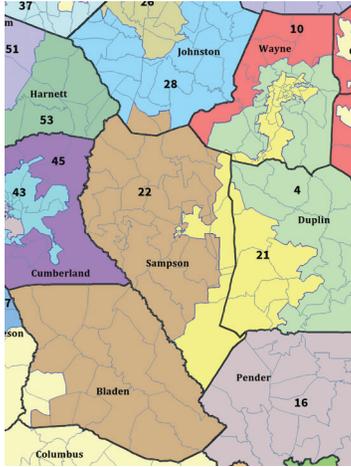


North Carolina House 2011 Enacted Plan

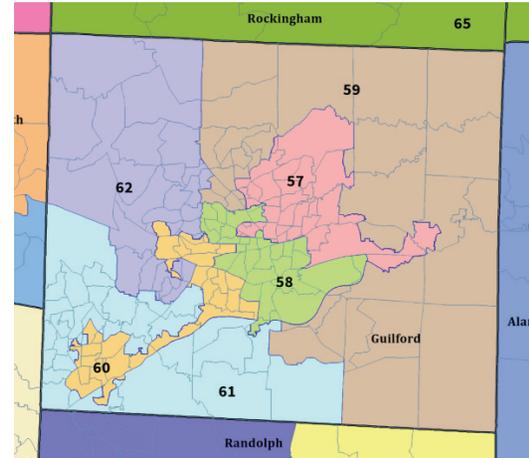


North Carolina House 2011 Enacted Plan

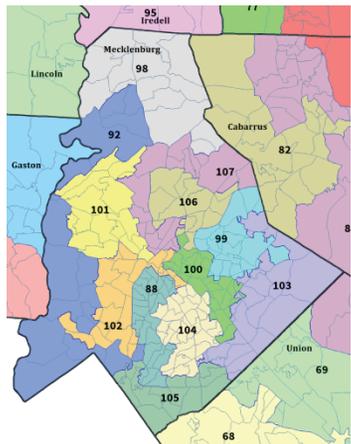
Bladen, Sampson and Wayne Counties



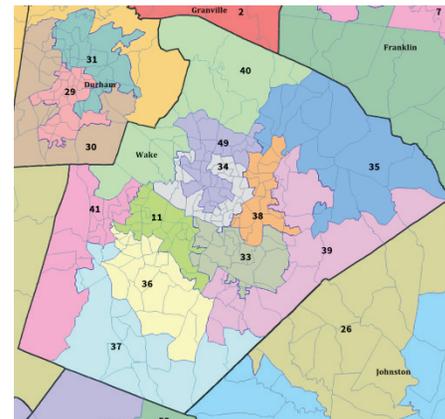
Guilford County



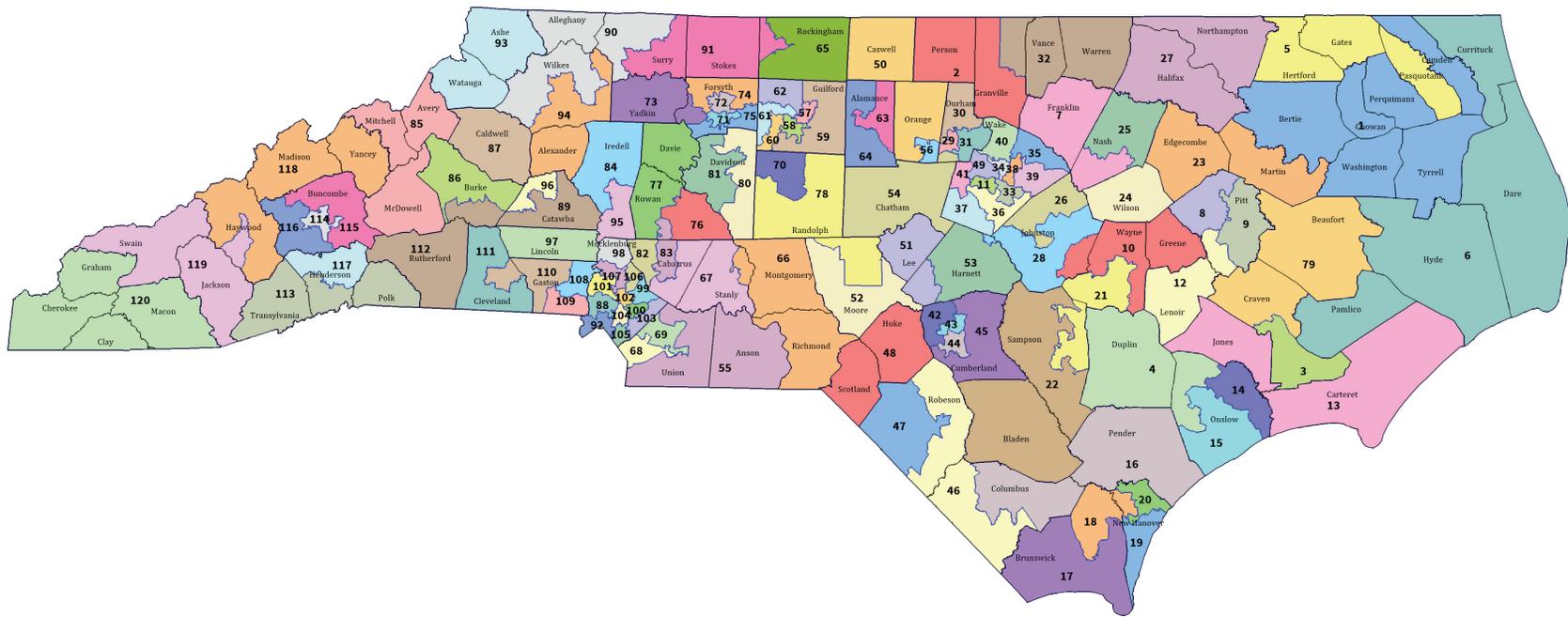
Mecklenburg County



Wake County

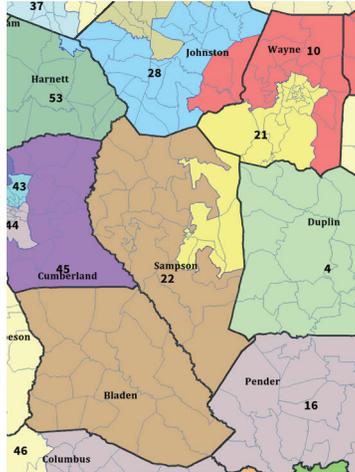


North Carolina House 2017 Enacted Plan

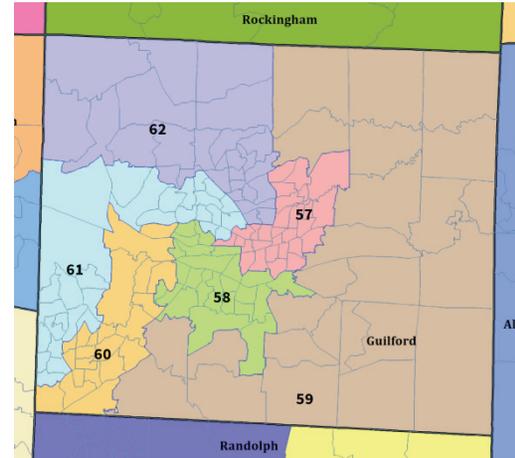


North Carolina House 2017 Enacted Plan

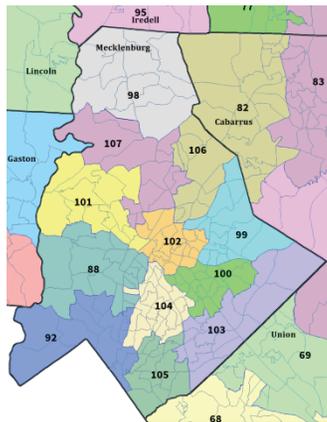
Bladen, Sampson and Wayne Counties



Guilford County



Mecklenburg County



Wake County

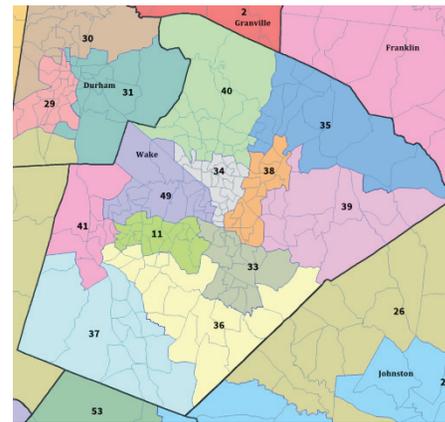


Exhibit 2

Population Summary Report

Overall Range:			9.75 Percent	18,598 Persons
Largest District:	200,133	Deviation:	4.94 Percent	9,423 Persons
Smallest District:	181,535	Deviation:	-4.81 Percent	-9,175 Persons
		Mean Deviation:	2.26 Percent	4,308.54 Persons
		Standard Deviation:	5,461	5,461.48 Persons
Ideal District:	190,710			

District	Population	Deviation	% Devn.
1	187,327	-3,383	-1.77
2	183,118	-7,592	-3.98
3	181,535	-9,175	-4.81
4	190,991	281	0.15
5	181,547	-9,163	-4.80
6	187,925	-2,785	-1.46
7	190,081	-629	-0.33
8	200,133	9,423	4.94
9	197,372	6,662	3.49
10	192,056	1,346	0.71
11	186,653	-4,057	-2.13
12	191,817	1,107	0.58
13	192,266	1,556	0.82
14	189,566	-1,144	-0.60
15	188,841	-1,869	-0.98
16	199,393	8,683	4.55
17	194,407	3,697	1.94
18	189,405	-1,305	-0.68
19	183,181	-7,529	-3.95
20	190,767	57	0.03
21	183,202	-7,508	-3.94
22	199,919	9,209	4.83
23	197,306	6,596	3.46
24	188,171	-2,539	-1.33
25	199,294	8,584	4.50
26	191,444	734	0.38

District	Population	Deviation	% Devn.
27	191,166	456	0.24
28	199,439	8,729	4.58
29	192,959	2,249	1.18
30	190,414	-296	-0.16
31	199,875	9,165	4.81
32	189,201	-1,509	-0.79
33	190,676	-34	-0.02
34	197,348	6,638	3.48
35	189,794	-916	-0.48
36	189,509	-1,201	-0.63
37	183,253	-7,457	-3.91
38	183,694	-7,016	-3.68
39	181,619	-9,091	-4.77
40	188,928	-1,782	-0.93
41	182,134	-8,576	-4.50
42	191,556	846	0.44
43	197,035	6,325	3.32
44	200,108	9,398	4.93
45	190,341	-369	-0.19
46	188,990	-1,720	-0.90
47	187,477	-3,233	-1.70
48	184,866	-5,844	-3.06
49	193,282	2,572	1.35
50	194,102	3,392	1.78

State Total: 9,535,483

Population Summary Report

Overall Range:			9.49 Percent	18,094 Persons
Largest District:	200,133	Deviation:	4.94 Percent	9,423 Persons
Smallest District:	182,039	Deviation:	-4.55 Percent	-8,671 Persons
		Mean Deviation:	2.78 Percent	5,304.38 Persons
		Standard Deviation:	5,921	5,920.98 Persons
Ideal District:	190,710			

District	Population	Deviation	% Devn.
1	196,665	5,955	3.12
2	183,118	-7,592	-3.98
3	182,039	-8,671	-4.55
4	192,477	1,767	0.93
5	189,510	-1,200	-0.63
6	187,925	-2,785	-1.46
7	182,118	-8,592	-4.51
8	200,133	9,423	4.94
9	197,372	6,662	3.49
10	183,566	-7,144	-3.75
11	193,194	2,484	1.30
12	182,438	-8,272	-4.34
13	192,266	1,556	0.82
14	194,087	3,377	1.77
15	195,003	4,293	2.25
16	197,303	6,593	3.46
17	182,304	-8,406	-4.41
18	192,915	2,205	1.16
19	182,067	-8,643	-4.53
20	184,237	-6,473	-3.39
21	184,316	-6,394	-3.35
22	182,730	-7,980	-4.18
23	197,306	6,596	3.46
24	192,673	1,963	1.03
25	197,991	7,281	3.82
26	196,115	5,405	2.83

District	Population	Deviation	% Devn.
27	195,363	4,653	2.44
28	197,138	6,428	3.37
29	190,676	-34	-0.02
30	198,458	7,748	4.06
31	197,532	6,822	3.58
32	194,378	3,668	1.92
33	199,013	8,303	4.35
34	197,843	7,133	3.74
35	189,794	-916	-0.48
36	189,509	-1,201	-0.63
37	185,257	-5,453	-2.86
38	182,674	-8,036	-4.21
39	184,099	-6,611	-3.47
40	183,426	-7,284	-3.82
41	184,172	-6,538	-3.43
42	191,556	846	0.44
43	197,035	6,325	3.32
44	185,394	-5,316	-2.79
45	198,833	8,123	4.26
46	191,738	1,028	0.54
47	187,477	-3,233	-1.70
48	184,866	-5,844	-3.06
49	193,282	2,572	1.35
50	194,102	3,392	1.78

State Total: 9,535,483

Population Summary Report

Overall Range:			9.49 Percent	18,094 Persons
Largest District:	200,133	Deviation:	4.94 Percent	9,423 Persons
Smallest District:	182,039	Deviation:	-4.55 Percent	-8,671 Persons
		Mean Deviation:	2.80 Percent	5,334.62 Persons
		Standard Deviation:	5,967	5,966.66 Persons
Ideal District:	190,710			

District	Population	Deviation	% Devn.
1	196,665	5,955	3.12
2	183,118	-7,592	-3.98
3	182,039	-8,671	-4.55
4	192,477	1,767	0.93
5	189,510	-1,200	-0.63
6	187,925	-2,785	-1.46
7	182,118	-8,592	-4.51
8	200,133	9,423	4.94
9	197,372	6,662	3.49
10	183,566	-7,144	-3.75
11	193,194	2,484	1.30
12	182,438	-8,272	-4.34
13	192,266	1,556	0.82
14	194,087	3,377	1.77
15	195,003	4,293	2.25
16	197,303	6,593	3.46
17	182,304	-8,406	-4.41
18	192,915	2,205	1.16
19	182,869	-7,841	-4.11
20	184,237	-6,473	-3.39
21	183,514	-7,196	-3.77
22	182,730	-7,980	-4.18
23	197,306	6,596	3.46
24	197,106	6,396	3.35
25	197,991	7,281	3.82
26	196,115	5,405	2.83

District	Population	Deviation	% Devn.
27	189,954	-756	-0.40
28	198,114	7,404	3.88
29	190,676	-34	-0.02
30	198,458	7,748	4.06
31	197,532	6,822	3.58
32	194,378	3,668	1.92
33	199,013	8,303	4.35
34	197,843	7,133	3.74
35	189,794	-916	-0.48
36	189,509	-1,201	-0.63
37	185,257	-5,453	-2.86
38	182,674	-8,036	-4.21
39	184,099	-6,611	-3.47
40	183,426	-7,284	-3.82
41	184,172	-6,538	-3.43
42	191,556	846	0.44
43	197,035	6,325	3.32
44	185,394	-5,316	-2.79
45	198,833	8,123	4.26
46	191,738	1,028	0.54
47	187,477	-3,233	-1.70
48	184,866	-5,844	-3.06
49	193,282	2,572	1.35
50	194,102	3,392	1.78

State Total: 9,535,483

Population Summary Report

Overall Range:			9.93 Percent	7,889 Persons
Largest District:	83,406	Deviation:	4.96 Percent	3,944 Persons
Smallest District:	75,517	Deviation:	-4.96 Percent	-3,945 Persons
		Mean Deviation:	3.24 Percent	2,577.41 Persons
		Standard Deviation:	2,844	2,844.34 Persons
Ideal District:	79,462			

District	Population	Deviation	% Devn.
1	82,880	3,418	4.30
2	83,143	3,681	4.63
3	83,172	3,710	4.67
4	83,211	3,749	4.72
5	82,109	2,647	3.33
6	83,234	3,772	4.75
7	75,609	-3,853	-4.85
8	83,385	3,923	4.94
9	83,346	3,884	4.89
10	82,841	3,379	4.25
11	83,217	3,755	4.73
12	76,402	-3,060	-3.85
13	76,622	-2,840	-3.57
14	77,065	-2,397	-3.02
15	77,307	-2,155	-2.71
16	75,617	-3,845	-4.84
17	77,263	-2,199	-2.77
18	77,681	-1,781	-2.24
19	76,666	-2,796	-3.52
20	78,488	-974	-1.23
21	83,020	3,558	4.48
22	82,965	3,503	4.41
23	81,057	1,595	2.01
24	82,651	3,189	4.01
25	80,850	1,388	1.75
26	82,926	3,464	4.36

District	Population	Deviation	% Devn.
27	76,790	-2,672	-3.36
28	83,355	3,893	4.90
29	80,137	675	0.85
30	79,990	528	0.66
31	78,465	-997	-1.25
32	82,631	3,169	3.99
33	82,568	3,106	3.91
34	83,083	3,621	4.56
35	77,896	-1,566	-1.97
36	83,373	3,911	4.92
37	83,318	3,856	4.85
38	83,403	3,941	4.96
39	81,394	1,932	2.43
40	76,609	-2,853	-3.59
41	82,866	3,404	4.28
42	78,925	-537	-0.68
43	79,233	-229	-0.29
44	78,020	-1,442	-1.81
45	83,253	3,791	4.77
46	83,143	3,681	4.63
47	82,820	3,358	4.23
48	83,406	3,944	4.96
49	83,266	3,804	4.79
50	80,467	1,005	1.26
51	75,538	-3,924	-4.94
52	76,894	-2,568	-3.23
53	81,777	2,315	2.91
54	78,734	-728	-0.92
55	75,792	-3,670	-4.62
56	82,329	2,867	3.61
57	79,344	-118	-0.15
58	79,055	-407	-0.51
59	83,275	3,813	4.80
60	80,527	1,065	1.34
61	83,062	3,600	4.53
62	83,143	3,681	4.63
63	75,550	-3,912	-4.92
64	75,581	-3,881	-4.88
65	81,444	1,982	2.49

District	Population	Deviation	% Devn.
66	83,380	3,918	4.93
67	83,372	3,910	4.92
68	76,067	-3,395	-4.27
69	76,381	-3,081	-3.88
70	76,125	-3,337	-4.20
71	76,671	-2,791	-3.51
72	77,038	-2,424	-3.05
73	77,256	-2,206	-2.78
74	80,474	1,012	1.27
75	78,634	-828	-1.04
76	80,735	1,273	1.60
77	78,424	-1,038	-1.31
78	76,980	-2,482	-3.12
79	79,093	-369	-0.46
80	81,522	2,060	2.59
81	81,356	1,894	2.38
82	78,861	-601	-0.76
83	78,419	-1,043	-1.31
84	77,282	-2,180	-2.74
85	78,372	-1,090	-1.37
86	79,175	-287	-0.36
87	83,029	3,567	4.49
88	75,622	-3,840	-4.83
89	77,838	-1,624	-2.04
90	76,583	-2,879	-3.62
91	83,319	3,857	4.85
92	77,711	-1,751	-2.20
93	78,360	-1,102	-1.39
94	75,933	-3,529	-4.44
95	82,155	2,693	3.39
96	76,520	-2,942	-3.70
97	78,265	-1,197	-1.51
98	76,887	-2,575	-3.24
99	77,118	-2,344	-2.95
100	78,386	-1,076	-1.35
101	77,335	-2,127	-2.68
102	76,572	-2,890	-3.64
103	75,672	-3,790	-4.77
104	76,073	-3,389	-4.26

District	Population	Deviation	% Devn.
105	75,712	-3,750	-4.72
106	75,539	-3,923	-4.94
107	77,001	-2,461	-3.10
108	76,926	-2,536	-3.19
109	75,517	-3,945	-4.96
110	75,573	-3,889	-4.89
111	76,148	-3,314	-4.17
112	79,547	85	0.11
113	81,089	1,627	2.05
114	82,902	3,440	4.33
115	79,883	421	0.53
116	75,533	-3,929	-4.94
117	79,251	-211	-0.27
118	76,322	-3,140	-3.95
119	75,548	-3,914	-4.93
120	80,814	1,352	1.70

State Total: 9,535,483

Population Summary Report

Overall Range:			9.96 Percent	7,917 Persons
Largest District:	83,434	Deviation:	5.00 Percent	3,972 Persons
Smallest District:	75,517	Deviation:	-4.96 Percent	-3,945 Persons
		Mean Deviation:	3.29 Percent	2,615.28 Persons
		Standard Deviation:	2,839	2,838.88 Persons
Ideal District:	79,462			

District	Population	Deviation	% Devn.
1	77,143	-2,319	-2.92
2	82,634	3,172	3.99
3	75,726	-3,736	-4.70
4	81,905	2,443	3.07
5	77,527	-1,935	-2.44
6	76,421	-3,041	-3.83
7	78,432	-1,030	-1.30
8	75,926	-3,536	-4.45
9	75,794	-3,668	-4.62
10	83,434	3,972	5.00
11	83,266	3,804	4.79
12	75,923	-3,539	-4.45
13	76,622	-2,840	-3.57
14	77,065	-2,397	-3.02
15	77,307	-2,155	-2.71
16	81,425	1,963	2.47
17	77,263	-2,199	-2.77
18	77,681	-1,781	-2.24
19	76,666	-2,796	-3.52
20	78,488	-974	-1.23
21	83,434	3,972	5.00
22	83,434	3,972	5.00
23	81,057	1,595	2.01
24	81,234	1,772	2.23
25	78,027	-1,435	-1.81
26	83,432	3,970	5.00

District	Population	Deviation	% Devn.
27	76,790	-2,672	-3.36
28	83,431	3,969	4.99
29	82,735	3,273	4.12
30	83,272	3,810	4.79
31	82,773	3,311	4.17
32	83,140	3,678	4.63
33	82,644	3,182	4.00
34	77,948	-1,514	-1.91
35	82,728	3,266	4.11
36	81,926	2,464	3.10
37	81,952	2,490	3.13
38	83,061	3,599	4.53
39	83,055	3,593	4.52
40	80,675	1,213	1.53
41	80,739	1,277	1.61
42	81,439	1,977	2.49
43	77,725	-1,737	-2.19
44	80,973	1,511	1.90
45	79,294	-168	-0.21
46	80,440	978	1.23
47	82,618	3,156	3.97
48	83,109	3,647	4.59
49	82,999	3,537	4.45
50	80,866	1,404	1.77
51	83,434	3,972	5.00
52	76,894	-2,568	-3.23
53	83,429	3,967	4.99
54	82,312	2,850	3.59
55	75,792	-3,670	-4.62
56	76,654	-2,808	-3.53
57	82,755	3,293	4.14
58	82,137	2,675	3.37
59	79,907	445	0.56
60	81,856	2,394	3.01
61	81,019	1,557	1.96
62	80,732	1,270	1.60
63	75,550	-3,912	-4.92
64	75,581	-3,881	-4.88
65	83,430	3,968	4.99

District	Population	Deviation	% Devn.
66	83,032	3,570	4.49
67	82,583	3,121	3.93
68	76,067	-3,395	-4.27
69	76,381	-3,081	-3.88
70	76,125	-3,337	-4.20
71	75,793	-3,669	-4.62
72	76,245	-3,217	-4.05
73	78,189	-1,273	-1.60
74	79,963	501	0.63
75	78,886	-576	-0.72
76	81,908	2,446	3.08
77	82,918	3,456	4.35
78	76,980	-2,482	-3.12
79	75,538	-3,924	-4.94
80	81,522	2,060	2.59
81	81,356	1,894	2.38
82	81,088	1,626	2.05
83	81,172	1,710	2.15
84	77,282	-2,180	-2.74
85	78,372	-1,090	-1.37
86	79,175	-287	-0.36
87	83,029	3,567	4.49
88	76,022	-3,440	-4.33
89	77,838	-1,624	-2.04
90	82,779	3,317	4.17
91	82,843	3,381	4.25
92	77,172	-2,290	-2.88
93	78,360	-1,102	-1.39
94	83,358	3,896	4.90
95	82,155	2,693	3.39
96	76,520	-2,942	-3.70
97	78,265	-1,197	-1.51
98	75,602	-3,860	-4.86
99	77,141	-2,321	-2.92
100	75,589	-3,873	-4.87
101	79,876	414	0.52
102	77,391	-2,071	-2.61
103	76,381	-3,081	-3.88
104	76,869	-2,593	-3.26

District	Population	Deviation	% Devn.
105	75,967	-3,495	-4.40
106	75,762	-3,700	-4.66
107	75,856	-3,606	-4.54
108	76,926	-2,536	-3.19
109	75,517	-3,945	-4.96
110	75,573	-3,889	-4.89
111	76,148	-3,314	-4.17
112	79,547	85	0.11
113	81,089	1,627	2.05
114	82,902	3,440	4.33
115	79,883	421	0.53
116	75,533	-3,929	-4.94
117	79,251	-211	-0.27
118	76,322	-3,140	-3.95
119	75,548	-3,914	-4.93
120	80,814	1,352	1.70

State Total: 9,535,483

Population Summary Report

Overall Range:			9.97 Percent	7,920 Persons
Largest District:	83,437	Deviation:	5.00 Percent	3,975 Persons
Smallest District:	75,517	Deviation:	-4.96 Percent	-3,945 Persons
		Mean Deviation:	3.37 Percent	2,679.68 Persons
		Standard Deviation:	2,909	2,908.94 Persons
Ideal District:	79,462			

District	Population	Deviation	% Devn.
001	77,143	-2,319	-2.92
002	82,634	3,172	3.99
003	75,726	-3,736	-4.70
004	81,905	2,443	3.07
005	77,527	-1,935	-2.44
006	76,421	-3,041	-3.83
007	78,432	-1,030	-1.30
008	75,926	-3,536	-4.45
009	75,794	-3,668	-4.62
010	83,434	3,972	5.00
011	82,341	2,879	3.62
012	75,923	-3,539	-4.45
013	76,622	-2,840	-3.57
014	77,065	-2,397	-3.02
015	77,307	-2,155	-2.71
016	81,425	1,963	2.47
017	77,263	-2,199	-2.77
018	77,681	-1,781	-2.24
019	76,666	-2,796	-3.52
020	78,488	-974	-1.23
021	83,431	3,969	4.99
022	83,437	3,975	5.00
023	81,057	1,595	2.01
024	81,234	1,772	2.23
025	78,027	-1,435	-1.81
026	83,432	3,970	5.00

District	Population	Deviation	% Devn.
027	76,790	-2,672	-3.36
028	83,431	3,969	4.99
029	82,735	3,273	4.12
030	83,272	3,810	4.79
031	82,773	3,311	4.17
032	83,140	3,678	4.63
033	83,342	3,880	4.88
034	82,825	3,363	4.23
035	76,942	-2,520	-3.17
036	83,373	3,911	4.92
037	83,318	3,856	4.85
038	83,061	3,599	4.53
039	83,055	3,593	4.52
040	76,609	-2,853	-3.59
041	82,866	3,404	4.28
042	81,439	1,977	2.49
043	77,725	-1,737	-2.19
044	80,973	1,511	1.90
045	79,294	-168	-0.21
046	80,440	978	1.23
047	82,618	3,156	3.97
048	83,109	3,647	4.59
049	83,261	3,799	4.78
050	80,866	1,404	1.77
051	83,434	3,972	5.00
052	76,894	-2,568	-3.23
053	83,429	3,967	4.99
054	82,312	2,850	3.59
055	75,792	-3,670	-4.62
056	76,654	-2,808	-3.53
057	83,303	3,841	4.83
058	82,137	2,675	3.37
059	79,457	-5	-0.01
060	81,856	2,394	3.01
061	79,754	292	0.37
062	81,899	2,437	3.07
063	75,550	-3,912	-4.92
064	75,581	-3,881	-4.88
065	83,430	3,968	4.99

District	Population	Deviation	% Devn.
066	83,032	3,570	4.49
067	82,583	3,121	3.93
068	76,067	-3,395	-4.27
069	76,381	-3,081	-3.88
070	76,125	-3,337	-4.20
071	75,793	-3,669	-4.62
072	76,245	-3,217	-4.05
073	78,189	-1,273	-1.60
074	79,963	501	0.63
075	78,886	-576	-0.72
076	81,908	2,446	3.08
077	82,918	3,456	4.35
078	76,980	-2,482	-3.12
079	75,538	-3,924	-4.94
080	81,522	2,060	2.59
081	81,356	1,894	2.38
082	81,088	1,626	2.05
083	81,172	1,710	2.15
084	77,282	-2,180	-2.74
085	78,372	-1,090	-1.37
086	79,175	-287	-0.36
087	83,029	3,567	4.49
088	76,022	-3,440	-4.33
089	77,838	-1,624	-2.04
090	82,779	3,317	4.17
091	82,843	3,381	4.25
092	77,238	-2,224	-2.80
093	78,360	-1,102	-1.39
094	83,358	3,896	4.90
095	82,155	2,693	3.39
096	76,520	-2,942	-3.70
097	78,265	-1,197	-1.51
098	75,602	-3,860	-4.86
099	77,141	-2,321	-2.92
100	75,589	-3,873	-4.87
101	79,876	414	0.52
102	77,391	-2,071	-2.61
103	77,806	-1,656	-2.08
104	75,633	-3,829	-4.82

District	Population	Deviation	% Devn.
105	75,712	-3,750	-4.72
106	75,762	-3,700	-4.66
107	75,856	-3,606	-4.54
108	76,926	-2,536	-3.19
109	75,517	-3,945	-4.96
110	75,573	-3,889	-4.89
111	76,148	-3,314	-4.17
112	79,547	85	0.11
113	81,089	1,627	2.05
114	82,902	3,440	4.33
115	79,883	421	0.53
116	75,533	-3,929	-4.94
117	79,251	-211	-0.27
118	76,322	-3,140	-3.95
119	75,548	-3,914	-4.93
120	80,814	1,352	1.70

State Total: 9,535,483

Exhibit 3

Plan Name: senate_2011_plan
Plan Type:
Date: 11/26/2017
Time: 11:32:26PM
Administrator:

Measures of Compactness

11/26/2017

Sum	N/A	N/A
Min	0.21	0.05
Max	0.54	0.56
Mean	0.38	0.26
Std. Dev.	0.09	0.14

DISTRICT	Reock	Polsby-Popper
1	0.48	0.24
2	0.48	0.42
3	0.34	0.22
4	0.36	0.16
5	0.25	0.07
6	0.52	0.55
7	0.30	0.06
8	0.41	0.18
9	0.24	0.27
10	0.43	0.28
11	0.44	0.22
12	0.52	0.43
13	0.41	0.33
14	0.34	0.08
15	0.49	0.28
16	0.44	0.16
17	0.43	0.31
18	0.25	0.15
19	0.45	0.05
20	0.28	0.14
21	0.34	0.06
22	0.37	0.14
23	0.39	0.37
24	0.30	0.32
25	0.28	0.24
26	0.54	0.53
27	0.39	0.13
28	0.25	0.12
29	0.27	0.26
30	0.28	0.32
31	0.33	0.10
32	0.38	0.07
33	0.27	0.27
34	0.51	0.29
35	0.49	0.56
36	0.44	0.39
37	0.26	0.15
38	0.42	0.26
39	0.43	0.34
40	0.45	0.18

Plan Name: senate_2011_plan

Administrator:

Plan Type:

User:

DISTRICT	Reock	Polsby- Popper
41	0.21	0.12
42	0.45	0.48
43	0.43	0.50
44	0.34	0.17
45	0.37	0.27
46	0.29	0.32
47	0.42	0.24
48	0.40	0.32
49	0.39	0.30
50	0.42	0.46

Plan Name: Senate 2017 plan
Plan Type:
Date: 11/26/2017
Time: 11:35:43PM
Administrator:

Measures of Compactness

11/26/2017

Sum	N/A	N/A
Min	0.19	0.11
Max	0.62	0.61
Mean	0.42	0.34
Std. Dev.	0.09	0.13

DISTRICT	Reock	Polsby- Popper
1	0.46	0.46
2	0.48	0.42
3	0.23	0.15
4	0.45	0.31
5	0.62	0.44
6	0.52	0.55
7	0.46	0.35
8	0.41	0.18
9	0.24	0.27
10	0.48	0.29
11	0.22	0.24
12	0.46	0.40
13	0.41	0.33
14	0.41	0.27
15	0.38	0.11
16	0.50	0.48
17	0.39	0.34
18	0.41	0.28
19	0.45	0.20
20	0.44	0.49
21	0.42	0.25
22	0.58	0.54
23	0.39	0.37
24	0.58	0.61
25	0.46	0.28
26	0.56	0.55
27	0.43	0.15
28	0.40	0.17
29	0.27	0.27
30	0.27	0.40
31	0.32	0.14
32	0.58	0.23
33	0.32	0.30
34	0.33	0.34
35	0.49	0.56
36	0.44	0.39
37	0.42	0.27
38	0.42	0.42
39	0.33	0.24
40	0.47	0.36

Plan Name: Senate 2017 plan

Administrator:

Plan Type:

User:

DISTRICT	Reock	Polsby- Popper
41	0.19	0.13
42	0.45	0.48
43	0.43	0.50
44	0.38	0.32
45	0.44	0.41
46	0.54	0.45
47	0.42	0.24
48	0.40	0.32
49	0.39	0.30
50	0.42	0.46

Plan Name: Special Master Recommended Senate Plan
Plan Type:
Date: 11/26/2017
Time: 10:29:36PM
Administrator:

Measures of Compactness

11/26/2017

Sum	N/A	N/A
Min	0.19	0.11
Max	0.70	0.62
Mean	0.43	0.35
Std. Dev.	0.10	0.12

DISTRICT	Reock	Polsby-Popper
1	0.46	0.46
2	0.48	0.42
3	0.23	0.15
4	0.45	0.31
5	0.62	0.44
6	0.52	0.55
7	0.46	0.35
8	0.41	0.18
9	0.24	0.27
10	0.48	0.29
11	0.22	0.24
12	0.46	0.40
13	0.41	0.33
14	0.41	0.27
15	0.38	0.11
16	0.50	0.48
17	0.39	0.34
18	0.41	0.28
19	0.51	0.30
20	0.44	0.49
21	0.48	0.35
22	0.58	0.54
23	0.39	0.37
24	0.59	0.62
25	0.46	0.28
26	0.56	0.55
27	0.46	0.20
28	0.70	0.28
29	0.27	0.27
30	0.27	0.40
31	0.32	0.14
32	0.58	0.23
33	0.32	0.30
34	0.33	0.34
35	0.49	0.56
36	0.44	0.39
37	0.42	0.27
38	0.42	0.42
39	0.33	0.24
40	0.47	0.36

Plan Name: Special Master Recommende
Plan Type:

Administrator:
User:

DISTRICT	Reock	Polsby- Popper
41	0.19	0.13
42	0.45	0.48
43	0.43	0.50
44	0.38	0.32
45	0.44	0.41
46	0.54	0.45
47	0.42	0.24
48	0.40	0.32
49	0.39	0.30
50	0.42	0.46

Plan Name: House 2011 Plan
Plan Type:
Date: 11/27/2017
Time: 12:02:15AM
Administrator:

Measures of Compactness

11/27/2017

Sum	N/A	N/A
Min	0.12	0.04
Max	0.57	0.57
Mean	0.38	0.24
Std. Dev.	0.10	0.11

DISTRICT	Reock	Polsby- Popper
1	0.53	0.28
2	0.40	0.25
3	0.49	0.27
4	0.34	0.11
5	0.46	0.23
6	0.46	0.29
7	0.28	0.04
8	0.19	0.13
9	0.39	0.23
10	0.18	0.04
11	0.31	0.19
12	0.12	0.05
13	0.24	0.22
14	0.39	0.28
15	0.55	0.37
16	0.40	0.24
17	0.48	0.30
18	0.51	0.33
19	0.20	0.28
20	0.36	0.20
21	0.19	0.08
22	0.43	0.20
23	0.35	0.24
24	0.25	0.19
25	0.40	0.06
26	0.42	0.32
27	0.52	0.40
28	0.50	0.29
29	0.47	0.16
30	0.38	0.13
31	0.45	0.15
32	0.44	0.24
33	0.47	0.22
34	0.39	0.10
35	0.43	0.26
36	0.37	0.34
37	0.34	0.22
38	0.31	0.18
39	0.22	0.11
40	0.28	0.24

DISTRICT	Reock	Polsby-Popper
41	0.28	0.25
42	0.44	0.12
43	0.32	0.08
44	0.36	0.09
45	0.37	0.09
46	0.44	0.23
47	0.45	0.10
48	0.23	0.04
49	0.43	0.16
50	0.44	0.18
51	0.54	0.23
52	0.32	0.25
53	0.43	0.36
54	0.49	0.32
55	0.42	0.29
56	0.30	0.36
57	0.39	0.17
58	0.38	0.20
59	0.40	0.21
60	0.22	0.08
61	0.30	0.13
62	0.48	0.36
63	0.34	0.30
64	0.34	0.28
65	0.36	0.23
66	0.25	0.07
67	0.43	0.38
68	0.33	0.28
69	0.37	0.20
70	0.54	0.54
71	0.42	0.20
72	0.51	0.23
73	0.25	0.24
74	0.36	0.17
75	0.23	0.14
76	0.45	0.26
77	0.55	0.31
78	0.36	0.28
79	0.51	0.29
80	0.28	0.22
81	0.50	0.22
82	0.33	0.26
83	0.27	0.21
84	0.51	0.45
85	0.39	0.23
86	0.38	0.27
87	0.50	0.57
88	0.27	0.25
89	0.34	0.26
90	0.57	0.50
91	0.34	0.25
92	0.16	0.10
93	0.57	0.42
94	0.52	0.31
95	0.43	0.37
96	0.30	0.21

DISTRICT	Reock	Polsby- Popper
97	0.33	0.52
98	0.49	0.40
99	0.48	0.21
100	0.27	0.17
101	0.47	0.26
102	0.32	0.15
103	0.34	0.18
104	0.55	0.33
105	0.37	0.30
106	0.49	0.30
107	0.35	0.14
108	0.44	0.32
109	0.46	0.47
110	0.36	0.26
111	0.40	0.28
112	0.39	0.30
113	0.24	0.21
114	0.39	0.13
115	0.38	0.19
116	0.35	0.23
117	0.40	0.28
118	0.36	0.15
119	0.36	0.20
120	0.40	0.37

Plan Name: 2017 House Plan
Plan Type:
Date: 11/26/2017
Time: 11:37:31PM
Administrator:

Measures of Compactness

11/26/2017

Sum	N/A	N/A
Min	0.20	0.12
Max	0.70	0.71
Mean	0.41	0.32
Std. Dev.	0.09	0.11

DISTRICT	Reock	Polsby-Popper
1	0.49	0.18
2	0.43	0.49
3	0.37	0.33
4	0.44	0.37
5	0.25	0.27
6	0.33	0.24
7	0.52	0.32
8	0.51	0.39
9	0.40	0.27
10	0.36	0.23
11	0.41	0.34
12	0.36	0.34
13	0.24	0.22
14	0.39	0.28
15	0.55	0.37
16	0.31	0.22
17	0.48	0.30
18	0.51	0.33
19	0.20	0.28
20	0.36	0.20
21	0.29	0.12
22	0.48	0.20
23	0.35	0.24
24	0.53	0.71
25	0.50	0.35
26	0.39	0.27
27	0.52	0.40
28	0.38	0.22
29	0.39	0.34
30	0.40	0.39
31	0.50	0.37
32	0.53	0.51
33	0.45	0.29
34	0.34	0.29
35	0.32	0.33
36	0.31	0.21
37	0.44	0.48
38	0.32	0.30
39	0.43	0.40
40	0.52	0.38

DISTRICT	Reock	Polsby-Popper
41	0.42	0.40
42	0.50	0.40
43	0.34	0.31
44	0.50	0.24
45	0.46	0.22
46	0.23	0.16
47	0.57	0.42
48	0.48	0.45
49	0.44	0.44
50	0.38	0.34
51	0.52	0.40
52	0.32	0.25
53	0.59	0.47
54	0.45	0.43
55	0.42	0.29
56	0.49	0.34
57	0.37	0.28
58	0.44	0.18
59	0.39	0.25
60	0.29	0.21
61	0.32	0.22
62	0.47	0.50
63	0.34	0.30
64	0.34	0.28
65	0.52	0.47
66	0.40	0.35
67	0.51	0.31
68	0.33	0.28
69	0.37	0.20
70	0.54	0.54
71	0.35	0.19
72	0.50	0.26
73	0.46	0.47
74	0.38	0.23
75	0.22	0.16
76	0.49	0.46
77	0.39	0.35
78	0.36	0.28
79	0.48	0.30
80	0.28	0.22
81	0.50	0.22
82	0.42	0.43
83	0.32	0.25
84	0.51	0.45
85	0.39	0.23
86	0.38	0.27
87	0.50	0.57
88	0.60	0.33
89	0.34	0.26
90	0.29	0.15
91	0.32	0.32
92	0.44	0.25
93	0.57	0.42
94	0.34	0.22
95	0.43	0.37
96	0.30	0.21

DISTRICT	Reock	Polsby- Popper
97	0.33	0.52
98	0.70	0.64
99	0.43	0.42
100	0.43	0.35
101	0.51	0.34
102	0.64	0.43
103	0.27	0.32
104	0.49	0.35
105	0.49	0.37
106	0.43	0.44
107	0.38	0.20
108	0.44	0.32
109	0.46	0.47
110	0.36	0.26
111	0.40	0.28
112	0.39	0.30
113	0.24	0.21
114	0.39	0.13
115	0.38	0.19
116	0.35	0.23
117	0.40	0.28
118	0.36	0.15
119	0.36	0.20
120	0.40	0.37

Plan Name: Special Master Recommended House Plan
 Plan Type:
 Date: 11/26/2017
 Time: 11:21:55AM
 Administrator:

Measures of Compactness

11/26/2017

Sum	N/A	N/A
Min	0.19	0.13
Max	0.70	0.71
Mean	0.41	0.32
Std. Dev.	0.09	0.10

DISTRICT	Reock	Polsby-Popper
001	0.49	0.18
002	0.43	0.49
003	0.37	0.33
004	0.44	0.37
005	0.25	0.27
006	0.33	0.24
007	0.52	0.32
008	0.51	0.39
009	0.40	0.27
010	0.36	0.23
011	0.33	0.26
012	0.36	0.34
013	0.24	0.22
014	0.39	0.28
015	0.55	0.37
016	0.31	0.22
017	0.48	0.30
018	0.51	0.33
019	0.20	0.28
020	0.36	0.20
021	0.40	0.28
022	0.46	0.26
023	0.35	0.24
024	0.53	0.71
025	0.50	0.35
026	0.39	0.27
027	0.52	0.40
028	0.38	0.22
029	0.39	0.34
030	0.40	0.39
031	0.50	0.37
032	0.53	0.51
033	0.54	0.41
034	0.44	0.43
035	0.35	0.35
036	0.37	0.34
037	0.34	0.22
038	0.32	0.30
039	0.43	0.40
040	0.28	0.24

DISTRICT	Reock	Polsby-Popper
041	0.28	0.25
042	0.50	0.40
043	0.34	0.31
044	0.50	0.24
045	0.46	0.22
046	0.23	0.16
047	0.57	0.42
048	0.48	0.45
049	0.46	0.31
050	0.38	0.34
051	0.52	0.40
052	0.32	0.25
053	0.59	0.47
054	0.45	0.43
055	0.42	0.29
056	0.49	0.34
057	0.44	0.37
058	0.44	0.18
059	0.41	0.23
060	0.29	0.21
061	0.37	0.28
062	0.30	0.31
063	0.34	0.30
064	0.34	0.28
065	0.52	0.47
066	0.40	0.35
067	0.51	0.31
068	0.33	0.28
069	0.37	0.20
070	0.54	0.54
071	0.35	0.19
072	0.50	0.26
073	0.46	0.47
074	0.38	0.23
075	0.22	0.16
076	0.49	0.46
077	0.39	0.35
078	0.36	0.28
079	0.48	0.30
080	0.28	0.22
081	0.50	0.22
082	0.42	0.43
083	0.32	0.25
084	0.51	0.45
085	0.39	0.23
086	0.38	0.27
087	0.50	0.57
088	0.60	0.33
089	0.34	0.26
090	0.29	0.15
091	0.32	0.32
092	0.40	0.29
093	0.57	0.42
094	0.34	0.22
095	0.43	0.37
096	0.30	0.21

DISTRICT	Reock	Polsby- Popper
097	0.33	0.52
098	0.70	0.64
099	0.43	0.42
100	0.43	0.35
101	0.51	0.34
102	0.64	0.43
103	0.19	0.25
104	0.35	0.29
105	0.37	0.30
106	0.43	0.44
107	0.38	0.20
108	0.44	0.32
109	0.46	0.47
110	0.36	0.26
111	0.40	0.28
112	0.39	0.30
113	0.24	0.21
114	0.39	0.13
115	0.38	0.19
116	0.35	0.23
117	0.40	0.28
118	0.36	0.15
119	0.36	0.20
120	0.40	0.37

Exhibit 4

Senate Plans: County Splits

	2011 Plan	2017 Plan	Rec. Plan
Counties split	19	12	12
Total number of county splits	27	21	21

House Plans: County Splits

	2011 Plan	2017 Plan	Rec. Plan
Counties split	49	39	39
Total number of county splits	92	79	79

Senate Plans: Municipalities (CDPs) Splits

	2011 Plan	2017 Plan	Rec. Plan
CDPs split	92	71	69
Total number of CDP splits	208	163	158

House Plans: Municipalities (CDPs) Splits

	2011 Plan	2017 Plan	Rec. Plan
CDPs split	170	139	141
Total number of CDP splits	415	346	352

Exhibit 5

Senate Plans: Precincts (VTDs) Splits

	2011 Plan	2017 Plan	Rec. Plan
VTDs split	249	11	6
Total number of VTD splits	259	10	5

House Plans: Precincts (VTDs) Splits

	2011 Plan	2017 Plan	Rec. Plan
VTDs split	352	50	68
Total number of VTD splits	411	50	68

Exhibit 6

**District Demographics: Voting Age Population
2011 Senate Plan**

District	Non-Hispanic		Black VAP	Asian VAP	American Indian	Native Hawaiian
	White VAP	Hispanic VAP			VAP	VAP
1	73.4%	3.8%	21.5%	0.8%	0.9%	0.1%
2	77.7%	4.0%	15.8%	1.7%	1.0%	0.2%
3	44.4%	2.3%	52.4%	0.4%	0.9%	0.1%
4	40.5%	4.3%	52.8%	0.7%	2.4%	0.1%
5	40.5%	6.0%	52.0%	1.4%	0.9%	0.1%
6	71.2%	8.5%	16.9%	2.8%	1.5%	0.5%
7	75.6%	6.1%	16.1%	1.7%	0.8%	0.1%
8	75.5%	4.5%	18.4%	0.6%	1.4%	0.1%
9	81.1%	4.4%	12.3%	1.5%	1.0%	0.2%
10	64.3%	12.7%	21.6%	0.5%	1.5%	0.1%
11	67.7%	8.4%	22.7%	0.9%	0.8%	0.1%
12	67.8%	10.5%	19.6%	1.2%	1.6%	0.2%
13	40.4%	5.7%	26.4%	0.8%	27.4%	0.1%
14	30.5%	15.5%	51.3%	3.2%	1.4%	0.1%
15	81.3%	4.5%	10.1%	4.0%	0.7%	0.1%
16	67.0%	8.0%	15.0%	9.8%	1.1%	0.1%
17	76.9%	5.0%	9.5%	8.2%	0.8%	0.1%
18	69.2%	7.9%	21.1%	1.4%	1.2%	0.1%
19	64.6%	7.7%	22.5%	3.3%	2.9%	0.6%
20	35.6%	11.0%	51.0%	2.4%	1.1%	0.1%
21	34.2%	8.9%	51.5%	2.8%	4.4%	0.6%
22	65.3%	7.5%	21.5%	5.3%	1.0%	0.1%
23	73.7%	7.8%	12.8%	5.1%	1.0%	0.1%
24	73.8%	7.9%	16.6%	1.2%	1.1%	0.1%
25	69.3%	3.1%	23.7%	1.1%	3.1%	0.1%
26	78.7%	3.6%	15.3%	1.9%	0.8%	0.1%
27	73.3%	5.3%	17.0%	3.9%	1.0%	0.1%
28	31.4%	7.6%	56.5%	4.3%	1.4%	0.1%
29	82.4%	6.7%	9.0%	1.2%	1.1%	0.1%
30	90.1%	4.7%	4.2%	0.5%	0.7%	0.0%
31	87.3%	4.3%	6.4%	1.7%	0.6%	0.1%
32	41.4%	14.2%	42.5%	2.1%	1.1%	0.2%
33	82.1%	5.6%	10.2%	1.3%	0.9%	0.0%
34	78.3%	6.1%	14.2%	1.0%	0.8%	0.1%
35	76.1%	9.3%	12.3%	1.9%	0.9%	0.1%
36	76.4%	7.2%	14.1%	2.1%	0.8%	0.1%
37	52.0%	16.9%	26.3%	4.8%	1.1%	0.2%
38	32.9%	8.4%	52.5%	6.3%	1.3%	0.2%
39	82.4%	4.5%	7.0%	5.8%	0.6%	0.1%
40	26.9%	16.7%	51.8%	4.8%	1.4%	0.2%
41	76.9%	6.0%	13.1%	3.6%	0.8%	0.1%
42	83.0%	5.9%	8.0%	2.6%	0.7%	0.1%
43	78.4%	4.9%	14.8%	1.4%	0.9%	0.1%
44	82.8%	5.2%	9.9%	1.5%	0.7%	0.1%
45	91.8%	3.6%	3.2%	0.7%	0.7%	0.1%
46	80.9%	3.1%	13.5%	1.9%	0.7%	0.2%
47	90.4%	3.1%	5.3%	0.5%	0.8%	0.0%
48	88.6%	5.9%	3.5%	1.2%	0.9%	0.1%
49	86.6%	4.7%	6.8%	1.0%	1.1%	0.2%
50	90.2%	3.2%	1.4%	0.6%	4.9%	0.1%

**District Demographics: Voting Age Population
2017 Senate Plan**

District	Non-Hispanic		Black VAP	Asian VAP	American Indian	Native Hawaiian
	White VAP	Hispanic VAP			VAP	VAP
1	66.9%	3.2%	28.4%	0.9%	1.0%	0.1%
2	77.7%	4.0%	15.8%	1.7%	1.0%	0.2%
3	51.0%	3.4%	44.4%	0.4%	1.3%	0.1%
4	46.2%	4.5%	47.5%	0.7%	1.6%	0.1%
5	59.8%	5.2%	32.9%	1.8%	0.8%	0.1%
6	71.2%	8.5%	16.9%	2.8%	1.5%	0.5%
7	57.4%	7.0%	33.9%	1.3%	0.8%	0.1%
8	75.5%	4.5%	18.4%	0.6%	1.4%	0.1%
9	81.1%	4.4%	12.3%	1.5%	1.0%	0.2%
10	60.2%	14.4%	24.1%	0.5%	1.5%	0.1%
11	66.5%	6.6%	25.4%	1.0%	1.1%	0.1%
12	67.4%	10.5%	20.1%	1.2%	1.6%	0.2%
13	40.4%	5.7%	26.4%	0.8%	27.4%	0.1%
14	44.5%	13.3%	38.9%	3.6%	1.3%	0.1%
15	59.2%	9.1%	26.8%	4.8%	1.0%	0.1%
16	69.0%	6.6%	11.7%	12.4%	0.9%	0.1%
17	77.7%	6.7%	11.4%	3.7%	1.0%	0.1%
18	76.9%	4.8%	15.6%	2.4%	0.8%	0.1%
19	61.5%	7.5%	26.0%	2.9%	3.2%	0.5%
20	41.3%	12.1%	40.3%	6.3%	1.2%	0.1%
21	37.9%	9.0%	47.5%	3.2%	4.1%	0.6%
22	59.7%	7.1%	30.8%	2.0%	1.0%	0.1%
23	73.7%	7.8%	12.8%	5.1%	1.0%	0.1%
24	72.2%	7.3%	18.7%	1.3%	1.1%	0.1%
25	66.3%	3.8%	25.9%	1.0%	3.3%	0.1%
26	72.2%	8.2%	16.7%	2.3%	1.2%	0.1%
27	79.6%	3.5%	12.7%	3.8%	0.7%	0.1%
28	37.3%	7.7%	50.5%	4.3%	1.4%	0.2%
29	82.1%	5.6%	10.2%	1.3%	0.9%	0.0%
30	80.1%	3.5%	15.2%	0.5%	0.8%	0.1%
31	84.3%	4.8%	8.9%	1.7%	0.7%	0.1%
32	46.2%	12.7%	39.2%	2.1%	1.0%	0.1%
33	79.1%	4.9%	14.3%	1.2%	0.8%	0.1%
34	82.1%	5.9%	10.1%	1.5%	0.7%	0.1%
35	76.1%	9.3%	12.3%	1.9%	0.9%	0.1%
36	76.4%	7.2%	14.1%	2.1%	0.8%	0.1%
37	38.7%	14.7%	42.7%	4.0%	1.2%	0.2%
38	36.8%	7.7%	48.5%	7.1%	1.2%	0.2%
39	83.8%	4.4%	6.6%	4.7%	0.6%	0.1%
40	39.6%	17.5%	38.9%	4.1%	1.4%	0.2%
41	71.6%	8.5%	14.2%	5.3%	0.8%	0.1%
42	83.0%	5.9%	8.0%	2.6%	0.7%	0.1%
43	78.4%	4.9%	14.8%	1.4%	0.9%	0.1%
44	81.8%	3.6%	13.3%	0.8%	0.7%	0.1%
45	91.3%	4.9%	2.6%	0.6%	0.7%	0.1%
46	88.1%	3.8%	5.8%	1.7%	0.8%	0.2%
47	90.4%	3.1%	5.3%	0.5%	0.8%	0.0%
48	88.6%	5.9%	3.5%	1.2%	0.9%	0.1%
49	86.6%	4.7%	6.8%	1.0%	1.1%	0.2%
50	90.2%	3.2%	1.4%	0.6%	4.9%	0.1%

**District Demographics: Voting Age Population
Special Master's Recommended Senate Plan**

District	Non-Hispanic				American Indian	Native Hawaiian
	White VAP	Hispanic VAP	Black VAP	Asian VAP	VAP	VAP
1	66.9%	3.2%	28.4%	0.9%	1.0%	0.1%
2	77.7%	4.0%	15.8%	1.7%	1.0%	0.2%
3	51.0%	3.4%	44.4%	0.4%	1.3%	0.1%
4	46.2%	4.5%	47.5%	0.7%	1.6%	0.1%
5	59.8%	5.2%	32.9%	1.8%	0.8%	0.1%
6	71.2%	8.5%	16.9%	2.8%	1.5%	0.5%
7	57.4%	7.0%	33.9%	1.3%	0.8%	0.1%
8	75.5%	4.5%	18.4%	0.6%	1.4%	0.1%
9	81.1%	4.4%	12.3%	1.5%	1.0%	0.2%
10	60.2%	14.4%	24.1%	0.5%	1.5%	0.1%
11	66.5%	6.6%	25.4%	1.0%	1.1%	0.1%
12	67.4%	10.5%	20.1%	1.2%	1.6%	0.2%
13	40.4%	5.7%	26.4%	0.8%	27.4%	0.1%
14	44.5%	13.3%	38.9%	3.6%	1.3%	0.1%
15	59.2%	9.1%	26.8%	4.8%	1.0%	0.1%
16	69.0%	6.6%	11.7%	12.4%	0.9%	0.1%
17	77.7%	6.7%	11.4%	3.7%	1.0%	0.1%
18	76.9%	4.8%	15.6%	2.4%	0.8%	0.1%
19	57.1%	6.5%	31.7%	2.7%	3.2%	0.4%
20	41.3%	12.1%	40.3%	6.3%	1.2%	0.1%
21	41.9%	10.1%	42.1%	3.4%	4.1%	0.7%
22	59.7%	7.1%	30.8%	2.0%	1.0%	0.1%
23	73.7%	7.8%	12.8%	5.1%	1.0%	0.1%
24	71.3%	7.3%	19.6%	1.3%	1.1%	0.1%
25	66.3%	3.8%	25.9%	1.0%	3.3%	0.1%
26	72.2%	8.2%	16.7%	2.3%	1.2%	0.1%
27	72.4%	4.7%	18.3%	4.2%	0.9%	0.1%
28	45.6%	6.6%	43.6%	4.0%	1.2%	0.1%
29	82.1%	5.6%	10.2%	1.3%	0.9%	0.0%
30	80.1%	3.5%	15.2%	0.5%	0.8%	0.1%
31	84.3%	4.8%	8.9%	1.7%	0.7%	0.1%
32	46.2%	12.7%	39.2%	2.1%	1.0%	0.1%
33	79.1%	4.9%	14.3%	1.2%	0.8%	0.1%
34	82.1%	5.9%	10.1%	1.5%	0.7%	0.1%
35	76.1%	9.3%	12.3%	1.9%	0.9%	0.1%
36	76.4%	7.2%	14.1%	2.1%	0.8%	0.1%
37	38.7%	14.7%	42.7%	4.0%	1.2%	0.2%
38	36.8%	7.7%	48.5%	7.1%	1.2%	0.2%
39	83.8%	4.4%	6.6%	4.7%	0.6%	0.1%
40	39.6%	17.5%	38.9%	4.1%	1.4%	0.2%
41	71.6%	8.5%	14.2%	5.3%	0.8%	0.1%
42	83.0%	5.9%	8.0%	2.6%	0.7%	0.1%
43	78.4%	4.9%	14.8%	1.4%	0.9%	0.1%
44	81.8%	3.6%	13.3%	0.8%	0.7%	0.1%
45	91.3%	4.9%	2.6%	0.6%	0.7%	0.1%
46	88.1%	3.8%	5.8%	1.7%	0.8%	0.2%
47	90.4%	3.1%	5.3%	0.5%	0.8%	0.0%
48	88.6%	5.9%	3.5%	1.2%	0.9%	0.1%
49	86.6%	4.7%	6.8%	1.0%	1.1%	0.2%
50	90.2%	3.2%	1.4%	0.6%	4.9%	0.1%

**District Demographics: Voting Age Population
House 2011 Plan**

District	Non-Hispanic				American Indian	Native Hawaiian
	White VAP	Hispanic VAP	Black VAP	Asian VAP	VAP	VAP
1	77.1%	2.3%	18.9%	1.1%	0.8%	0.1%
2	67.0%	5.2%	26.6%	0.6%	1.1%	0.1%
3	73.3%	4.9%	19.5%	1.6%	1.0%	0.2%
4	69.6%	12.7%	16.1%	1.2%	0.8%	0.2%
5	42.1%	2.4%	54.2%	0.7%	1.2%	0.1%
6	76.9%	5.0%	17.0%	0.6%	0.9%	0.1%
7	43.7%	4.2%	50.7%	1.0%	1.2%	0.1%
8	66.1%	4.6%	27.7%	1.3%	0.6%	0.1%
9	74.7%	4.0%	18.8%	2.2%	0.7%	0.1%
10	77.4%	5.8%	15.2%	1.1%	0.8%	0.1%
11	65.7%	10.4%	14.8%	8.9%	1.3%	0.1%
12	42.4%	5.5%	50.6%	1.3%	0.8%	0.2%
13	85.8%	2.7%	9.4%	1.1%	1.1%	0.1%
14	69.3%	9.0%	17.4%	3.8%	1.6%	0.6%
15	71.9%	9.5%	15.4%	2.6%	1.6%	0.5%
16	76.6%	5.3%	16.5%	0.8%	1.3%	0.1%
17	87.2%	3.4%	8.0%	0.6%	1.1%	0.1%
18	63.5%	5.4%	29.2%	1.2%	1.5%	0.1%
19	87.0%	4.5%	6.3%	1.4%	1.0%	0.1%
20	85.8%	3.7%	8.2%	1.7%	0.8%	0.2%
21	36.3%	10.4%	51.9%	1.2%	1.0%	0.2%
22	59.7%	10.8%	26.8%	0.4%	2.8%	0.1%
23	44.8%	2.8%	51.8%	0.3%	0.6%	0.1%
24	33.3%	7.9%	57.3%	1.5%	0.8%	0.2%
25	76.3%	6.5%	16.1%	0.7%	1.0%	0.1%
26	72.9%	9.0%	16.7%	1.0%	1.0%	0.1%
27	41.5%	1.5%	53.7%	0.6%	3.1%	0.1%
28	72.9%	12.0%	14.0%	0.6%	1.0%	0.1%
29	31.7%	11.8%	51.3%	5.1%	1.2%	0.1%
30	62.6%	9.1%	18.4%	9.7%	0.9%	0.1%
31	29.9%	16.3%	51.8%	2.1%	1.3%	0.1%
32	43.6%	4.2%	50.5%	0.5%	2.0%	0.0%
33	33.8%	11.9%	51.4%	3.2%	1.2%	0.1%
34	70.5%	9.0%	17.0%	3.4%	1.0%	0.1%
35	72.1%	6.9%	17.4%	3.2%	1.0%	0.1%
36	81.0%	6.0%	7.7%	4.8%	0.9%	0.1%
37	76.2%	6.8%	13.8%	2.7%	1.1%	0.1%
38	28.6%	16.0%	51.4%	4.9%	1.4%	0.2%
39	60.5%	10.6%	26.5%	2.2%	1.3%	0.1%
40	76.2%	4.0%	9.8%	9.8%	0.8%	0.1%
41	69.7%	4.1%	7.4%	18.5%	0.7%	0.1%
42	32.8%	10.7%	52.6%	4.3%	2.1%	0.8%
43	39.7%	5.6%	51.5%	2.1%	2.5%	0.4%
44	60.5%	8.3%	25.4%	4.1%	2.8%	0.6%
45	67.9%	7.6%	19.6%	2.5%	3.4%	0.6%
46	64.0%	3.3%	25.8%	0.7%	6.6%	0.1%
47	22.3%	8.3%	17.4%	0.9%	52.1%	0.1%
48	31.8%	4.9%	51.3%	0.7%	12.1%	0.1%
49	83.2%	4.5%	8.9%	3.3%	0.6%	0.1%
50	75.3%	5.7%	13.3%	5.3%	0.9%	0.1%
51	72.1%	10.5%	15.7%	1.0%	1.4%	0.1%
52	80.4%	4.6%	13.0%	1.1%	1.2%	0.1%

**District Demographics: Voting Age Population
House 2011 Plan**

District	Non-Hispanic				American Indian	Native Hawaiian
	White VAP	Hispanic VAP	Black VAP	Asian VAP	VAP	VAP
53	66.7%	8.5%	22.2%	1.5%	1.9%	0.2%
54	68.1%	12.3%	18.0%	1.2%	1.0%	0.1%
55	70.6%	3.9%	24.1%	0.8%	0.9%	0.1%
56	73.1%	6.8%	12.5%	7.0%	1.0%	0.1%
57	38.9%	6.6%	50.7%	3.6%	1.3%	0.1%
58	40.1%	5.9%	51.1%	2.8%	1.4%	0.1%
59	81.2%	2.9%	13.6%	1.8%	0.8%	0.1%
60	32.7%	9.7%	51.4%	6.0%	1.4%	0.2%
61	73.6%	5.7%	15.3%	4.9%	1.0%	0.1%
62	77.3%	4.3%	13.3%	4.7%	0.7%	0.1%
63	70.0%	9.1%	19.2%	1.3%	1.2%	0.1%
64	71.9%	7.7%	18.5%	1.5%	0.9%	0.1%
65	74.0%	3.7%	21.2%	0.5%	0.9%	0.1%
66	64.0%	6.6%	22.5%	1.4%	6.3%	0.2%
67	81.6%	4.6%	11.7%	1.6%	0.7%	0.1%
68	75.2%	10.1%	11.7%	2.7%	0.7%	0.1%
69	74.3%	10.5%	12.7%	1.9%	1.0%	0.1%
70	82.1%	9.4%	6.3%	1.5%	1.1%	0.1%
71	36.0%	17.5%	45.5%	1.8%	1.1%	0.1%
72	42.3%	11.0%	45.0%	1.8%	0.9%	0.2%
73	89.3%	5.1%	4.5%	0.6%	0.6%	0.1%
74	82.3%	5.4%	10.7%	1.3%	0.8%	0.1%
75	79.3%	5.4%	12.3%	2.6%	0.7%	0.1%
76	80.9%	4.8%	12.9%	0.8%	0.9%	0.1%
77	75.5%	6.1%	16.8%	1.2%	0.7%	0.1%
78	86.2%	6.0%	6.5%	0.6%	1.1%	0.1%
79	84.6%	4.9%	8.1%	2.0%	0.7%	0.1%
80	84.9%	5.1%	8.4%	0.9%	0.9%	0.0%
81	83.7%	4.8%	9.1%	1.6%	0.9%	0.1%
82	72.6%	7.8%	16.2%	3.2%	0.8%	0.1%
83	74.5%	8.5%	15.2%	1.5%	0.8%	0.1%
84	78.4%	6.1%	13.9%	1.3%	0.7%	0.1%
85	91.5%	3.7%	3.5%	0.6%	0.8%	0.0%
86	85.7%	4.4%	6.3%	3.0%	0.8%	0.4%
87	90.6%	3.4%	4.9%	0.6%	0.7%	0.1%
88	80.6%	7.9%	7.9%	3.3%	0.7%	0.1%
89	82.8%	5.5%	8.6%	2.7%	0.7%	0.0%
90	88.4%	6.9%	3.8%	0.5%	0.7%	0.1%
91	82.9%	3.0%	13.1%	0.4%	0.8%	0.0%
92	65.7%	10.4%	18.2%	5.5%	0.9%	0.2%
93	93.5%	3.3%	1.6%	0.9%	0.8%	0.1%
94	90.2%	4.7%	4.1%	0.5%	0.6%	0.1%
95	82.2%	5.0%	9.9%	2.4%	0.8%	0.1%
96	80.0%	7.8%	8.4%	3.4%	0.6%	0.1%
97	87.7%	5.5%	5.7%	0.6%	0.7%	0.0%
98	79.9%	5.3%	11.2%	3.3%	0.7%	0.1%
99	23.4%	18.5%	54.6%	4.1%	1.6%	0.2%
100	43.4%	19.8%	32.0%	4.6%	1.3%	0.3%
101	36.6%	7.7%	51.3%	4.3%	1.4%	0.2%
102	24.8%	17.1%	53.5%	4.9%	1.1%	0.2%
103	74.8%	7.8%	13.1%	3.8%	0.9%	0.1%
104	83.1%	4.3%	8.2%	4.1%	0.6%	0.1%

**District Demographics: Voting Age Population
House 2011 Plan**

District	Non-Hispanic		Black VAP	Asian VAP	American Indian	Native Hawaiian
	White VAP	Hispanic VAP			VAP	VAP
105	74.1%	7.3%	9.5%	8.8%	0.6%	0.1%
106	27.8%	14.2%	51.1%	7.1%	1.2%	0.2%
107	34.2%	6.7%	52.5%	6.7%	1.0%	0.2%
108	77.8%	5.5%	14.4%	1.7%	0.9%	0.1%
109	73.5%	5.7%	18.9%	1.5%	0.9%	0.1%
110	80.8%	2.7%	15.3%	0.6%	0.8%	0.0%
111	80.2%	2.1%	16.3%	1.0%	0.6%	0.1%
112	85.8%	2.6%	10.2%	0.8%	0.8%	0.1%
113	91.8%	3.7%	3.2%	0.5%	0.9%	0.1%
114	79.4%	5.8%	12.6%	1.3%	1.1%	0.2%
115	92.1%	3.3%	2.7%	0.9%	1.1%	0.1%
116	89.8%	5.0%	3.0%	1.3%	1.0%	0.1%
117	85.9%	8.4%	3.6%	1.3%	1.0%	0.2%
118	95.4%	2.3%	1.1%	0.4%	0.9%	0.1%
119	84.6%	3.5%	1.8%	0.8%	9.7%	0.1%
120	93.1%	3.2%	1.1%	0.6%	2.1%	0.1%

**District Demographics: Voting Age Population
House 2017 Plan**

District	Non-Hispanic				American Indian	Native Hawaiian
	White VAP	Hispanic VAP	Black VAP	Asian VAP	VAP	VAP
1	57.2%	1.9%	39.7%	0.7%	0.8%	0.1%
2	65.8%	5.3%	27.8%	0.6%	1.1%	0.1%
3	69.9%	5.4%	21.2%	3.0%	1.0%	0.3%
4	63.0%	13.4%	22.6%	0.6%	1.0%	0.2%
5	51.3%	2.7%	44.3%	1.0%	1.2%	0.1%
6	85.2%	4.0%	9.2%	0.8%	1.0%	0.1%
7	66.2%	7.7%	25.2%	0.6%	1.1%	0.1%
8	48.2%	4.6%	44.8%	2.1%	0.8%	0.2%
9	73.0%	4.1%	20.4%	2.1%	0.7%	0.1%
10	69.0%	8.0%	21.4%	1.1%	0.9%	0.1%
11	67.8%	9.7%	14.3%	7.9%	1.2%	0.2%
12	56.5%	5.2%	37.4%	0.6%	0.7%	0.1%
13	85.8%	2.7%	9.4%	1.1%	1.1%	0.1%
14	69.3%	9.0%	17.4%	3.8%	1.6%	0.6%
15	71.9%	9.5%	15.4%	2.6%	1.6%	0.5%
16	69.6%	4.4%	23.1%	0.5%	2.8%	0.1%
17	87.2%	3.4%	8.0%	0.6%	1.1%	0.1%
18	63.5%	5.4%	29.2%	1.2%	1.5%	0.1%
19	87.0%	4.5%	6.3%	1.4%	1.0%	0.1%
20	85.8%	3.7%	8.2%	1.7%	0.8%	0.2%
21	45.7%	10.0%	42.3%	1.5%	1.3%	0.2%
22	60.1%	9.4%	28.2%	0.4%	2.5%	0.1%
23	44.8%	2.8%	51.8%	0.3%	0.6%	0.1%
24	53.2%	7.6%	38.1%	0.9%	0.6%	0.1%
25	54.4%	3.1%	40.7%	1.1%	1.2%	0.1%
26	75.2%	8.7%	14.8%	1.0%	0.9%	0.1%
27	41.5%	1.5%	53.7%	0.6%	3.1%	0.1%
28	69.3%	13.2%	16.5%	0.6%	1.1%	0.1%
29	42.3%	12.4%	37.5%	7.8%	1.1%	0.1%
30	59.1%	8.2%	28.7%	3.8%	0.9%	0.1%
31	31.9%	15.0%	49.6%	3.7%	1.3%	0.1%
32	45.0%	4.1%	49.1%	0.5%	2.0%	0.0%
33	42.0%	11.1%	44.2%	2.9%	1.1%	0.1%
34	72.6%	8.6%	15.8%	2.9%	0.9%	0.1%
35	75.4%	5.2%	15.6%	3.5%	0.9%	0.1%
36	80.6%	6.4%	9.2%	3.2%	1.1%	0.1%
37	74.9%	7.0%	14.3%	3.3%	1.1%	0.1%
38	31.8%	16.2%	48.3%	4.2%	1.4%	0.2%
39	49.3%	12.4%	35.5%	2.9%	1.4%	0.1%
40	84.7%	3.4%	7.7%	3.8%	0.6%	0.1%
41	66.5%	4.7%	8.1%	20.6%	0.6%	0.1%
42	41.7%	11.9%	42.2%	4.2%	2.2%	0.9%
43	38.6%	7.7%	50.0%	3.5%	1.9%	0.6%
44	55.5%	7.7%	31.8%	3.2%	3.0%	0.5%
45	66.1%	4.8%	24.2%	2.0%	3.8%	0.3%
46	52.5%	7.7%	24.7%	0.4%	15.3%	0.1%
47	22.0%	4.6%	25.8%	1.2%	47.3%	0.1%
48	46.4%	6.4%	36.1%	1.4%	10.6%	0.3%
49	72.1%	5.7%	12.8%	9.2%	0.9%	0.1%
50	71.3%	5.0%	21.1%	2.0%	1.1%	0.1%
51	64.5%	12.9%	20.5%	1.4%	1.4%	0.2%
52	80.4%	4.6%	13.0%	1.1%	1.2%	0.1%
53	69.0%	8.0%	20.8%	1.1%	1.9%	0.2%

**District Demographics: Voting Age Population
House 2017 Plan**

District	Non-Hispanic				American Indian	Native Hawaiian
	White VAP	Hispanic VAP	Black VAP	Asian VAP	VAP	VAP
54	72.0%	8.8%	15.7%	3.1%	0.9%	0.1%
55	70.6%	3.9%	24.1%	0.8%	0.9%	0.1%
56	71.9%	7.4%	10.3%	9.9%	0.9%	0.1%
57	30.0%	6.2%	60.8%	3.1%	1.4%	0.1%
58	41.2%	10.0%	42.7%	5.8%	1.4%	0.2%
59	71.9%	3.8%	22.2%	1.4%	1.1%	0.1%
60	46.1%	7.5%	40.1%	6.0%	1.2%	0.1%
61	80.1%	4.0%	11.5%	4.1%	0.7%	0.1%
62	79.2%	3.2%	14.0%	3.4%	0.7%	0.1%
63	70.0%	9.1%	19.2%	1.3%	1.2%	0.1%
64	71.9%	7.7%	18.5%	1.5%	0.9%	0.1%
65	74.9%	4.3%	19.6%	0.6%	0.9%	0.1%
66	66.0%	6.2%	24.9%	1.3%	2.1%	0.1%
67	87.0%	2.5%	8.4%	1.5%	0.6%	0.1%
68	75.2%	10.1%	11.7%	2.7%	0.7%	0.1%
69	74.3%	10.5%	12.7%	1.9%	1.0%	0.1%
70	82.1%	9.4%	6.3%	1.5%	1.1%	0.1%
71	48.2%	13.7%	36.6%	2.0%	1.0%	0.1%
72	39.7%	11.2%	47.5%	1.8%	1.0%	0.2%
73	84.0%	6.5%	7.2%	2.0%	0.6%	0.1%
74	79.9%	5.1%	13.4%	1.3%	0.8%	0.0%
75	74.2%	8.8%	14.5%	2.4%	0.8%	0.1%
76	72.8%	5.4%	20.0%	1.2%	0.9%	0.1%
77	84.7%	5.5%	8.7%	0.7%	0.7%	0.1%
78	86.2%	6.0%	6.5%	0.6%	1.1%	0.1%
79	70.2%	4.6%	24.3%	0.5%	0.9%	0.1%
80	84.9%	5.1%	8.4%	0.9%	0.9%	0.0%
81	83.7%	4.8%	9.1%	1.6%	0.9%	0.1%
82	75.7%	6.7%	14.1%	3.2%	0.7%	0.1%
83	71.6%	10.3%	16.8%	1.1%	0.8%	0.1%
84	78.4%	6.1%	13.9%	1.3%	0.7%	0.1%
85	91.5%	3.7%	3.5%	0.6%	0.8%	0.0%
86	85.7%	4.4%	6.3%	3.0%	0.8%	0.4%
87	90.6%	3.4%	4.9%	0.6%	0.7%	0.1%
88	41.5%	15.2%	38.4%	5.0%	1.1%	0.2%
89	82.8%	5.5%	8.6%	2.7%	0.7%	0.0%
90	90.0%	5.5%	3.4%	0.5%	0.7%	0.0%
91	90.1%	3.9%	5.1%	0.3%	0.7%	0.0%
92	46.0%	18.0%	30.2%	6.0%	1.1%	0.2%
93	93.5%	3.3%	1.6%	0.9%	0.8%	0.1%
94	88.8%	4.2%	5.7%	0.7%	0.6%	0.1%
95	82.2%	5.0%	9.9%	2.4%	0.8%	0.1%
96	80.0%	7.8%	8.4%	3.4%	0.6%	0.1%
97	87.7%	5.5%	5.7%	0.6%	0.7%	0.0%
98	83.6%	5.3%	7.7%	3.0%	0.6%	0.1%
99	31.0%	15.8%	49.5%	4.0%	1.3%	0.2%
100	47.4%	16.6%	32.1%	3.6%	1.4%	0.2%
101	38.5%	6.7%	50.8%	3.9%	1.4%	0.2%
102	37.0%	15.2%	43.9%	4.1%	1.2%	0.2%
103	82.2%	4.9%	7.7%	4.6%	0.7%	0.1%
104	86.6%	3.8%	6.2%	3.1%	0.5%	0.1%
105	76.7%	6.0%	8.3%	8.7%	0.6%	0.1%
106	42.0%	11.1%	38.0%	8.9%	1.1%	0.2%

**District Demographics: Voting Age Population
House 2017 Plan**

District	Non-Hispanic		Black VAP	Asian VAP	American Indian	Native Hawaiian
	White VAP	Hispanic VAP			VAP	VAP
107	36.8%	8.6%	49.4%	5.4%	1.1%	0.1%
108	77.8%	5.5%	14.4%	1.7%	0.9%	0.1%
109	73.5%	5.7%	18.9%	1.5%	0.9%	0.1%
110	80.8%	2.7%	15.3%	0.6%	0.8%	0.0%
111	80.2%	2.1%	16.3%	1.0%	0.6%	0.1%
112	85.8%	2.6%	10.2%	0.8%	0.8%	0.1%
113	91.8%	3.7%	3.2%	0.5%	0.9%	0.1%
114	79.4%	5.8%	12.6%	1.3%	1.1%	0.2%
115	92.1%	3.3%	2.7%	0.9%	1.1%	0.1%
116	89.8%	5.0%	3.0%	1.3%	1.0%	0.1%
117	85.9%	8.4%	3.6%	1.3%	1.0%	0.2%
118	95.4%	2.3%	1.1%	0.4%	0.9%	0.1%
119	84.6%	3.5%	1.8%	0.8%	9.7%	0.1%
120	93.1%	3.2%	1.1%	0.6%	2.1%	0.1%

**District Demographics: Voting Age Population
Special Master's Draft House Plan**

District	Non-Hispanic				American Indian	Native Hawaiian
	White VAP	Hispanic VAP	Black VAP	Asian VAP	VAP	VAP
1	57.2%	1.9%	39.7%	0.7%	0.8%	0.1%
2	65.8%	5.3%	27.8%	0.6%	1.1%	0.1%
3	69.9%	5.4%	21.2%	3.0%	1.0%	0.3%
4	63.0%	13.4%	22.6%	0.6%	1.0%	0.2%
5	51.3%	2.7%	44.3%	1.0%	1.2%	0.1%
6	85.2%	4.0%	9.2%	0.8%	1.0%	0.1%
7	66.2%	7.7%	25.2%	0.6%	1.1%	0.1%
8	48.2%	4.6%	44.8%	2.1%	0.8%	0.2%
9	73.0%	4.1%	20.4%	2.1%	0.7%	0.1%
10	69.0%	8.0%	21.4%	1.1%	0.9%	0.1%
11	65.0%	9.9%	16.5%	8.4%	1.2%	0.1%
12	56.5%	5.2%	37.4%	0.6%	0.7%	0.1%
13	85.8%	2.7%	9.4%	1.1%	1.1%	0.1%
14	69.3%	9.0%	17.4%	3.8%	1.6%	0.6%
15	71.9%	9.5%	15.4%	2.6%	1.6%	0.5%
16	69.6%	4.4%	23.1%	0.5%	2.8%	0.1%
17	87.2%	3.4%	8.0%	0.6%	1.1%	0.1%
18	63.5%	5.4%	29.2%	1.2%	1.5%	0.1%
19	87.0%	4.5%	6.3%	1.4%	1.0%	0.1%
20	85.8%	3.7%	8.2%	1.7%	0.8%	0.2%
21	48.6%	10.1%	39.4%	1.5%	1.2%	0.2%
22	57.1%	9.3%	31.1%	0.4%	2.6%	0.1%
23	44.8%	2.8%	51.8%	0.3%	0.6%	0.1%
24	53.2%	7.6%	38.1%	0.9%	0.6%	0.1%
25	54.4%	3.1%	40.7%	1.1%	1.2%	0.1%
26	75.2%	8.7%	14.8%	1.0%	0.9%	0.1%
27	41.5%	1.5%	53.7%	0.6%	3.1%	0.1%
28	69.3%	13.2%	16.5%	0.6%	1.1%	0.1%
29	42.3%	12.4%	37.5%	7.8%	1.1%	0.1%
30	59.1%	8.2%	28.7%	3.8%	0.9%	0.1%
31	31.9%	15.0%	49.6%	3.7%	1.3%	0.1%
32	45.0%	4.1%	49.1%	0.5%	2.0%	0.0%
33	41.6%	12.0%	45.1%	1.4%	1.2%	0.1%
34	75.1%	7.8%	13.6%	3.4%	0.8%	0.1%
35	74.6%	5.3%	16.2%	3.6%	0.8%	0.1%
36	81.0%	6.0%	7.7%	4.8%	0.9%	0.1%
37	76.2%	6.8%	13.8%	2.7%	1.1%	0.1%
38	31.8%	16.2%	48.3%	4.2%	1.4%	0.2%
39	49.3%	12.4%	35.5%	2.9%	1.4%	0.1%
40	75.9%	4.0%	10.2%	9.6%	0.8%	0.1%
41	69.7%	4.1%	7.4%	18.5%	0.7%	0.1%
42	41.7%	11.9%	42.2%	4.2%	2.2%	0.9%
43	38.6%	7.7%	50.0%	3.5%	1.9%	0.6%
44	55.5%	7.7%	31.8%	3.2%	3.0%	0.5%
45	66.1%	4.8%	24.2%	2.0%	3.8%	0.3%
46	52.5%	7.7%	24.7%	0.4%	15.3%	0.1%
47	22.0%	4.6%	25.8%	1.2%	47.3%	0.1%
48	46.4%	6.4%	36.1%	1.4%	10.6%	0.3%
49	76.7%	5.8%	12.6%	4.7%	0.9%	0.1%
50	71.3%	5.0%	21.1%	2.0%	1.1%	0.1%
51	64.5%	12.9%	20.5%	1.4%	1.4%	0.2%
52	80.4%	4.6%	13.0%	1.1%	1.2%	0.1%
53	69.0%	8.0%	20.8%	1.1%	1.9%	0.2%

**District Demographics: Voting Age Population
Special Master's Draft House Plan**

District	Non-Hispanic				American Indian	Native Hawaiian
	White VAP	Hispanic VAP	Black VAP	Asian VAP	VAP	VAP
54	72.0%	8.8%	15.7%	3.1%	0.9%	0.1%
55	70.6%	3.9%	24.1%	0.8%	0.9%	0.1%
56	71.9%	7.4%	10.3%	9.9%	0.9%	0.1%
57	50.6%	6.0%	39.2%	4.0%	1.1%	0.1%
58	44.9%	10.2%	38.9%	5.7%	1.3%	0.2%
59	72.8%	3.8%	21.1%	1.7%	1.1%	0.1%
60	46.1%	7.5%	40.1%	6.0%	1.2%	0.1%
61	52.5%	3.4%	41.6%	2.4%	1.0%	0.1%
62	80.5%	4.2%	10.7%	4.2%	0.8%	0.1%
63	70.0%	9.1%	19.2%	1.3%	1.2%	0.1%
64	71.9%	7.7%	18.5%	1.5%	0.9%	0.1%
65	74.9%	4.3%	19.6%	0.6%	0.9%	0.1%
66	66.0%	6.2%	24.9%	1.3%	2.1%	0.1%
67	87.0%	2.5%	8.4%	1.5%	0.6%	0.1%
68	75.2%	10.1%	11.7%	2.7%	0.7%	0.1%
69	74.3%	10.5%	12.7%	1.9%	1.0%	0.1%
70	82.1%	9.4%	6.3%	1.5%	1.1%	0.1%
71	48.2%	13.7%	36.6%	2.0%	1.0%	0.1%
72	39.7%	11.2%	47.5%	1.8%	1.0%	0.2%
73	84.0%	6.5%	7.2%	2.0%	0.6%	0.1%
74	79.9%	5.1%	13.4%	1.3%	0.8%	0.0%
75	74.2%	8.8%	14.5%	2.4%	0.8%	0.1%
76	72.8%	5.4%	20.0%	1.2%	0.9%	0.1%
77	84.7%	5.5%	8.7%	0.7%	0.7%	0.1%
78	86.2%	6.0%	6.5%	0.6%	1.1%	0.1%
79	70.2%	4.6%	24.3%	0.5%	0.9%	0.1%
80	84.9%	5.1%	8.4%	0.9%	0.9%	0.0%
81	83.7%	4.8%	9.1%	1.6%	0.9%	0.1%
82	75.7%	6.7%	14.1%	3.2%	0.7%	0.1%
83	71.6%	10.3%	16.8%	1.1%	0.8%	0.1%
84	78.4%	6.1%	13.9%	1.3%	0.7%	0.1%
85	91.5%	3.7%	3.5%	0.6%	0.8%	0.0%
86	85.7%	4.4%	6.3%	3.0%	0.8%	0.4%
87	90.6%	3.4%	4.9%	0.6%	0.7%	0.1%
88	41.5%	15.2%	38.4%	5.0%	1.1%	0.2%
89	82.8%	5.5%	8.6%	2.7%	0.7%	0.0%
90	90.0%	5.5%	3.4%	0.5%	0.7%	0.0%
91	90.1%	3.9%	5.1%	0.3%	0.7%	0.0%
92	50.9%	15.7%	27.9%	5.7%	1.0%	0.2%
93	93.5%	3.3%	1.6%	0.9%	0.8%	0.1%
94	88.8%	4.2%	5.7%	0.7%	0.6%	0.1%
95	82.2%	5.0%	9.9%	2.4%	0.8%	0.1%
96	80.0%	7.8%	8.4%	3.4%	0.6%	0.1%
97	87.7%	5.5%	5.7%	0.6%	0.7%	0.0%
98	83.6%	5.3%	7.7%	3.0%	0.6%	0.1%
99	31.0%	15.8%	49.5%	4.0%	1.3%	0.2%
100	47.4%	16.6%	32.1%	3.6%	1.4%	0.2%
101	38.5%	6.7%	50.8%	3.9%	1.4%	0.2%
102	37.0%	15.2%	43.9%	4.1%	1.2%	0.2%
103	81.7%	5.0%	8.1%	4.7%	0.7%	0.1%
104	84.7%	4.7%	6.8%	3.4%	0.6%	0.1%
105	74.1%	7.3%	9.5%	8.8%	0.6%	0.1%
106	42.0%	11.1%	38.0%	8.9%	1.1%	0.2%

**District Demographics: Voting Age Population
Special Master's Draft House Plan**

District	Non-Hispanic		Black VAP	Asian VAP	American Indian	Native Hawaiian
	White VAP	Hispanic VAP			VAP	VAP
107	36.8%	8.6%	49.4%	5.4%	1.1%	0.1%
108	77.8%	5.5%	14.4%	1.7%	0.9%	0.1%
109	73.5%	5.7%	18.9%	1.5%	0.9%	0.1%
110	80.8%	2.7%	15.3%	0.6%	0.8%	0.0%
111	80.2%	2.1%	16.3%	1.0%	0.6%	0.1%
112	85.8%	2.6%	10.2%	0.8%	0.8%	0.1%
113	91.8%	3.7%	3.2%	0.5%	0.9%	0.1%
114	79.4%	5.8%	12.6%	1.3%	1.1%	0.2%
115	92.1%	3.3%	2.7%	0.9%	1.1%	0.1%
116	89.8%	5.0%	3.0%	1.3%	1.0%	0.1%
117	85.9%	8.4%	3.6%	1.3%	1.0%	0.2%
118	95.4%	2.3%	1.1%	0.4%	0.9%	0.1%
119	84.6%	3.5%	1.8%	0.8%	9.7%	0.1%
120	93.1%	3.2%	1.1%	0.6%	2.1%	0.1%

District Demographics: Voting Age Population
Special Master's Recommended House Plan

District	Non-Hispanic				American Indian	Native Hawaiian
	White VAP	Hispanic VAP	Black VAP	Asian VAP	VAP	VAP
1	57.2%	1.9%	39.7%	0.7%	0.8%	0.1%
2	65.8%	5.3%	27.8%	0.6%	1.1%	0.1%
3	69.9%	5.4%	21.2%	3.0%	1.0%	0.3%
4	63.0%	13.4%	22.6%	0.6%	1.0%	0.2%
5	51.3%	2.7%	44.3%	1.0%	1.2%	0.1%
6	85.2%	4.0%	9.2%	0.8%	1.0%	0.1%
7	66.2%	7.7%	25.2%	0.6%	1.1%	0.1%
8	48.2%	4.6%	44.8%	2.1%	0.8%	0.2%
9	73.0%	4.1%	20.4%	2.1%	0.7%	0.1%
10	69.0%	8.0%	21.4%	1.1%	0.9%	0.1%
11	65.0%	9.9%	16.5%	8.4%	1.2%	0.1%
12	56.5%	5.2%	37.4%	0.6%	0.7%	0.1%
13	85.8%	2.7%	9.4%	1.1%	1.1%	0.1%
14	69.3%	9.0%	17.4%	3.8%	1.6%	0.6%
15	71.9%	9.5%	15.4%	2.6%	1.6%	0.5%
16	69.6%	4.4%	23.1%	0.5%	2.8%	0.1%
17	87.2%	3.4%	8.0%	0.6%	1.1%	0.1%
18	63.5%	5.4%	29.2%	1.2%	1.5%	0.1%
19	87.0%	4.5%	6.3%	1.4%	1.0%	0.1%
20	85.8%	3.7%	8.2%	1.7%	0.8%	0.2%
21	48.9%	10.1%	39.0%	1.5%	1.4%	0.2%
22	56.9%	9.3%	31.5%	0.4%	2.4%	0.1%
23	44.8%	2.8%	51.8%	0.3%	0.6%	0.1%
24	53.2%	7.6%	38.1%	0.9%	0.6%	0.1%
25	54.4%	3.1%	40.7%	1.1%	1.2%	0.1%
26	75.2%	8.7%	14.8%	1.0%	0.9%	0.1%
27	41.5%	1.5%	53.7%	0.6%	3.1%	0.1%
28	69.3%	13.2%	16.5%	0.6%	1.1%	0.1%
29	42.3%	12.4%	37.5%	7.8%	1.1%	0.1%
30	59.1%	8.2%	28.7%	3.8%	0.9%	0.1%
31	31.9%	15.0%	49.6%	3.7%	1.3%	0.1%
32	45.0%	4.1%	49.1%	0.5%	2.0%	0.0%
33	41.6%	12.0%	45.1%	1.4%	1.2%	0.1%
34	76.7%	7.0%	13.1%	3.1%	0.7%	0.1%
35	74.6%	5.3%	16.2%	3.6%	0.8%	0.1%
36	81.0%	6.0%	7.7%	4.8%	0.9%	0.1%
37	76.2%	6.8%	13.8%	2.7%	1.1%	0.1%
38	31.8%	16.2%	48.3%	4.2%	1.4%	0.2%
39	49.3%	12.4%	35.5%	2.9%	1.4%	0.1%
40	76.2%	4.0%	9.8%	9.8%	0.8%	0.1%
41	69.7%	4.1%	7.4%	18.5%	0.7%	0.1%
42	41.7%	11.9%	42.2%	4.2%	2.2%	0.9%
43	38.6%	7.7%	50.0%	3.5%	1.9%	0.6%
44	55.5%	7.7%	31.8%	3.2%	3.0%	0.5%
45	66.1%	4.8%	24.2%	2.0%	3.8%	0.3%
46	52.5%	7.7%	24.7%	0.4%	15.3%	0.1%
47	22.0%	4.6%	25.8%	1.2%	47.3%	0.1%
48	46.4%	6.4%	36.1%	1.4%	10.6%	0.3%
49	75.0%	6.5%	13.3%	5.0%	0.9%	0.1%
50	71.3%	5.0%	21.1%	2.0%	1.1%	0.1%
51	64.5%	12.9%	20.5%	1.4%	1.4%	0.2%
52	80.4%	4.6%	13.0%	1.1%	1.2%	0.1%
53	69.0%	8.0%	20.8%	1.1%	1.9%	0.2%

District Demographics: Voting Age Population
Special Master's Recommended House Plan

District	Non-Hispanic				American Indian	Native Hawaiian
	White VAP	Hispanic VAP	Black VAP	Asian VAP	VAP	VAP
54	72.0%	8.8%	15.7%	3.1%	0.9%	0.1%
55	70.6%	3.9%	24.1%	0.8%	0.9%	0.1%
56	71.9%	7.4%	10.3%	9.9%	0.9%	0.1%
57	51.3%	6.0%	38.4%	4.1%	1.1%	0.1%
58	41.2%	10.0%	42.7%	5.8%	1.4%	0.2%
59	75.6%	3.5%	18.8%	1.4%	1.0%	0.1%
60	46.1%	7.5%	40.1%	6.0%	1.2%	0.1%
61	54.1%	3.4%	40.3%	2.2%	1.0%	0.1%
62	79.5%	4.4%	11.5%	4.2%	0.8%	0.1%
63	70.0%	9.1%	19.2%	1.3%	1.2%	0.1%
64	71.9%	7.7%	18.5%	1.5%	0.9%	0.1%
65	74.9%	4.3%	19.6%	0.6%	0.9%	0.1%
66	66.0%	6.2%	24.9%	1.3%	2.1%	0.1%
67	87.0%	2.5%	8.4%	1.5%	0.6%	0.1%
68	75.2%	10.1%	11.7%	2.7%	0.7%	0.1%
69	74.3%	10.5%	12.7%	1.9%	1.0%	0.1%
70	82.1%	9.4%	6.3%	1.5%	1.1%	0.1%
71	48.2%	13.7%	36.6%	2.0%	1.0%	0.1%
72	39.7%	11.2%	47.5%	1.8%	1.0%	0.2%
73	84.0%	6.5%	7.2%	2.0%	0.6%	0.1%
74	79.9%	5.1%	13.4%	1.3%	0.8%	0.0%
75	74.2%	8.8%	14.5%	2.4%	0.8%	0.1%
76	72.8%	5.4%	20.0%	1.2%	0.9%	0.1%
77	84.7%	5.5%	8.7%	0.7%	0.7%	0.1%
78	86.2%	6.0%	6.5%	0.6%	1.1%	0.1%
79	70.2%	4.6%	24.3%	0.5%	0.9%	0.1%
80	84.9%	5.1%	8.4%	0.9%	0.9%	0.0%
81	83.7%	4.8%	9.1%	1.6%	0.9%	0.1%
82	75.7%	6.7%	14.1%	3.2%	0.7%	0.1%
83	71.6%	10.3%	16.8%	1.1%	0.8%	0.1%
84	78.4%	6.1%	13.9%	1.3%	0.7%	0.1%
85	91.5%	3.7%	3.5%	0.6%	0.8%	0.0%
86	85.7%	4.4%	6.3%	3.0%	0.8%	0.4%
87	90.6%	3.4%	4.9%	0.6%	0.7%	0.1%
88	41.5%	15.2%	38.4%	5.0%	1.1%	0.2%
89	82.8%	5.5%	8.6%	2.7%	0.7%	0.0%
90	90.0%	5.5%	3.4%	0.5%	0.7%	0.0%
91	90.1%	3.9%	5.1%	0.3%	0.7%	0.0%
92	50.9%	15.7%	27.9%	5.7%	1.0%	0.2%
93	93.5%	3.3%	1.6%	0.9%	0.8%	0.1%
94	88.8%	4.2%	5.7%	0.7%	0.6%	0.1%
95	82.2%	5.0%	9.9%	2.4%	0.8%	0.1%
96	80.0%	7.8%	8.4%	3.4%	0.6%	0.1%
97	87.7%	5.5%	5.7%	0.6%	0.7%	0.0%
98	83.6%	5.3%	7.7%	3.0%	0.6%	0.1%
99	31.0%	15.8%	49.5%	4.0%	1.3%	0.2%
100	47.4%	16.6%	32.1%	3.6%	1.4%	0.2%
101	38.5%	6.7%	50.8%	3.9%	1.4%	0.2%
102	37.0%	15.2%	43.9%	4.1%	1.2%	0.2%
103	81.7%	5.0%	8.1%	4.7%	0.7%	0.1%
104	84.7%	4.7%	6.8%	3.4%	0.6%	0.1%
105	74.1%	7.3%	9.5%	8.8%	0.6%	0.1%
106	42.0%	11.1%	38.0%	8.9%	1.1%	0.2%

District Demographics: Voting Age Population
Special Master's Recommended House Plan

District	Non-Hispanic		Black VAP	Asian VAP	American Indian	Native Hawaiian
	White VAP	Hispanic VAP			VAP	VAP
107	36.8%	8.6%	49.4%	5.4%	1.1%	0.1%
108	77.8%	5.5%	14.4%	1.7%	0.9%	0.1%
109	73.5%	5.7%	18.9%	1.5%	0.9%	0.1%
110	80.8%	2.7%	15.3%	0.6%	0.8%	0.0%
111	80.2%	2.1%	16.3%	1.0%	0.6%	0.1%
112	85.8%	2.6%	10.2%	0.8%	0.8%	0.1%
113	91.8%	3.7%	3.2%	0.5%	0.9%	0.1%
114	79.4%	5.8%	12.6%	1.3%	1.1%	0.2%
115	92.1%	3.3%	2.7%	0.9%	1.1%	0.1%
116	89.8%	5.0%	3.0%	1.3%	1.0%	0.1%
117	85.9%	8.4%	3.6%	1.3%	1.0%	0.2%
118	95.4%	2.3%	1.1%	0.4%	0.9%	0.1%
119	84.6%	3.5%	1.8%	0.8%	9.7%	0.1%
120	93.1%	3.2%	1.1%	0.6%	2.1%	0.1%

Exhibit 7

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SANDRA LITTLE COVINGTON, et al.,)
)
 Plaintiffs,)
 v.)
)
THE STATE OF NORTH CAROLINA, et al.,)
 Defendants.)

1:15CV399

SPECIAL MASTER’S CORRECTED DRAFT PLAN AND ORDER

On November 1, 2017, the United States District Court for the Middle District of North Carolina appointed me as Special Master in the above captioned case. (Doc. 206) In the order appointing a Special Master, the Court expressed “serious concerns” with the redistricting plans for the North Carolina Senate and House of Representatives passed by the General Assembly on August 31, 2017 (“2017 plans”). The Court ordered the Special Master to develop, by December 1, 2017, redistricting plans that addressed these concerns, which related to the 2017 plans’ potential violations of the United States and North Carolina Constitutions.

Provided herein are draft redistricting plans and summary explanations of the principles that guided their creation. The Special Master is releasing these draft plans in the immediate wake of the defendants identifying, also pursuant to the November 1st order, the residences of incumbents who will be running for reelection. As described further below, these draft plans are provided at this early date to give the parties time to lodge objections and to make suggestions, as to unpairing incumbents or otherwise, that might be accommodated in the final plan to be delivered to the Court by December 1. Accompanying the final plan will be a report providing greater detail as to the plan’s compliance with applicable law, a more complete explanation of

the rationale for the Special Master's Plan, and evaluation of the plan according to the metrics required by the Court's order. The shapefiles and census block equivalency files for these draft plans have been provided to the Court through its public ECF system. Statewide maps of the Special Master's Draft Plan are attached at the end of this document.

The Charge to the Special Master

The Court has ordered the Special Master to develop a plan that remedies specific legal violations in a limited number of districts. It has not empowered the Special Master to develop a redistricting plan for the entire state, nor has it authorized the Special Master to exercise unbounded discretion in order to remedy the unconstitutional districts. Rather, the Court has ordered the Special Master to redraw Enacted 2017 State Senate Districts 21 and 28 and State House Districts 21 and 57 in order to remedy those districts' violation of the Equal Protection Clause of the Fourteenth Amendment. It has also ordered redrawing of Enacted 2017 State House Districts 36, 37, 40, 41, and 105 because the General Assembly, in redrawing those districts in the 2017 Plan, may have violated the provision of the North Carolina State Constitution prohibiting redistricting more than once a decade.

In formulating a remedial plan, the Special Master is constrained by the applicable law and redistricting principles that guide remedial plans of this type. In its November 1st Order, the Court set forth the principles that would define the Special Master's plan:

- a. Redraw district lines for the Subject Districts and any other districts within the applicable 2017 county grouping necessary to cure the unconstitutional racial gerrymanders. As to House District 57, the redrawn lines shall also ensure that the unconstitutional racial gerrymanders in 2011 Enacted House Districts 58 and 60 are cured. As to 2011 Enacted House Districts 33, 38, 99, 102, and 107, no 2011 Enacted House Districts which do not adjoin those districts shall be redrawn unless it is

- necessary to do so to meet the mandatory requirements set forth in Paragraphs 2(b) through 2(e) of this Order, and if the Special Master concludes that it is necessary to adjust the lines of a non-adjointing district, the Special Master shall include in his report an explanation as to why such adjustment is necessary.
- b. Use the 2010 Federal Decennial Census Data;
 - c. Draw contiguous districts with a population as close as possible to 79,462 persons for the House Districts and 190,710 persons for the Senate Districts, though a variance up to +/- 5% is permitted and authorized if it would not conflict with the primary obligations to ensure that remedial districts remedy the constitutional violations and otherwise comply with state and federal law, would enhance compliance with state policy as set forth in subsection (f) below, and would not require redrawing lines for an additional district.
 - d. Adhere to the county groupings used by the General Assembly in the 2017 Enacted Senate and House Plans;
 - e. Subject to any requirements imposed by the United States Constitution or federal law, comply with North Carolina constitutional requirements including, without limitation, the Whole County Provision as interpreted by the North Carolina Supreme Court.
 - f. Make reasonable efforts to adhere to the following state policy objectives, so long as adherence to those policy objectives does not conflict with the primary obligations of ensuring that remedial districts remedy the constitutional violations and otherwise comply with state and federal law:
 - i. Split fewer precincts than the 2011 Enacted Districts;
 - ii. Draw districts that are more compact than the 2011 Enacted Districts, using as a guide the minimum Reock (“dispersion”) and Polsby-Popper (“perimeter”) scores identified by Richard Pildes & Richard Niemi, Expressive Harms, “Bizarre Districts,” and Voting Rights: Evaluating Election-District Appearances After Shaw v. Reno, 92 Mich. L. Rev. 483 (1993); and
 - iii. Consider municipal boundaries and precinct lines.
 - g. After redrawing the districts, in view of the policy decision by the General Assembly that efforts to avoid pairing incumbents are in the interest of North Carolina voters, the Special Master may adjust district lines to avoid pairing any incumbents who have not publicly announced their intention not to run in 2018, but only to the extent that such adjustment of district lines does not interfere with remedying the constitutional violations and otherwise complying with federal and state law. Additionally, the Special Master shall treat preventing the pairing of incumbents as “a distinctly subordinate consideration” to the other traditional redistricting policy objectives followed by the State. Ga. State Conf. of NAACP v. Fayette Cty. Bd. of Comm’rs, 996 F. Supp. 2d 1353, 1363 (N.D. Ga. 2014) (collecting cases).

- h. Except as authorized in Paragraph 2(g), the Special Master shall not consider incumbency or election results in drawing the districts.

Underlying the Court's prohibition on examining election returns or prioritizing incumbency is reliance on a bedrock principle that the Special Master's Plan shall be constructed in a nonpartisan fashion. This is not to say that the plan will not have partisan, incumbency-related, or other electoral effects – all redistricting plans do. Rather, the principles that guide the production of the plan must be nonpartisan in nature and the changes to the districts must be explainable on that basis. The Special Master's Draft Plan was drawn without consideration of the location of incumbents' residences, so that the incorporation of incumbency in the final plan can be achieved on a nonpartisan basis. As explained further in the order at the conclusion of this document, the parties are asked to propose alterations to the Special Master's Draft Plan to incorporate incumbency. However, the final plan will only accommodate such changes if they do not degrade the underlying features of the plan as expressed in the Court's November 1st Order.

Summary Explanation of Districts in the Special Master's Draft Plan

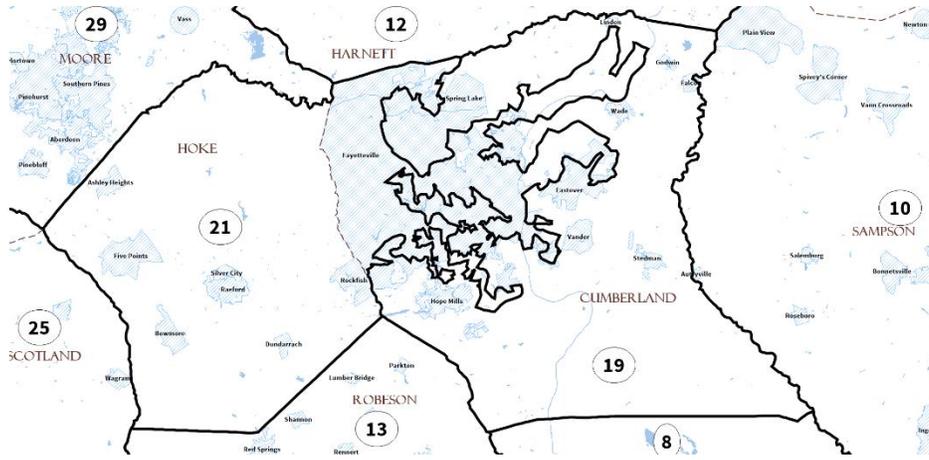
Senate Districts 19 and 21

The Court struck down District 21 in the 2011 Senate Plan as a violation of the Fourteenth Amendment's prohibition on excessive race consciousness in districting. The Court continues to have serious constitutional concerns with the district as redrawn in 2017. The Special Master's Draft Plan attempts to remedy the suspected constitutional infirmity by removing any residuum of racial predominance that may have been expressed in the 2017 configuration of the district.

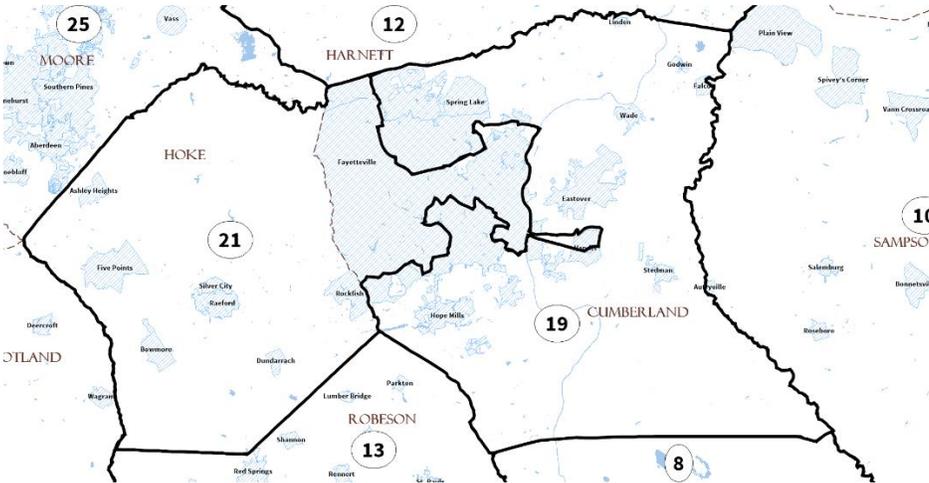
As newly drawn in the Special Master's Draft Plan, District 21 is a compact district spanning Hoke and Cumberland counties. By moving north and taking in Spring Lake, District 21 avoids the jutting arm into Fayetteville that characterizes the 2017 version of the district. It is constructed of whole precincts – not a single one is divided in the construction of this district. It takes in the entire town of Spring Lake (as defined by the boundaries identifying it as a “Census Designated Place” or CDP) and just enough of Fayetteville so as to comply with one person one vote. The boundaries of the district are determined by the shape of the precinct boundaries.

North Carolina Senate: Hoke and Cumberland Counties

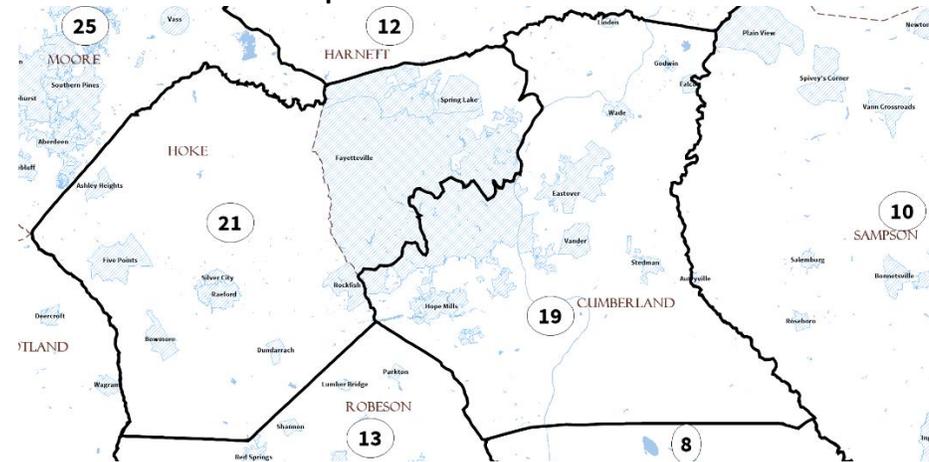
2011 Plan



2017 Plan



Special Master's Draft Plan

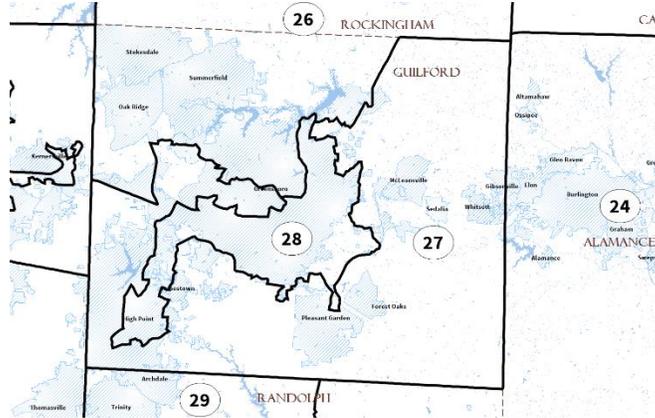


Senate District 28 and the surrounding districts in Guilford County

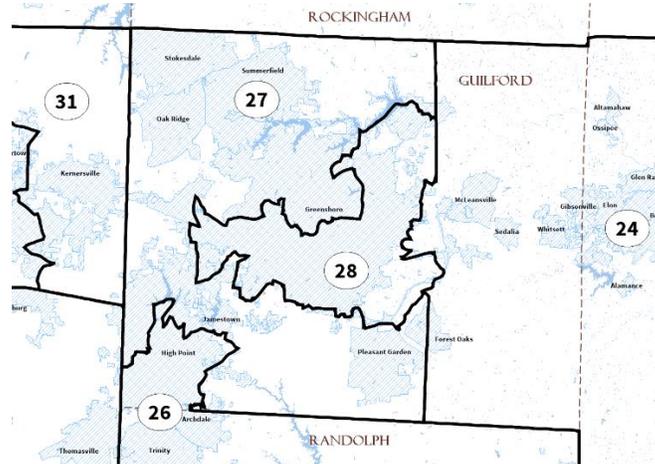
For similar reasons explained above as to District 19, the Court struck down the 2011 version of Senate District 28 and continues to harbor constitutional concerns as to racial predominance with regard to the district's 2017 configuration. As expressed in the Special Master's draft plan, the newly configured district is a compact district -- almost a perfect circle, which is the shape privileged by the Roeck and Polsby-Popper compactness measures features in the Court's Order. The newly drawn district is contained almost completely within the city (CDP) of Greensboro, and is made up of whole precincts. 2017 Enacted District 26 remains untouched, per the Court's order that the Special Master's Plan may only alter districts necessary to remedy the legal infirmity of the subject districts. District 24 is slightly changed by moving west to the Greensboro CDP border to accommodate the new boundaries of District 28. District 27 "retreats" from most of central Greensboro so as to contain much of the outskirts of Greensboro along with nearby towns of Summerfield, Oak Ridge and Stokesdale.

North Carolina Senate: Guilford County

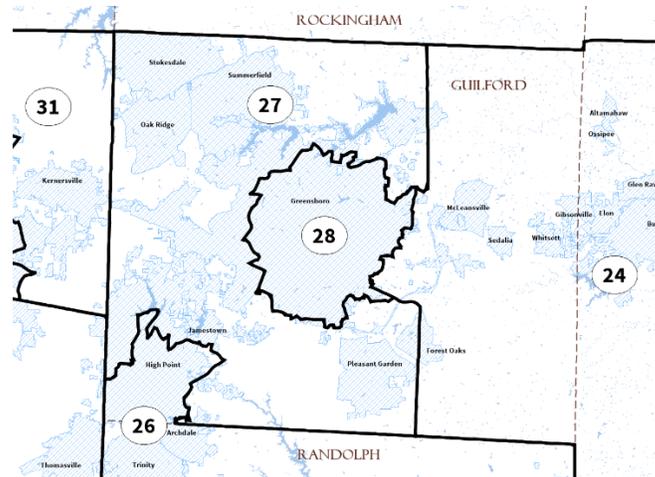
2011 Plan



2017 Plan



Special Master's Draft Plan

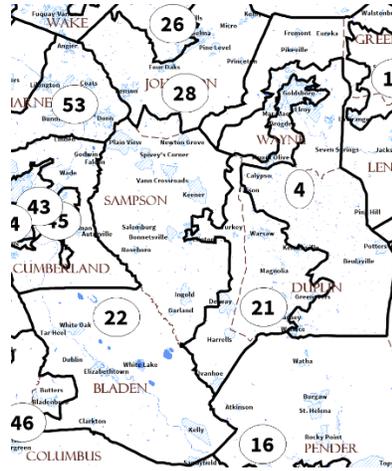


House Districts 21 and 22

As with the Senate Districts described above, the Court struck down House District 21 as a violation of the Equal Protection Clause of the Fourteenth Amendment. Because of the district's continued non-compactness, the Court's concerns as to excessive race-consciousness appear to remain in Enacted 2017 District 21. The Special Master's Draft Plan addresses this lack of compactness by smoothing out the border in Sampson County, thereby avoiding the selective inclusion of heavily African American precincts that characterized the 2011 and 2017 versions of the district. The District continues to retain its configuration in Wayne County, which is principally defined by the boundaries of Goldsboro. Because Districts 21 and 10 approach the upper limit (exactly five percent deviation) of what is permissible under one-person, one-vote, a few precincts needed to be split in Sampson, but are configured in such a way as to maximize the compactness of the district.

North Carolina House: Bladen, Sampson and Wayne Counties

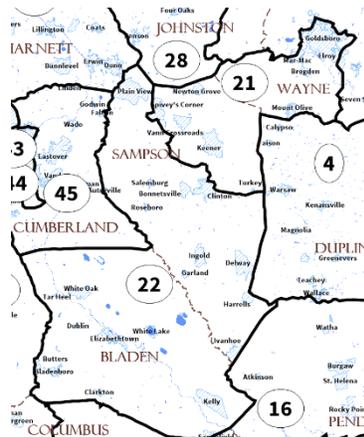
2011 Plan



2017 Plan



Special Master's Draft Plan



House District 57 and Surrounding Districts in Guilford County

The Court continues to harbor concerns as to the constitutionality of Enacted 2017 House District 57. Because the District retains a backwards “L shape” along the eastern side of Greensboro, according to the Court, it perpetuates the racial predominance of its predecessor district by over-concentrating the African American population in the area. The Special Master’s Draft Plan addresses the legal infirmity in this district by moving the district north and west so as to create a compact district in north Greensboro.

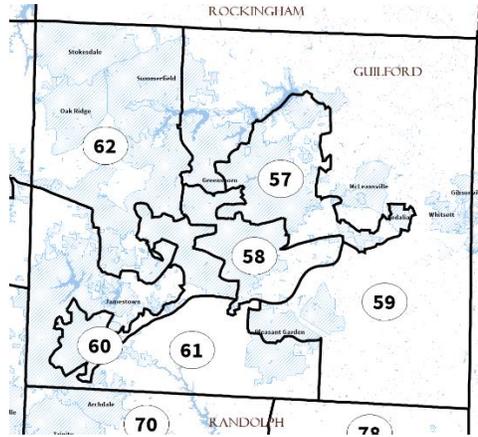
The directions from the Court with respect to redrawing this district are more specific than for others in the remedial plan. “As to House District 57,” the Court’s Order directs, “the redrawn lines shall also ensure that the unconstitutional racial gerrymanders in 2011 Enacted House Districts 58 and 60 are cured.” This direction presents additional constraints as to how the districts adjoining District 57 must be drawn. In particular, there is a danger that once District 57 moves north, that the districts below it will move north and assume a similar configuration to those struck down in the 2011 plan. In addition, because District 60 does not abut the Subject District and therefore need not be redrawn, it places a “floor” that determines the shape of the remaining districts in Greensboro.

Districts 58 and 61 in the Special Master’s Draft Plan, therefore, move from southeast to northwest, but remain entirely within the CDP of Greensboro. Their configuration is determined by four factors: (1) avoiding replication of the constitutional defects in the analogous 2011 districts; (2) staying within the boundaries of Greensboro, (3) not altering the boundaries of District 60, and (4) doing so by not splitting any new precincts with the redrawn districts. District

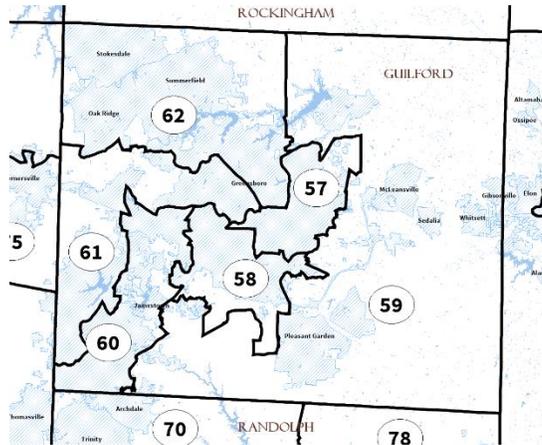
59 retains most of its current configuration, except that it now more closely “hugs” the southern border of Greensboro. Because newly redrawn District 57 moves northwest, it “pushes” District 62 west and south along the border with Forsyth County thereby taking up the territory there that had been included in 2017 Enacted District 61.

North Carolina House: Guilford County

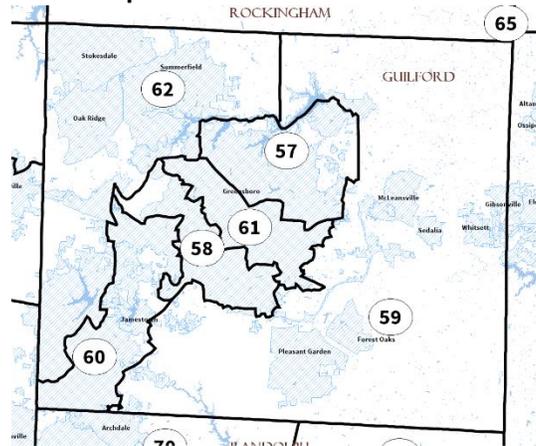
2011 Plan



2017 Plan



Special Master's Draft Plan



Wake County Districts

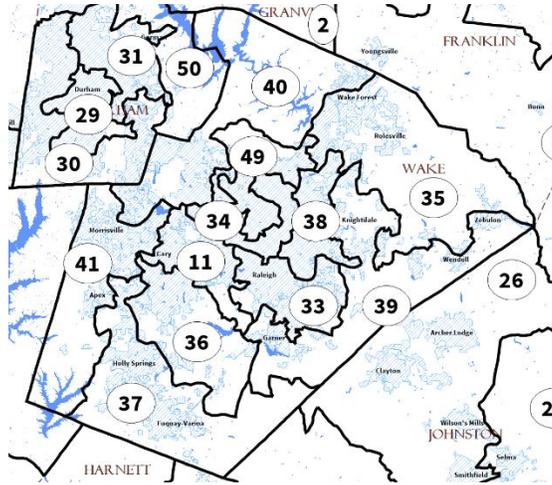
The legal infirmity in the districts in Wake County and Mecklenburg County is characteristically different than those in the previous districts described and therefore requires a different type of remedy. The Court has not called into question any of the 2017 districts that themselves were redrawn to address the racial predominance in their prior incarnation. Rather, in those two counties, the Court has called into question under the state constitution the 2017 Enacted Districts that were unnecessarily redrawn to address constitutional infirmities as to racial predominance in several of the 2011 Enacted Districts. In Wake County, the districts deemed unnecessary to be redrawn are 2011 House Districts 36, 37, 40 and 41. By redrawing those districts, which did not adjoin the unconstitutional districts in Wake County, the plan raises concerns for the Court under the provision of the state constitution that prohibits redistricting more than once a decade.

To address this violation of the state constitution, the Court has ordered the Special Master to recreate the 2011 House Districts 36, 37, 40 and 41. Once redrawn, it becomes necessary to reallocate populations among the districts that did, in fact, adjoin the previously unconstitutional districts. Reinstating the old districts, most of which adhere to the county boundary, provides an exterior frame within which the reallocation of population must occur. The remaining Enacted 2017 districts are the basemap from which the Special Master's Draft Plan is created, but significant redrawing must occur in some districts because of the "leftover" population that remains once the 2011 districts are reinstated. For the most part, the configurations of the districts are determined by moving District 33 to the county border and then shifting the remaining interior districts clockwise until they achieve population equality. By reinstating the 2011 districts, several precincts are now split that were not under the 2017 plan.

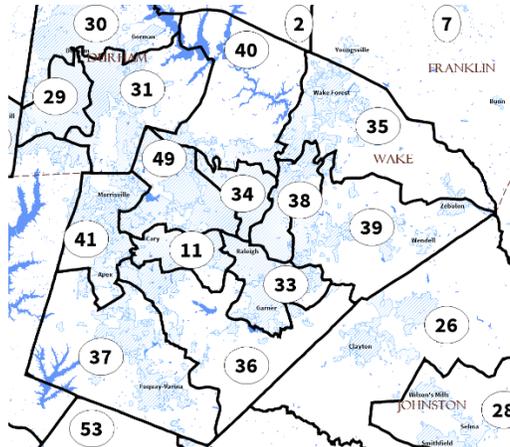
However, the Special Master's Draft Plan does not add any more split precincts and in, fact, recombines some precincts that were split with the 2011 or 2017 plan.

North Carolina House: Wake County

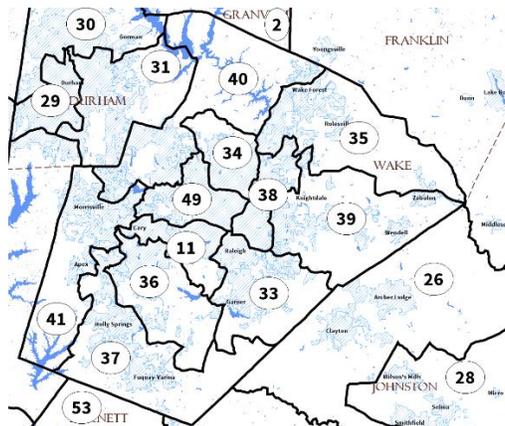
2011 Plan



2017 Plan



Special Master's Draft Plan

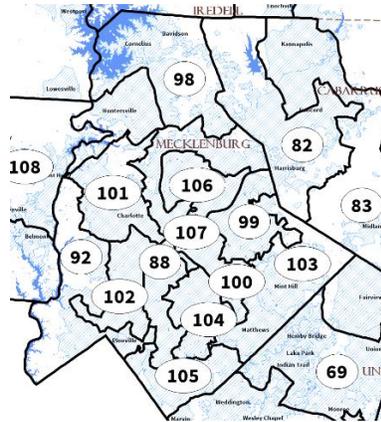


Mecklenburg County Districts

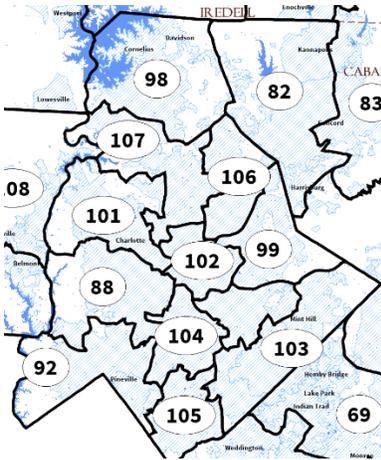
The dynamic in Mecklenburg County is the same as in Wake, but fewer districts need to be redrawn to address the 2017 Enacted Plan's violation of the state constitution. Only 2017 Enacted District 105 raised concerns for the Court and needs to be reinstated. As a result, only 2017 Enacted Districts 92, 103, 104, and 105 need to be redrawn to cure the state constitutional violation. As District 105 moves south, Districts 92, 103, and 104 move into the territory closest to each one of those districts. The exact configurations are determined by a decision to keep precincts whole (outside of those already broken by 2011 Enacted District 105), to keep the districts in the area relatively compact and contiguous, and to make only the changes necessary to remedy the constitutional violation.

North Carolina House: Mecklenburg County

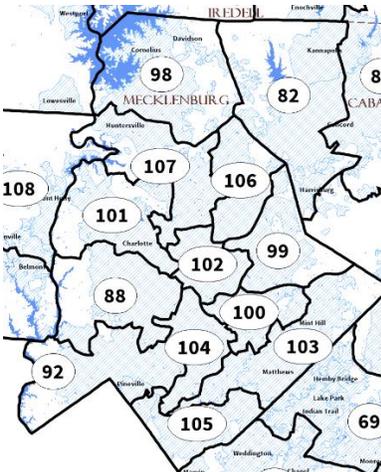
2011 Plan



2017 Plan



Special Master's Draft Plan



ORDER

1. The parties are ordered to submit to the Special Master proposed objections and revisions to the Special Master's Draft Plan by November 17, 2017. Briefs are limited to 25,000 words. In particular, the parties are encouraged to include in these submissions suggestions as to how incumbents shall be unpaired without degrading the underlying features of the plan, as specified in the Court order. The parties shall also then specify any disagreements they have as to which incumbents are seeking reelection in 2018. Reply briefs shall be submitted by November 21, 2017 and shall not exceed 10,000 words. In their replies, the parties are encouraged to identify which proposed changes of the plaintiffs and defendants, if any, are jointly supported by the parties.
2. The parties are further ordered to supply to the Special Master by November 14, 2017, in electronic form, a geographic layer to be incorporated into Maptitude for Redistricting, that includes and identifies the location of the residences of all current incumbents in the North Carolina General Assembly.

SO ORDERED, this the 13th day of November, 2017.

/s/
Nathaniel Persily
Special Master

Exhibit 8

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

SANDRA LITTLE COVINGTON, *et al.*,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, *et al.*,

Defendants.

No. 1:15-cv-399

**PLAINTIFFS’ RESPONSE AND PROPOSED MODIFICATIONS TO THE
SPECIAL MASTER’S DRAFT PLAN**

Plaintiffs have carefully analyzed the Special Master’s Draft Plan (hereinafter, “Draft Plan”) and have concluded that the plan does remedy the constitutional flaws in the legislature’s 2017 enacted plan. Because the Special Master has invited “suggestions as to unpairing incumbents or otherwise,” ECF 212 at 1, Plaintiffs here offer some suggestions to unpair incumbents, and a few other slight proposed revisions to the Draft Plan. Such suggestions are offered only where, in accordance with the Court’s and Special Master’s instructions, those modifications take into account the state’s legislative policy preferences as expressed in the state’s adopted redistricting criteria, see ECF 212 at 3, and “do not degrade the underlying features of the plan as expressed in the Court’s November 1st order.” ECF 212 at 4.

I. House Districts 57 and Surrounding Districts in Guilford County

Plaintiffs’ analysis of the proposed changes to House Districts in Guilford County indicates that the racial gerrymandering has been cured. However, the reconfigured

districts do pair two sets of incumbents: African-American Democrat Amos Quick, currently representing House District 58, and White Republican Jon Hardister, currently representing House District 59, are paired in Draft Plan House District 59; White Democrat Pricey Harrison, currently representing House District 57, and White Republican John Blust, currently representing House District 62, are paired in Draft Plan House District 61. Districts 57 and 58 in the Draft Plan are left with no incumbent.

Plaintiffs believe that Representative Quick and Representative Hardister can be unpaired easily without degrading the underlying features of the plan. Representative Quick lives in Precinct SUM2, which is immediately adjacent to Draft Plan House District 58, which has no incumbent. There are two options for moving Representative Quick to open District 58:

- (1) Rep. Quick's entire precinct could be added to HD 58. This change would not make HD 59 or HD 58 over- or under-populated.
- (2) Rep. Quick lives at the northern end of Precinct SUM2, closer to the border with HD 58, so the precinct could be split to add only the top portion of SUM2 to HD 58.

Moving the entire precinct SUM2 to HD 58 does make HD 58 less compact than it is in the Draft Plan, but it is still within acceptable compactness ranges and much more compact than districts in the 2011 Plan.¹ Splitting the SUM2 precinct would make HD

¹In the Draft Plan, HD 58 scores 0.27 on Reock and 0.15 on Polsby-Popper. Plaintiffs' proposed version of HD 58 that moves the entire SUM2 precinct scores 0.23 on Reock and 0.13 on Polsby-Popper. Thus, the Plaintiffs' Proposed whole-precinct modification

58 more compact—comparable to the version in the Draft Plan²—but it would split a precinct where the Draft Plan in Guilford County currently split no precincts. In Plaintiffs’ view, both options are acceptable—neither significantly degrades the underlying plan in terms of compactness or respect for precincts and municipal boundaries. Plaintiffs offer both options to the Special Master—the maps presented in Exhibit A (the whole precinct map is at page 1 and the split precinct map is at page 2) and the shapefiles being served via email—but express no preference in terms of which option best complies with the Court’s directives to the Special Master.

II. Wake County Districts

Plaintiffs propose two small modifications to the Wake County Districts in the Special Master’s Draft Plan. First, and most importantly, Plaintiffs have observed an apparently inadvertent violation of the North Carolina Constitution’s prohibition on mid-decade redistricting. The Special Master was instructed by the Court to “recreate the 2011 House Districts 36, 37, 40 and 41” because the modification of those districts in the 2017 plan exceeded the court’s order to remedy the two districts found to be racial gerrymanders. ECF 212 at 14 (Special Master’s Order on Draft Plan); *see also* ECF 206 at 2-3 (Court’s Order Appointing Special Master). It appears that the Draft Plan

is slightly less compact than the Draft Plan, but not in a way that degrades the plan in any significant way.

² In the Draft Plan, HD 58 scores 0.27 on Reock and 0.15 on Polsby-Popper. Plaintiffs’ proposed version of HD 58 that adds only the northern part of precinct SUM2 scores 0.24 on Reock and 0.14 on Polsby-Popper. Plaintiffs’ proposed split-precinct modification is thus more compact than the whole-precinct modification, and essentially comparable to the Special Master’s Draft Plan version of the district.

inadvertently makes one precinct whole that was split in the 2011 version of HD 40. *See* Ex. A at 3. That is precinct 08-10, which is split in the 2011 version of HD 40 but is whole in the Draft Plan version of HD 40. Plaintiffs recommend slightly modifying the Draft Plan's version of HD 40 to restore it entirely to its 2011 version, including that split precinct. Significantly, restoring HD 40 to its 2011 form has ripple effects on at least two additional districts—certainly HD 49 and potentially HD 34. Splitting the precinct in HD 40 means that population is moved to HD 49, which then becomes overpopulated, and some population must be moved to an adjacent district. HD 34 is an obvious choice to receive that additional population from HD 49. The other districts that were to be restored to their 2011 versions (36, 37 and 41) have been perfectly restored.

Second, in the Draft Plan, two incumbents are paired. Democrat Cynthia Ball, currently representing House District 49, and Democrat Grier Martin, currently representing House District 34, are now paired in Draft Plan House District 49, while House District 34 is left with no incumbent. Representative Martin lives in Precinct 01-10, which is near the edge of Draft Plan District 49, making it easy to move him out of that district. Plaintiffs' proposed modification moves only six precincts between the two affected districts—Precincts 07-03 and 07-09 are moved from District 34 to District 49, and Precincts 01-10, 01-11, 01-12 and 01-36 are moved from District 49 to District 34. These modifications unpair the incumbents, keep the two districts within acceptable population deviations, have no impact on municipal boundary splits, do not split any precincts, and create two districts that are comparably compact to the same two districts

in the Draft Plan.³ The two districts are maintained in the same region and retain the same general shape as they have in the Draft Plan. The map displaying Plaintiffs' proposed modifications to Wake County House Districts is can be seen in Exhibit A at page 4.

III. Plaintiffs Make No Suggested Changes to the Following Districts

A. Mecklenburg County – HD 92, 103, 104, and 105

Plaintiffs' analysis of the proposed changes in this county in the Draft Plan indicates that the racial gerrymandering has been cured and that no incumbents intending to run in 2018 are paired by the configuration of the districts. Thus, Plaintiffs lodge no objections or proposed modifications to House Districts 92, 103, 104, and 105 in the Draft Plan.

B. Guilford County – HD 61

While Plaintiffs are able to recommend changes to the pairing of Representatives Hardister and Quick in Guilford county, *see supra* at Section I, at 1-3, unpairing Representative Blust and Representative Harrison is much more challenging.

³ The change in compactness scores in HD 49 and 34 cannot be attributed entirely or even predominantly to the unpairing of Representatives Ball and Martin. Both of those districts were modified to accommodate the restoration of HD 40 and even out the population between districts in that area. Notwithstanding that fact, the compactness scores of the districts in the Special Master's plan and the Plaintiffs' suggested revisions are comparable. HD 49 in the Draft Plan scores 0.41 on Reock and 0.33 on Polsby-Popper. HD 49 in the Plaintiffs' Proposed Wake Modification scores 0.46 on Reock and 0.30 on Polsby-Popper. HD 34 in the Draft Plan scores 0.46 on Reock and 0.53 on Polsby-Popper. HD 34 in the Plaintiffs' Proposed Wake Modification scores 0.44 on Reock and 0.43 on Polsby-Popper. Thus, the Special Master's version of HD 34 is only very slightly more compact than Plaintiffs' suggested version, but that may be due to the restoration of HD 40. With HD 49, the Special Master's version scores better on Polsby-Popper and the Plaintiffs' version scores better on Reock. Ultimately, Plaintiffs' suggested modifications do not degrade the compactness of the Special Master's plan.

Representative Blust lives in Precinct FR3, which is at the edge of Draft Plan House District 61 and directly adjacent to House District 62. But moving Representative Blust into that District pairs Rep. Blust with Republican Representative John Faircloth, and has no other added advantages in terms of compactness or municipal boundaries. In addition, based on where Rep. Blust and Rep. Harrison live, it is not possible to move either of them into the open HD 57 without significantly degrading the underlying features of the plan. Thus, it seems like this pairing may be unavoidable, particularly given the fact that the Court has instructed that preventing the unpairing of incumbents is a “distinctly subordinate consideration.” ECF 212 at 3.

C. Sampson, Wayne, and Bladen Counties – HD 21 and 22

Plaintiffs’ analysis of the proposed changes in this area of the state in the Draft Plan indicates that the racial gerrymandering has been cured and that no incumbents intending to run in 2018 are paired by the configuration of the districts. Thus, Plaintiffs lodge no objections to House Districts 21 and 22 in the Draft Plan nor have any proposed modifications.

D. Cumberland and Hoke Counties – SD 19 and 21

Plaintiffs have no objection or proposed modification to Senate Districts 19 and 21 in the Draft Plan, although there is a potential pairing of Senators Clark (African-American Democrat) and Meredith (White Republican), using Senator Clark’s new house in Fayetteville. *See* ECF 208, Ex. 2. Plaintiffs have not been able to create a map that cures

the racial gerrymander, unpairs Senator Clark's new home from Senator Meredith's residence, and maintains the underlying features of the plan.

E. Guilford County – SD 28

Plaintiffs' analysis of the proposed changes to Senate District 28 indicates that the racial gerrymandering has been adequately cured. As with the Senate Districts in Cumberland County, there are two incumbents paired—African-American Democrat Gladys Robinson, currently representing Senate District 28, and White Republican Senator Trudy Wade, currently representing Senate District 27, are paired in Draft Plan Senate District 27.

Plaintiffs have not been able to design a configuration of Senate Districts in this cluster that would both cure the racial gerrymandering in Senate District 28, leave Senate District 26 untouched, *see* ECF 212 at 7, not degrade the underlying features of the plan, and not pair these two incumbents.

CONCLUSION

Therefore Plaintiffs respectfully make the foregoing proposed slight adjustments to the Special Master's draft plan. Shapefiles with these proposed changes are being served upon the parties and the Special Master with the filing of this brief.

Respectfully submitted this 17th day of November, 2017.

POYNER SPRUILL LLP

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SOCIAL JUSTICE**

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I hereby certify that on this date I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will provide electronic notification of the same to the following:

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This 17th day of November, 2017.

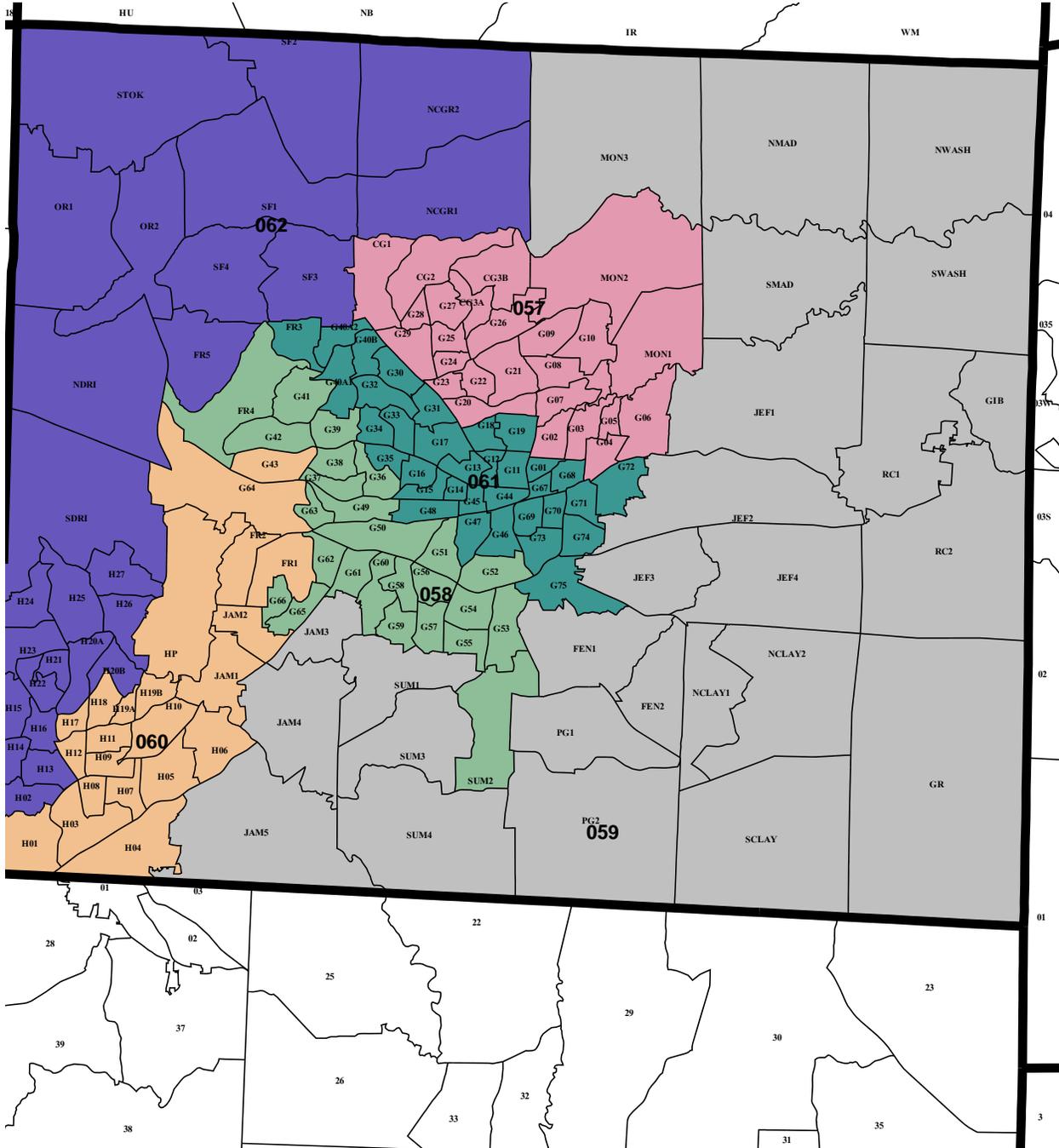
/s/ Allison J. Riggs
Allison J. Riggs

Counsel for Plaintiffs

Exhibit A

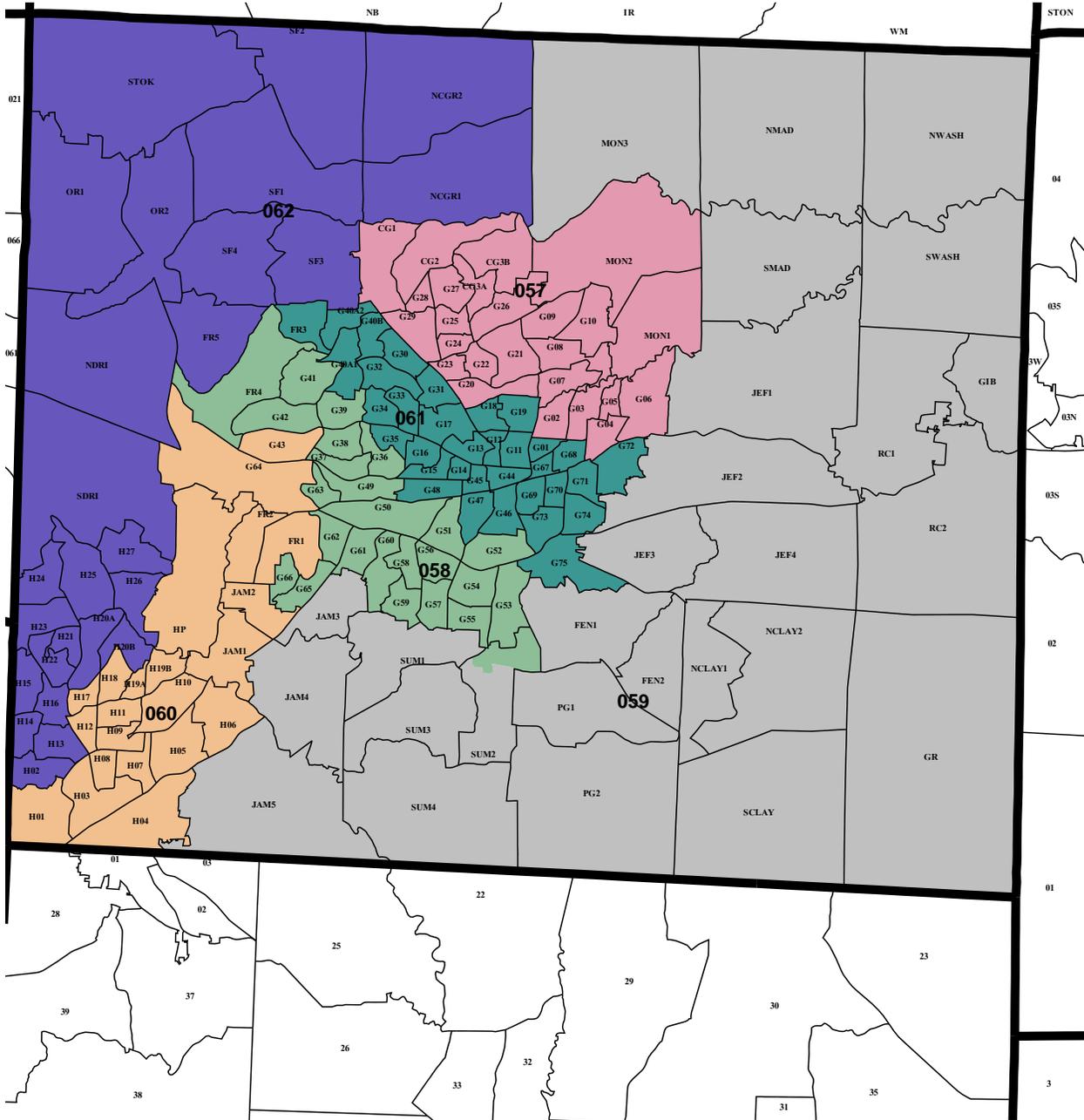
Plaintiffs' Suggested Modification to House Districts 58 and 59 in Guilford County

(Whole precinct SUM2 moved)



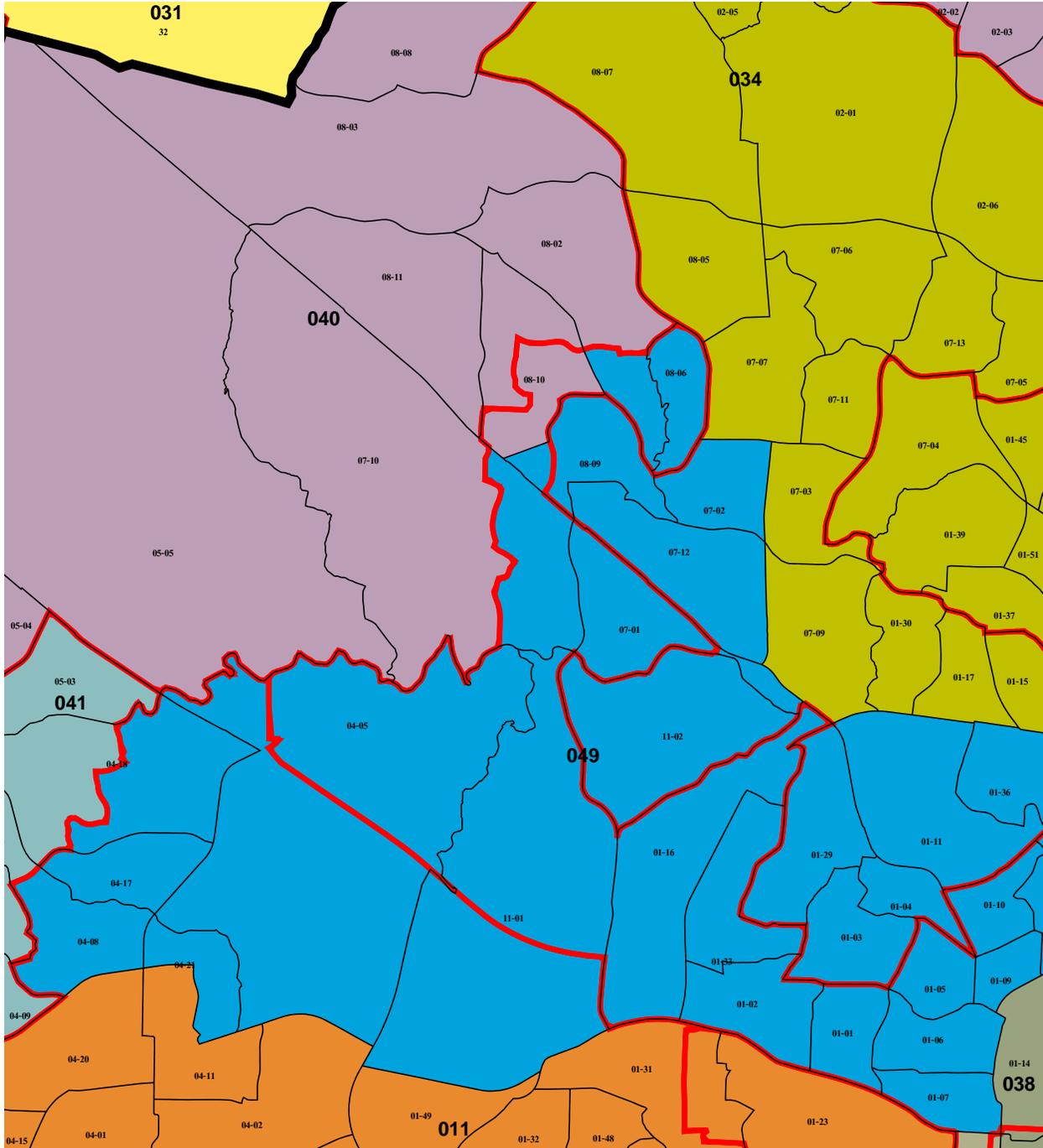
Plaintiffs' Suggested Modification to House Districts 58 and 59 in Guilford County

(Precinct SUM2 split)



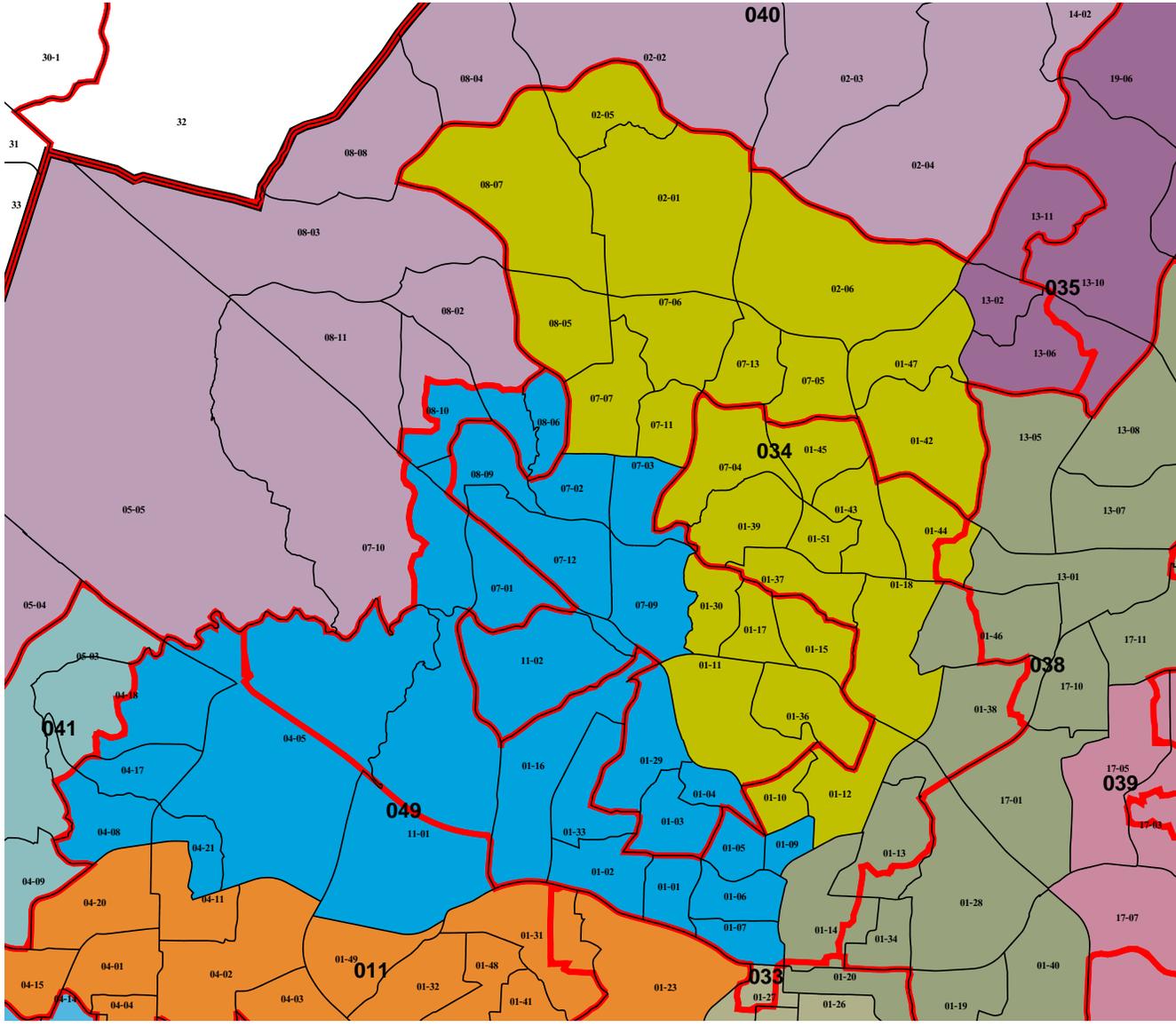
Special Master's House Draft Plan in Wake County

(Red lines are 2011 House district borders)



Plaintiffs' Suggested Modifications to House Districts 34, 40, and 49 in Wake County

(Red lines are 2011 district borders)



**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

SANDRA LITTLE COVINGTON, *et al.*,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, *et al.*,

Defendants.

No. 1:15-cv-399

**PLAINTIFFS' RESPONSE TO LEGISLATIVE DEFENDANTS' NOVEMBER 17,
2017 FILING**

The Special Master instructed the parties to provide proposed objections and revisions to the Draft Plan and specifically encouraged the parties to include suggestions as to how incumbents should be unpaired. ECF 212 at 19. Legislative Defendants provide only abstract objections, not meaningfully engaging with any element of the Draft Plan, and offer no alternative plan or suggestions for unpairing incumbents for the Special Master's consideration (or upon which Plaintiffs could comment). Indeed, this lack of meaningful response from Legislative Defendants is surprising since a large portion of their brief complains about the absence of another chance to remedy the continued unconstitutionality in the 2017 enacted plan. When presented with an opportunity by the Special Master to do just that, Legislative Defendants declined.

Nonetheless, Plaintiffs submit the following observations to assist the Special Master in completing the task assigned to him.

I. UNDER THE NORTH CAROLINA CONSTITUTION, THE COURT DID NOT AUTHORIZE THE LEGISLATURE TO ENGAGE IN MID-DECADE REDISTRICTING BEYOND THAT WHICH WAS NECESSARY TO REMEDY RACIAL GERRYMANDERING, AND THUS THE SPECIAL MASTER’S MODIFICATIONS ARE APPROPRIATE

Legislative Defendants’ continued protestations that the legislature was free to make any changes it saw fit to all Wake and Mecklenburg County House Districts during the 2017 remedial process defies all logic and legal reasoning. A federal court can only authorize a legislature to depart from state constitutional demands insofar as is necessary to correct violations of federal law. *See Cleveland Cnty. Ass’n for Gov’t by the People v. Cleveland Cnty. Bd. of Comm’rs*, 142 F.3d 468, 477 (D.C. Cir. 1998) (per curiam) (“[I]f a violation of federal law *necessitates* a remedy barred by state law, the state law must give way; if no such violation exists, principles of federalism dictate that state law governs.”). The Court’s reading of Article II, Sections 3(4) and 5(4) of the North Carolina constitution is neither “novel,” Defs’ Br. at 13, nor inconsistent with North Carolina state law precedent. It is difficult to imagine any directive more “clear, complete, and unmistakable,” *Kornegay v. Goldsboro*, 180 N.C. 441, 445, 105 S.E. 187, 189 (1920), than the plainly-worded rule that legislative districts “shall remain unaltered until the return of another decennial census.” N.C. CONST. art. II §§3(4) and 5(4).

In Wake and Mecklenburg Counties, it is factually incorrect that “the shapes and locations of the non-adjointing districts were directly caused by the location of the illegal districts,” Defs’ Br. at 13-14, and thus must somehow be altered in correcting the racial gerrymanders. Plaintiffs’ proposed maps for these two counties, introduced during the

legislative session and presented to this Court, demonstrate that the racial gerrymanders can be remedied without touching the five implicated districts, and there is no “domino effect” on every district in the county. Defs’ Br. at 14. Were the Special Master to suggest to the court that the legislature should have free rein to redistrict county-wide, even where such alterations are not necessary to remedy a federal law violation, then the Court would commit the very errors that were central in *Perry v. Perez*, 565 U.S. 388, 392 (2012), where a federal court erroneously disregarded state law and policy. The Special Master should decline to offer such poor advice.

II. THE AVAILABILITY OR USE OF RACIAL DATA DOES NOT EQUATE TO RACIAL PREDOMINANCE IN REDISTRICTING

Legislative Defendants’ only remotely-specific condemnation of the Draft Plan is that the Special Master employed “racial sorting” in the plan. Defs’ Br. at 15. As Legislative Defendants should know—after years of litigation over its 2011 maps and three recent United States Supreme Court decisions reiterating the standards for the appropriate use of race—the consideration of race in redistricting does not condemn a plan as an unconstitutional racial gerrymander. *See Bush v. Vera*, 517 U.S. 952, 993 (1996) (O’Connor, J., concurring); *see also Doe v. Lower Merion Sch. Dist.*, 665 F.3d 524, 555 (3d Cir. 2011); *Prejean v. Foster*, 227 F.3d 504, 509 (5th Cir. 2000); *Shirt v. Hazeltine*, 461 F.3d 1011, 1019 (8th Cir. 2006). The use of race in drawing district lines only triggers heightened scrutiny where race is “the predominant factor motivating the [mapdrawer’s] decision to place a significant number of voters within or without a particular district.” *Ala. Legis. Black Caucus v. Alabama*, 135 S. Ct. 1257, 1267 (2015) (quoting *Miller v. Johnson*,

515 U.S. 900, 916 (1995)) (“*ALBC*”); *see also Cooper v. Harris*, 137 S. Ct. 1455, 1463 (2017); *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 794 (2016).

These three recent cases paint a detailed picture of what actually constitutes a mechanical racial target. *See ALBC*, 135 S. Ct. at 1257, 1271 (finding that the “primary redistricting goal [] to maintain existing racial percentages in each majority-minority district” was a mechanical racial target); *Cooper*, 137 S. Ct. at 1468-69 (holding that a prerequisite that certain districts “must include a sufficient number of African-Americans” to make the “majority black district[s],” regardless of the level of racially polarized voting in the region, is a “textbook example of race-based districting”) (internal quotations omitted); *Bethune-Hill*, 137 S. Ct. at 802 (ruling that the legislature’s predetermination that each district that elected an African-American representative must have, as redrawn, at least 55% black voting age population was, in all but one instance, an unjustified racial target). Contrary to Legislative Defendants’ allegations, mechanical racial targets do not exist and predominate in the redistricting process where, in areas of the state with substantial African-American populations, compact districts drawn from whole precincts and respecting political subdivisions might have black voting age populations ranging from 39% to 43.6%. Defs’ Br. at 15. This geographically-predictable outcome is neither surprising nor constitutionally suspect. There is no racial gerrymandering or racial sorting in the Draft Plan because there is neither “circumstantial evidence of a district’s shape and demographics” that race predominated “or more direct evidence going to [] purpose.” *Bethune-Hill*, 137 S. Ct. at 797. In making these specious claims, Legislative Defendants

can point to no evidence that the Special Master “subordinated traditional race-neutral districting principles . . . to racial considerations,” because none exists. *Id.*

CONCLUSION

The three-judge panel provided the Special Master with detailed instructions on how to construct a proposed remedial map, *see, e.g.*, Court Order, ECF 206 at 5-13 (detailing, among other things, the data the Special Master was to obtain or refrain from using, the traditional redistricting criteria he was to respect, and many others). The Special Master’s Draft Plan evidences that he understood the detailed instructions from the Court and has a firm grasp on compliance with the United States Supreme Court’s precedent on racial gerrymandering.

Therefore, Plaintiffs respectfully urge the Special Master to reject Legislative Defendants’ broad and abstract objections, make only the proposed slight adjustments proposed by Plaintiffs to the Draft Plan, and otherwise present the Draft Plan to the Court for its consideration in its current form.

Respectfully submitted this 21st day of November, 2017.

POYNER SPRUILL LLP

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CERTIFICATE OF SERVICE

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Counsel for Defendants

This 21st day of November, 2017.

/s/ Allison J. Riggs
Allison J. Riggs

Counsel for Plaintiffs

Exhibit 9

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
NO. 1:15-CV-00399

SANDRA LITTLE COVINGTON, *et al.*,)
)
Plaintiffs,)
)
v.)
)
STATE OF NORTH CAROLINA, *et al.*)
)
Defendants.)
_____)

**LEGISLATIVE DEFENDANTS’
RESPONSE TO SPECIAL
MASTER’S DRAFT REPORT**

INTRODUCTION

Legislative defendants continue to object to the irregular and inappropriate process the Court has adopted in this case. The Court, and therefore, the special master, lack jurisdiction over the districts enacted by the legislature on August 31, 2017 (“2017 plans”) because the legislature fully complied with this Court’s judgment and the case is now moot.

In any event, none of the special master’s proposed districts should be adopted until the Court explains how all of the districts challenged by plaintiffs in their objections (“Subject Districts”) fail to remedy constitutional violations and gives North Carolina an opportunity to either correct them or seek appellate review.¹

¹ The process adopted by the Court for the appointment of the special master violates Rule 53, Fed. R. Civ. P., and the constitutional sovereignty of the State of North Carolina, including its legislature. Legislative defendants incorporate by reference all of their prior objections related to the appointment of Professor Persily as special master. D.E. 204. Legislative defendants renew their request to conduct a deposition or voir dire of the special master to examine the apparent conflicts raised by legislative defendants in prior briefing.

Indeed, absent a definitive ruling from the Court explaining how and why the 2017 Senate Districts 21 and 28 and House Districts 21 and 57 fail to remedy federal constitutional violations found by the Court, the special master has been left to speculate on the criteria that the Court might ultimately approve for redrawing these districts. While it is not completely clear what specific criteria the special master followed because they have not been articulated, it appears that the special master has engaged in racial sorting to establish districts with racial targets for black voting age population (“BVAP”) without citing or developing any evidence of legally significant racially polarized voting that might otherwise justify the use of race.² Because the special master has considered race—without justification or standard articulated by the Court or by him—in the drawing of his districts, those proposed districts—not the Subject Districts—are racial gerrymanders.

The special master should also recommend that the 2017 plans’ changes to House Districts 36, 37, 40, and 41 in Wake County and House District 105 in Mecklenburg County not be enjoined by the Court. Neither the Court nor the special master has

² The Supreme Court has made clear that a record must include evidence of statistically significant racially polarized voting *in a specific geographic area* before race can be considered in drawing a district encompassing that area. *Cooper v. Harris*, 137 S.Ct. 1455, 1471 (2017) (“*Harris*”). Indeed, in *Harris* the Supreme Court held that even though the record before the North Carolina General Assembly contained expert reports documenting statewide racially polarized voting, the evidence wasn’t sufficiently “local” enough to justify the State’s consideration of race in drawing specific districts. *Id.* and n.5. Here, the special master does not even have evidence of statewide racially polarized voting before him, much less evidence of statistically significant racially polarized voting in the districts that he created employing racial sorting. If the State’s record evidence in *Harris* was insufficient to support the use of race in redistricting, certainly the complete dearth of any such evidence before the special master prevents him from considering it.

jurisdiction to consider state constitutional claims made against the State of North Carolina, nor may the Court defer addressing the issue of its jurisdiction, once asserted, while it conducts an analysis of the merits of those claims. But, in any case, the special master has modified these districts based upon an erroneous interpretation of the North Carolina Constitution apparently adopted by the Court. Nothing under federal law would prevent the North Carolina General Assembly from adopting completely new, statewide districting plans at any time – much less changing “non-adjointing” districts whose shape and location were directly caused by the placement of the illegal districts. Whether any such action would violate the North Carolina Constitution is a question reserved to the Supreme Court of North Carolina and should not be decided by the special master or the Court.

1. This case is moot.

As previously explained by legislative defendants, this matter is moot and if plaintiffs want to pursue additional claims, they must file a new lawsuit. “[A]n actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.” *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67 (1997). “A case is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” *City of Erie v. Pap’s A.M.*, 529 U.S. 277, 287 (2000) (quoting *County of Los Angeles v. Davis*, 440 U.S. 625, 631 (1979)). Here, the Court has enjoined the use of the 2011 legislative plans and those plans will not be used. Moreover,

the legislature has now enacted new plans for the 2018 elections. There is therefore nothing left for the Court or the special master to do.³

Similarly, plaintiffs no longer have a concrete stake in the outcome of the case because they face no realistic threat of injury from the 2011 legislative plans. To maintain a live case or controversy:

[t]he parties must continue to have a “personal stake in the outcome” of the lawsuit. . . . This means that, throughout the litigation, the plaintiff “must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision.”

Spencer v. Kemna, 523 U.S. 1, 7 (1998) (quoting *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477–78 (1990)). For this reason, the doctrine of mootness is often characterized as “the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness).” *Arizonans for Official English*, 520 U.S. at 68 n.22; cf. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) (explaining that Article III standing requires the plaintiff to identify “a concrete and imminent invasion of a legally protected

³ The so-called “objections” filed by plaintiffs do not change this result. While the Court has the authority ultimately to enjoin some or all of the 2017 plans, it may only do so in the context of an actual live case or controversy between the parties, which does not exist absent a new lawsuit. Of course, a new lawsuit would permit the parties to engage in discovery and develop a factual record that the Court is preventing through the irregular process it has adopted in this case.

Moreover, plaintiffs have not cited any authority for the proposition that filing “objections” to a new redistricting plan may substitute for a live case or controversy created by a new lawsuit. Of course, had the Court (improperly) taken it upon itself to draw districts in the first instance, such authority would have been exercised under the case or controversy that previously existed between the parties. However, now that the legislature has adopted new plans to replace the 2011 plans, the case filed by plaintiffs over those plans is moot. See *Stephenson v. Bartlett*, 358 N.C. 219, 595 S.E.2d 112 (2004) (“*Stephenson III*”).

interest that is neither conjectural nor hypothetical”); *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 347 (1936) (Brandeis, J., concurring) (“The Court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation.”). Because the claims asserted by all plaintiffs are directed at legislation that has now been repealed and replaced, plaintiffs cannot demonstrate that they are likely to be harmed by the challenged redistricting plans. Plaintiffs’ inability to identify any threat of injury deprives them of a concrete stake in the outcome of this case, rendering the case moot and divesting this Court of subject matter jurisdiction.

2. It is an abuse of discretion for the special master to propose a plan before a final ruling on the constitutionality of the Subject Districts and without giving the General Assembly a chance to remedy any allegedly unlawful districts.

The special master should recommend to the Court that no districts be drawn by the special master or adopted by the Court until: (1) the Court makes a definitive ruling that explains why any of the specific subject districts are illegal; and (2) gives the State an opportunity to either remedy these new illegalities or seek appellate review.

First, it is inappropriate for the Court to authorize the special master to ask the legislative defendants to comment on, or propose revisions of, districts drawn by the special master when the legislative defendants do not themselves speak for the entire General Assembly. The General Assembly speaks for itself through legislation it enacts on a majority-rule basis. A few members of the legislature, even if they are leaders, are not authorized to state how the entire legislature would vote on, or amend, draft districts proposed by a law professor. The General Assembly spoke with one voice on August 31,

2017 when it adopted the 2017 plans, and those plans are the plans supported by the General Assembly.

In any event, it is inappropriate for the special master, or a Court, to fashion a remedy before a legal violation has been found. It is axiomatic in our legal system that a remedy may not be fashioned until a legal violation has been found. That settled order of operations exists not just because there is no entitlement to a remedy until a wrong has been proven, but because “the scope of the remedy is determined by the nature and extent of the constitutional violation.” *Milliken v. Bradley*, 418 U.S. 717, 745 (1974). A remedy is “[t]he means of enforcing a right or preventing or redressing a wrong.” *Remedy*, Black’s Law Dictionary (10th ed. 2014). A remedy, by its nature, thus cannot be crafted without first identifying the wrong to which it is addressed.

Basic examples illustrate this commonsense principle: judges do not issue provisional sentences before a defendant is found guilty; juries do not make provisional damages awards before adjudicating liability; and courts do not craft provisional remedies before finding a constitutional violation.⁴ Those kinds of anticipatory remedial proceedings are alien to our legal system not only because of the presumption of innocence that applies across all legal contexts, but also because of the fundamental unfairness that would result from forcing a defendant to expend resources helping to craft an anticipatory judicial remedy for a wrong that has not even been proven to exist.

⁴ To be sure, courts may *impose* temporary remedies during the pendency of litigation, *see, e.g.*, Fed. R. Civ. P. 65; *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008), but that is quite different from anticipatorily crafting a remedy that will be imposed only in the event liability is later found.

The principle that a defendant may not be forced to help craft a judicial remedy for a violation that has not yet been found holds particular force in the redistricting context. The Supreme Court has repeatedly admonished that “reapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a federal court.” *Chapman v. Meier*, 420 U.S. 1, 27 (1975); accord *Perry v. Perez*, 565 U.S. 388, 392 (2012); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 414 (2006) (plurality opinion); *Miller v. Johnson*, 515 U.S. 900, 915 (1995). Accordingly, courts have no business drawing maps (or empowering special masters to do so) unless and until the State’s own maps have been adjudicated invalid, or “an intervening event—most commonly ... a census—renders the current plan unusable.” *Perry*, 565 U.S. at 392.

Even then, if the State itself is “fully prepared to adopt a [districting] plan” in time for the next regularly scheduled election should its existing plan be invalidated, it is the obligation of the judiciary to give the State the opportunity to do so. *Grove v. Emison*, 507 U.S. 25, 37 (1993). Only “when the governmental body is *unable or unwilling* to fulfill its legislative duties” does it become “the ‘unwelcome obligation’ of the court to devise and impose a plan” of its own. *Ramos v. Koebig*, 638 F.2d 838, 844 (5th Cir. 1981) (emphasis added) (citation omitted).

Indeed, most of the time judicial intervention occurs when the legislature has failed to enact a remedial plan by a court-imposed deadline. *See, e.g., Personhuballah v. Alcorn*, 155 F. Supp. 3d 552, 555-56 (E.D. Va. 2016) (district court appointed special master after Virginia General Assembly “convened but failed to act”); *Larios v. Cox*, 306

F. Supp. 2d 1212, 1213 (N.D. Ga. 2004) (district court appointed special master after Georgia General Assembly proved “unable to meet [court-imposed] deadline”); *Jackson v. Nassau Cty. Bd. of Supervisors*, 157 F.R.D. 612, 614-15 (E.D.N.Y. 1994) (district court appointed special master after “deadlock and consequential failure” of Nassau County Board of Supervisors to recommend redistricting plan). Beyond that, such intervention has occurred only in the rare instance when there is no time for the legislature to convene and enact a new plan before the next election, *see, e.g., Rodriguez v. Pataki*, 207 F.Supp.2d 123, 124-25 (S.D.N.Y. 2002) (district court appointed special master because “the ‘eleventh hour’ is upon us, if indeed it has not already passed”); *Beens v. Erdahl*, 336 F.Supp. 715, 719 (D. Minn. 1972) (district court appointed special masters after state legislature adjourned “and was not scheduled to reconvene until after the 1972 general elections”).

Moreover, even in the rare instance when a district court is compelled to draw maps itself, the Supreme Court has made abundantly clear that the Court does not possess some freewheeling power to “substitute[] its own concept of ‘the collective public good’ for the [State] Legislature’s determination of which policies serve ‘the interests of [its] citizens.’” *Perry*, 565 U.S. at 396. Instead, the Court’s task is to draw “maps that comply with the Constitution and the Voting Rights Act, *without* displacing legitimate state policy judgments with the court’s own preferences.” *Id.* (emphasis added). Accordingly, while a court must “take care not to incorporate into the interim plan any legal defects in the state plan,” it may not go beyond that and “modify” aspects of the plan that do not suffer from “any legal flaw.” *Id.*

A fortiori, a court may not draw new maps (or empower a special master to do so) before even finding a violation to remedy.⁵ Indeed, drawing remedial maps in the absence of an adjudicated or admitted problem with the existing maps is a recipe for precisely the kind of constitutional disaster that *Perry* is supposed to prevent. After all, a court cannot ensure that it is confining itself to its assigned task of remedying “legal defects in the state plan,” *id.*, if it does not first identify what the legal defects are. Drawing remedial maps in the absence of an adjudicated or acknowledged wrong to remedy is therefore bound to devolve into an impermissible effort to “displac[e] legitimate state policy judgments with the court's own preferences.” *Id.*

The Court did not and could not identify any authority that supports the flawed approach the special master is now working under. Instead, the Court cited *Reynolds v. Sims*, 377 U.S. 533, 585-87 (1964), which it described in a parenthetical as “affirming remedial districting map drawn by a district court after district court found state legislature’s first proposed remedial map failed to remedy constitutional violation.” D.E. 206 at 4. That is a plainly inaccurate description of *Reynolds*, which actually *forecloses* the district court’s one-chance-only rule.

In *Reynolds*, the district court announced in April 1962 that the state’s districting plan—which had not been adjusted since 1901—was invalid. *Id.* at 545. By July 1962,

⁵ *Perry* involved an unusual circumstance in which the district court was forced to draw interim maps in the absence of an adjudicated legal violation because the intervening census concededly had “render[ed] the current plan unusable,” but the State’s newly enacted plan had not yet gained preclearance under Section 5 of the Voting Rights Act from the separate district court that was conducting the preclearance proceedings. *Id.* at 342. Obviously, no comparable circumstances exist here, as the district court itself has the power to determine the validity of the 2017 plans anytime it chooses to do so.

the legislature still had not enacted *any* remedial plan for the upcoming November 1962 election; instead, it had enacted only two alternative reapportionment plans that would “take effect for the 1966 elections.” *Id.* at 543 (emphasis added). The district court was thus faced with the unwelcome task of deciding what districts should govern the 1962 election. The court concluded that it could not use either of the plans drawn for the 1966 elections because both contained fatal defects. *Id.* at 546-51. So the court combined “the best parts” of the two “as a temporary and provisional measure” for the 1962 election only—a solution that the Supreme Court approved, noting that the district court had “properly refrained from acting ... until the Alabama Legislature had been given an opportunity to remedy the admitted discrepancies” itself. *Id.* at 586-87. Thus, as to the 1962 election, *Reynolds* stands only for the proposition (undisputed here) that a district court may impose temporary districts when a state legislature is given a reasonable opportunity to redistrict *but fails to timely act*.

More important here is *Reynolds*’ discussion of the 1966 election, which plainly forecloses the existence of any one-chance-only rule. If there really was such a rule, then the state legislature had already wasted its one chance by enacting the two alternative plans that the district court and the Supreme Court held “constitutionally invalid.” *Id.* at 568-69. But instead of holding that the district court was now free to impose its own plan for the 1966 election, the Supreme Court made clear that the state had a sovereign right to try again, and that the district court could intervene only if the “Legislature fail to enact a constitutionally valid, permanent apportionment scheme.” *Id.* at 587.

Reynolds thus serves only to reinforce the rule that district courts may impose court-drawn maps only in the truly rare circumstance when, after a state’s own plan has been adjudicated or admitted legally deficient, the State is unwilling or unable to produce a remedial map—*i.e.*, only when “a last-minute federal-court rescue” is the only option. *Grove*, 507 U.S. at 37. Indeed, legislative defendants are aware of no other redistricting case in which a district court has taken upon itself, over the objection of the State, the “unwelcome obligation” of imposing court-drawn maps, *Connor v. Finch*, 431 U.S. 407, 415 (1977), when the legislature concededly stands ready and willing to do so itself. The Court’s outright refusal to give the legislature a chance to remedy any perceived deficiencies in the 2017 plan itself is therefore entirely unprecedented—presumably because it is impossible to reconcile with the Supreme Court’s repeated admonishments that “reapportionment is primarily the duty and responsibility of the State.” *Chapman*, 420 U.S. at 27.

The Court essentially asked the special master for an advisory opinion prior to making any findings on liability. As legislative defendants have argued previously, this is at best an improper delegation of authority to the special master under Rule 53, Fed. R. Civ. P. Regardless, the special master should assist the Court by explaining why none of the Subject Districts violate the federal constitution. In the alternative, the special master should request the Court to first make a final judgment concerning the 2017 plan and then give defendants an opportunity to cure these new defects or seek appropriate appellate review.

3. **The Court's direction to the special master to modify House Districts 36, 37, 40, 41, and 105 is based upon an incorrect interpretation of North Carolina's State Constitution and constitutes a new claim not previously alleged over which the Court and the special master lack jurisdiction.**

The special master should advise the Court that no changes should be made in House Districts 36, 37, 40, and 41 in Wake County and House District 105 in Mecklenburg County. *See* D.E. 204, Legislative Defendants' Opposition to Appointment of Nathaniel Persily as Special Master, at 6. The Court has directed the special master to revise these districts based upon a new claim, not previously raised in any pleadings, that these districts violate N.C. Const. art. IV §§ 3(4) and 5(4). Neither the Court nor the special master have jurisdiction to consider these claims. *Pennhurst State Sch. and Hosp. v. Holderman*, 465 U.S. 89, 117 (1984); *Ala. Legislative Black Caucus v. Ala.*, No. 12-CV-691 (July 27, 2015) (Doc. 265) (reaffirming holding that court lacked subject matter jurisdiction to decide whether a state complied with its own state constitution in creating a redistricting plan). Moreover, this jurisdictional question having been raised, it is fundamental error for the Court to conduct merits proceedings, such as the special master's district drawing, as to this state-law issue without first deciding subject matter jurisdiction. *Sinochem Int'l Co. v. Malay Int'l Shipping Corp.*, 549 U.S. 422, 430-31 (2007) (“[A] federal court has leeway ‘to choose among threshold grounds for denying audience to a case on the merits’” but “[d]ismissal short of reaching the merits means that the court will not ‘proceed at all’ to an adjudication of the cause”).

Besides lacking—and needing to first rule on—jurisdiction to consider this state law claim, the Court's interpretation of these constitutional processes is erroneous. Both of

these sections of the North Carolina Constitution state that legislative districts “shall remain unaltered until the return of another decennial census . . . “ N.C. Const. art. II §§ 3(3) and 5(1). Read literally, this provision would bar the State from drawing any districts even those declared illegal by a federal court. But of course state constitutional law obligates the Supreme Court of North Carolina to harmonize the State Constitution with all federal requirements. *Stephenson v. Bartlett*, 355 N.C. 354, 368-70, 562 S.E.2d 377, 388-89 (2002) (“*Stephenson I*”). The General Assembly has also exercised broad discretion to revise district plans found illegal by federal courts and the federal courts have acknowledged this broad discretion. *Gingles v. Edmiston*, 590 F.Supp. 345, 377-84 (E.D.N.C. 1984), *aff’d in part and rev’d in part sub nom., Thornburg v. Gingles*, 478 U.S. 30 (1986).

Neither the plaintiffs nor the Court cite any precedent to support their novel construction of the North Carolina Constitution that would allow the General Assembly to change illegal districts and districts that adjoin illegal districts, but not allow the General Assembly to modify districts that do not adjoin illegal districts. It is obvious from a review of the 2017 plans that the General Assembly’s location and construction of all of the 2017 districts in Wake and Mecklenburg Counties was the result of the way the General Assembly constructed the districts found to be illegal. For example, to comply with the equal population requirements of the North Carolina Constitution, “non-adjointing” districts had to be based in part on divided precincts because precincts were divided in both the illegal districts and the districts that adjoined illegal districts. Further, the shapes and locations of the non-adjointing districts were directly caused by the

location of the illegal districts because of the General Assembly's then-understanding that majority-black districts had to be created before any other districts in both Wake and Mecklenburg Counties. *Stephenson I*, 355 N.C. at 383, 562 S.E.2d at 397. This created a domino effect on all districts within Wake and Mecklenburg Counties of the placement and location of the majority-black districts that have now been declared unconstitutional.

Finally, the Court's erroneous construction of the North Carolina Constitution violates several principles of State law regarding the proper interpretation of the State Constitution. The North Carolina Supreme Court has often said that "[e]very presumption favors the validity of a statute. It will not be declared invalid unless its unconstitutionality be determined beyond reasonable doubt." *Baker v. Martin*, 330 N.C. 331, 334, 410 S.E.2d 887, 889 (1991) (quoting *Gardner v. Reidsville*, 269 N.C. 581, 595, 153 S.E.2d 139, 150 (1967)). This is so because the acts of the legislature are effectively the acts of the people. *State ex rel. Martin*, 325 N.C. 438, 448-49, 385 S.E.2d 473, 478 (1989). See also *Pope v. Easley*, 354 N.C. 544, 546, 556 S.E.2d 265, 267 (2001) (The legislative power rests "with the people and is exercised through the General Assembly, which functions as the arm of the electorate).

An act of the people's elected representatives is thus an act of the people and is presumed valid *unless it conflicts with the Constitution.*") (citation omitted) (emphasis added)). "[I]f there is any doubt as to the Legislature's power to act in any given case, the doubt should be resolved in favor of the Legislature's action." *Baker*, 330 N.C. at 338, 410 S.E.2d at 891 (citations omitted). The 2017 legislative districts must be presumed as satisfying North Carolina law unless it can be shown beyond a reasonable

doubt that the subject districts exceed an express limitation of legislative power contained in the Constitution. Indeed, it is well established that “a court will not adjudge an act of the Legislature invalid, unless its violation of the Constitution is . . . *clear, complete, and unmistakable*”. *Kornegay v. City of Goldsboro*, 180 N.C. 441, 445, 105 S.E. 187, 189 (1920) (citations omitted) (emphasis added). “And, as between two permissible interpretations, that should always be adopted which will uphold the law.” *Id.* (citations omitted). This is because the “propriety, wisdom, and expediency of legislation is exclusively a legislative question” and there is no ground for judicial interference “unless the act . . . is *unmistakably* in excess of legislative power.” *Id.* (citations omitted) (emphasis added). Under these mandates of state law, there is no basis for the special master to recommend to the Court that the subject non-adjointing districts in Wake and Mecklenburg Counties be replaced by the versions proposed by the special master.

4. The special master has improperly engaged in racial sorting to create districts with a mechanical target of black voting age population between 39% and 43.6%.

In its order of November 1, 2017, the Court authorized the special master to “consider data identifying the race of individuals or voters to the extent necessary to ensure that his plan cures the unconstitutional racial gerrymanders and otherwise complies with federal law.” D.E. 206 at 9. In so doing, the Court not only preemptively usurped the legislature’s power to remedy any deficiencies in the 2017 plan, but empowered the special master to draw remedial maps that will not abide by the Supreme Court’s command to “take guidance from the State’s recently enacted plan in drafting an interim plan.” *Perry*, 565 U.S. at 393. Nowhere is this clearer than in the legislature’s

policy decision not to consider race. We are aware of no precedent supporting the proposition that a legislature must consider race when enacting districts to replace illegal racial gerrymanders. The only legitimate reason for a legislature to consider race relates to a state's potential liability under Section 2 of the Voting Rights Act. But, there is no authority that obligates a state to draw new districts either based upon race or designed to avoid future Section 2 claims.

Of course a state can elect to run the risk of using race to draw districts to avoid potential Section 2 liability. But a state may do so only where there is a strong basis in evidence that the minority group is geographically compact and in sufficient numbers to constitute a majority in a single member district, is politically cohesive, and there is evidence of legally significant racially polarized voting. *Harris*, 137 S.Ct. at 1470-1471; *Bartlett v. Strickland*, 556 U.S. 1, 8-11 (2009). There is no authority for using race to draw Section 2 districts with a majority black voting age population absent the presence of legally significant racially polarized voting. This is the heart of the Court's prior decision in this case. Further, in the absence of Section 5, there is no authority for the State or a special master to sort voters based upon race to create districts with less than 50% BVAP. *Georgia v. Ashcroft*, 529 U.S. 461, 491-92 (Kennedy, J., concurring).

Yet racial sorting is exactly what the Court authorized the special master to do when it directed him to "consider data identifying the race of individuals or voters to the extent necessary to ensure that his plan cures the unconstitutional racial gerrymanders" D.E. 206 at 8, 9. Respectfully, legislative defendants believe this instruction was erroneous and an improper delegation of authority to the special master prior to any final

ruling by the Court explaining why each of the Subject Districts is unconstitutional. The Court did not explain to the parties or the special master how Senate Districts 21 and 28 and House Districts 21 and 57 remain racial gerrymanders or fail to cure federal constitutional violations. Instead, the Court expressed concerns – without explaining them – that those districts “preserve the core shape of the unconstitutional district, divide counties and municipalities along racial lines, and are less compact than their benchmark version.” No explanation or evidence was cited by the Court to support these “concerns,” as they relate to any of those four districts.

Nor did the Court explain how the General Assembly’s use of incumbency and political data in drawing its proposed remedial districts “embedded, incorporated and perpetuated the impermissible use of race.” D.E. 206 at 2. There is no precedent for this holding. It cannot be reconciled to the General Assembly’s use of incumbency and political data to create the 1997 version of North Carolina’s Twelfth Congressional District. This district retained most of the population centers found in the illegal 1992 Twelfth Congressional District and was intentionally designed to elect a Democratic candidate and protect a Democratic incumbent. Yet the 1997 Twelfth Congressional District was affirmed by the Supreme Court even though – unlike the 2017 legislative districts – it did not follow traditional districting principles other than political affiliation. *Easley v. Cromartie*, 532 U.S. 234 (2000); *Hunt v. Cromartie*, 526 U.S. 541, 551 (“Our prior decisions have made clear that a jurisdiction may engage in constitutional political gerrymandering, even if it so happens that the most loyal Democrats happen to be black Democrats and even if the state was conscious of that fact.”) It is difficult if not

impossible to reconcile this Court's ruling that the General Assembly's consideration of incumbency "perpetuated the impermissible use of race" given the holding in *Cromartie* affirming a district that was based solely on political criteria.

As disadvantaged as the special master is by the Court's failure to explain how any specific Subject District fails to cure the federal constitutional remedies, the special master candidly stated that his proposed districts are "attempts to remedy the *suspected* constitutional infirmity by removing any residuum of racial predominance that may have been expressed in the 2017 configuration of that district." D.E. 213 at p. 5 (emphasis added). The special master exacerbated the Court's lack of guidance to the parties by giving only a "summary explanation of the principles that guided" the creation of his proposed districts. D.E. 213 at 1. The special master conceded that "greater detail as to the plan's compliance with applicable law" and a "more complete explanation of the rationale" for his plans would only be provided after the parties commented on the plans without that information. In this sense, the special master is simply perpetuating the Court's legal error in not disclosing the evidence relied upon by the Court and how that evidence applied to the Subject Districts before forcing the legislative defendants to comment on the special master's premature draft plans.

In any event, leaving aside the question of what constitutes an acceptable or unacceptable "racial residuum" – an issue that has not yet been explained by the Court – it is clear that one of the steps taken by the special master was to sort voters by race – to decrease the BVAP in his proposed districts to a mechanically targeted range between 39% and 43%.

The legislature clearly did not consider a target range for the “right” percentage of BVAP to include in each district. Instead, the General Assembly adopted a criterion that race should not be considered in constructing the 2017 districts. And, unlike the 2011 redistricting process (where the legislature required VRA districts to have at least 50% BVAP based on its understanding of the extent of legally sufficient racially polarized voting) the percentage BVAP in each of the 2017 Subject Districts was the natural result of non-racial criteria used by the General Assembly to draw them. *Ala. Legislative Black Caucus v. Ala.*, 135 S.Ct. 1257, 1270 (2015) (plaintiffs must prove that the legislature subordinated traditional districting principles including respect for political subdivisions, incumbency, and political affiliation to race); *Bush v. Vera*, 517 U.S. 952, 967 (1996) (where traditional redistricting principles are followed they cannot be said to have been “subordinated to race.”)

In contrast to the legislature’s decision that race should not be considered, the special master apparently has attempted to remove the “residuum” of “racial predominance” by reducing the BVAP in the Subject Districts to a range of 39% to 43%. This was expressly authorized by the Court, which allowed the special master to engage in racial sorting so long as the percentage BVAP hits a target that might be more acceptable to the Court.

There is no precedent for authorizing racial sorting as a remedy for “correcting” allegedly racially gerrymandered districts. Nor is there any precedent to support a finding that the BVAP in the enacted districts is “too much” of a “residuum” but that the BVAP in the special master’s proposed districts is “just right.” It defies precedent to

express a “concern” about racial predominance where race was not used to draw the districts and the districts were instead obviously based upon whole counties, whole precincts, municipal lines, and incumbency protection. The only rational way to understand the Court’s “concern” is that the special master has been directed to sort voters because of their race to create districts with lower BVAP and which allegedly bear less of a resemblance to the challenged districts. That is certainly how it appears the special master has interpreted the concern, and in doing so he, like the Court, has not articulated any standard other than referencing a nebulous “residuum.” Such standards, which amount to no standards at all, will lead to the federal judiciary judging racial “beauty contests” much like the Supreme Court has warned against in assessing the geographic appearance of districts. *Bush*, 517 U.S. at 977.

CONCLUSION

The process under which the special master is proceeding is irregular and inappropriate. It defies precedent, ignores state sovereignty, and imposes race-based redistricting on the State against its will. Unless and until the Court issues a final ruling on the constitutionality of the Subject Districts, the special master should propose in his report to the Court the districts as drawn in 2017 by the North Carolina General Assembly.

This 17th day of November, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 2017, I have served the foregoing **LEGISLATIVE DEFENDANTS' RESPONSE TO SPECIAL MASTER'S DRAFT REPORT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
NO. 1:15-CV-00399

SANDRA LITTLE COVINGTON, *et al.*,)
)
Plaintiffs,)
)
v.)
)
STATE OF NORTH CAROLINA, *et al.*)
)
Defendants.)
_____)

**LEGISLATIVE DEFENDANTS’
RESPONSE TO PLAINTIFFS’
PROPOSED MODIFICATIONS
TO SPECIAL MASTER’S DRAFT
PLAN**

INTRODUCTION

Plaintiffs’ requested modifications to the special master’s draft plans demonstrate why the legislature’s 2017 plans should be adopted by the special master and the Court. The special master should submit to the Court the enacted 2017 plans and, at a minimum, reject plaintiffs’ proposed political modifications to his plans.

The modifications that plaintiffs’ request highlight how the Court has substituted its policy choices for those of the legislature. The legislature chose not to use race in drawing the 2017 plans; the Court has placed the special master in the position of making the predominant criterion in his map the drawing of districts to a particular racial quota. In addition, the legislature adopted a policy preference of using election data to ensure that incumbents of both parties were drawn into districts they could potentially win. The Court instructed the special master not to use election data (D.E. 206 at 7) and limited the non-pairing of incumbents to a “distinctly subordinate consideration” to other criteria (D.E. 206 at 7).

In following the Court’s criteria, the special master’s draft plan apparently causes political problems for numerous Democratic incumbents. Plaintiffs now seek political relief for those political problems. As legislative defendants have explained previously, however, all line-drawing in redistricting has political consequences, even when the mapdrawer purportedly uses only “nonpartisan” criteria. That is why the Constitution commits this task to the political branches and the Supreme Court has repeatedly affirmed that it must be performed by those who are politically accountable, not unelected judges or special masters. In adopting its incumbency protection criteria, the legislature established a policy designed to avoid the very problem plaintiffs’ legislative allies are now faced with. If the special master is going to follow the State’s policy preferences, then he should recommend the enacted 2017 plans to the Court. At a minimum, the special master should reject the political modifications requested by plaintiffs.

1. The State’s policy preferences have been displaced.

The special master’s draft plans, and the plaintiffs’ response to them, offer a stark picture of how many of the State’s redistricting policies have been negated by the Court in favor of its preferences. The legislature adopted a criterion expressly declining to consider race in the drawing of districts, but the Court has allowed the special master to consider race anyway.¹ As a result of the legislature’s race-neutral approach, the black

¹ The legislature’s decision not to draw race-based districts required it to re-group the counties under the county grouping requirements of *Stephenson v. Bartlett*, 355 N.C. 354, 562 S.E.2d 377 (2002) and *Dickson v. Rucho*, 368 N.C. 481, 781 S.E.2d 404 (2015). The

voting age population (“BVAP”) of House Districts 21 and 57 and Senate Districts 21 and 28 were randomly distributed, from a low of 42.34% to a high of 60.75%. Unlike the legislature’s plans, these districts in the special master’s plan are in a narrow range of 39% to 43% BVAP. In order to draw districts within this range, the special master often had to sacrifice other redistricting policies followed by the State. For instance, the special master split numerous precincts in House District 21, gave less consideration to the Greensboro municipal lines in House District 57 and Senate District 28, moved House District 61 to the center of Greensboro (thereby creating less compact districts in Greensboro),² and gave less consideration to the Fayetteville municipal lines in Senate District 21.³

More importantly, in service of his predominant goal of eliminating any alleged “residuum” of race from the legislature’s plans,⁴ which resulted in adherence to an apparent target BVAP between 39% and 43%, the special master’s version of these

Court instructed the special master to use the county groupings adopted by the legislature. (D.E. 206 at 6)

² In moving House District 61 from suburban Greensboro to central Greensboro, the special master negated the legislature’s policy choice to create a suburban district that followed city lines. By doing so, the special master was also apparently able to achieve a racial target of 39% to 43% in the three districts he drew in the center of Greensboro, most dramatically in House District 61, in which the special master ramped up the BVAP from 11.47% in the 2017 plan to 41.64% in his draft plan.

³ In Cumberland County, the special master also made a different policy choice than the legislature related to Senate Districts 19 and 21. For unknown reasons, the special master removed a precinct containing most of Fort Bragg that the legislature had placed in Senate District 19 and placed it into Senate District 21 instead.

⁴ To the extent the special master is referring to an alleged “residuum” of race in the 2017 plans from the 2011 version of the districts, it is unclear why the 2011 plans have any relevance to the special master’s work. Absent a Section 5 preclearance requirement, the baseline plans for analysis are the 2017 plans enacted by the legislature. The 2017 plans stand or fall on their own as to any alleged racial gerrymandering.

districts shifted some of the core of the districts to other locations in the county. The effect of this in Guilford was to double-bunk Representative Quick and Representative Hardister in House District 59; Representative Harrison and Representative Blust in House District 61; and Senator Wade and Senator Robinson in Senate District 27. In Wake County, the special master's effort to comply with the Court's ruling on a state constitutional issue caused the double-bunking of Representative Ball and Representative Martin in House District 49.

Under the 2017 plans, no double-bunking occurs that was not required by following state county-grouping constitutional requirements. Moreover, incumbents of both parties were drawn into districts in which the 2016 incumbents had a reasonable chance of being elected (based on prior election results). Under the Supreme Court's most recent pronouncements on these issues, the legislature's criteria should have been followed. The Supreme Court has made abundantly clear that the Court does not possess some freewheeling power to "substitute[] its own concept of 'the collective public good' for the [State] Legislature's determination of which policies serve 'the interests of [its] citizens.'" *Perry v. Perez*, 565 U.S. 388, 396 (2012). Instead, the Court's task is to draw "maps that comply with the Constitution and the Voting Rights Act, *without* displacing legitimate state policy judgments with the court's own preferences." *Id.* (emphasis added). Accordingly, while a court must "take care not to incorporate into the interim plan any legal defects in the state plan," it may not go beyond that and "modify" aspects of the plan that do not suffer from "any legal flaw." *Id.* To date, neither the Court nor the special master have explained any specific "legal flaw" in the State adopting

protection of incumbents as a redistricting criterion, or any other “legal flaw” at all for that matter. The cases cited by the Court recognize that fact. (D.E. 206 at 8 (citing *Wyche v. Madison Par. Police Jury*, 769 F.2d 265, 268 (5th Cir. 1985) (noting that “the protection of incumbents” is a factor that is “appropriate in the legislative development of an apportionment plan”))

2. The special master should reject plaintiffs’ requested political relief.

The Court and the special master having displaced the legislature’s chosen policy preferences, it is not surprising that the draft plans would pair incumbents and have other political ramifications. The Supreme Court has repeatedly noted that it would be “mindless” to think that districting can ever be a neutral process. As explained by the Court:

Politics and political consideration are inseparable from districting and apportionment. The political profile of a State, its party registration, and voting records are available precinct by precinct, ward by ward. These subdivisions may not be identical with census tracts but, when overlaid on a census map, it requires no special genius to recognize the political consequences of drawing a district line along one street rather than another. It is not only obvious, but absolutely unavoidable, that the location and shape of districts may determine the political complexion of the area. District lines are rarely neutral phenomena. They can well determine what district will be predominantly Democratic, predominantly Republican, or make a close race likely. Redistricting may put incumbents against one another or make very difficult the election of the most experienced legislator. The reality is that districting inevitably has and is intended to have substantial political consequences.

It may be suggested that those who redistrict and reapportion should work with census, not political, data and achieve population equity without regard for political impact. But the *politically mindless* approach may produce, whether intended or not, the most grossly gerrymandered results; and, in any case, it is most unlikely that the political impact of such a plan would remain undiscovered by the time it was proposed or adopted, in which event the results would be both known and, if not changed, intended.

Davis v. Bandemer, 478 U.S. 109, 128-29 (1986) (quoting *Gaffney v. Cummings*, 412 U.S. 735, 752-53 (1973)) (emphasis added).

The self-evident fact that there is no such thing as a politically neutral district line has been repeatedly recognized by the Supreme Court and its Justices. *Bandemer*, 478 U.S. at 129 n.10 (“The key concept to grasp is that there are no neutral lines for legislative districts . . . every line drawn aligns partisans and interest blocs in a particular way different from putting the line in some other place.”) (citation omitted); *Vieth v. Jubelirer*, 541 U.S. 267, 302-09 (2004) (criteria such as contiguity and compactness are not politically neutral) (Kennedy, J., concurring in judgment) (citations omitted); *Id.* at 343 (“the choice to draw a district line one way, not another, always carries some consequence for politics, save in a mythical state with voters of every political identity distributed in an absolutely growing uniformity) (Souter, Ginsburg, J. J., dissenting); *Id.* at 359 (in a system of single-member districts the use of traditional districting principles is rarely, if ever, politically neutral) (Breyer, J., dissenting).

Plaintiffs now ask the special master to rescue some incumbents but not others. All of the incumbents for whom plaintiffs seek relief are Democrats. Plaintiffs do not seek relief for any affected Republican incumbents.⁵ Plaintiffs’ political motivations have already been recognized and rejected by the Court. (D.E. 206 at 2 (“The Court is concerned that, among other things, some of the districts proposed by the Plaintiffs may

⁵ While Democratic Representative Quick is double-bunked with Republican Representative Hardister, plaintiffs seek to move Representative Quick out of a district that is more likely to elect a Republican candidate and into an adjoining district that is more likely to elect a Democratic candidate.

be the result of impermissible political considerations.”)) These requests should be rejected.

First, the Court instructed the special master that non-pairing of incumbents should be a “distinctly subordinate consideration” in his plans. Plaintiffs do not offer any non-political justification for their request to un-pair the Democratic incumbents for whom they seek relief. Un-pairing these incumbents cannot be justified as a state redistricting policy because the state’s policy was to draw separate districts in which the incumbents had a reasonable opportunity to be elected. Justifying plaintiffs’ modifications by referencing the State’s criteria would not only violate that criteria, it would amount to cherry-picking incumbents who benefit from the criteria in favor of one political party.

Next, plaintiffs’ proposed modifications would, by their own admission, violate other traditional redistricting criteria. For instance, placing Representative Quick into an adjoining House district would require the special master to either split a new precinct or make his existing district less compact. (D.E. 216 at 2-3) In Wake County, plaintiffs propose re-splitting a precinct that had not been split by the special master. (D.E. 216 at 3-4) In requesting that Democratic Representatives Ball and Martin be un-paired, plaintiffs reduce several of the compactness scores in multiple districts.⁶ (D.E. 216 at 4-

⁶ Moreover, the population ripples created by plaintiffs’ proposed changes in Wake County illustrate why eliminating the racial gerrymandering found in the 2011 districts necessarily requires the legislature to have the ability to change all of the districts within any given county grouping, including a single-county grouping such as Wake County. As demonstrated by plaintiffs’ requested change to House District 40, the population ripple in changing a district affects more than just “adjoining” districts. Plaintiffs’ proposed change to House District 40 overpopulates adjoining House District 49. Removing population from House District 49 requires changing a district that did not

5) Given the lack of any non-political reason justifying plaintiffs' proposed modifications, the special master should certainly not violate neutral criteria to further a political outcome. In protecting incumbents, the special master should "take guidance from the State's recently enacted plan in drafting an interim plan," *Perry*, 565 U.S. at 393, and submit the State's 2017 plans.

CONCLUSION

Plaintiffs' requested modifications and the special master's proposed plans demonstrate why the legislature's 2017 plans should be adopted by the special master and the Court. If the special master is going to follow the state's policy preferences, then he should recommend the enacted 2017 plans to the Court. At a minimum, the special master should reject plaintiffs' proposed political modifications.

originally adjoin House District 40. Plaintiffs' claim that the "obvious" choice to receive the extra population is House District 34 (D.E. 216 at 4) but it would be just as legitimate for a legislature to choose a different non-adjoining district to receive the population caused by the change to House District 40. In this respect, the Court's mandate to the special master not to change districts that did not adjoin unconstitutional districts is a substitution of the Courts' policy preference for the legislature's preference, under the guise of state law.

This 21st day of November, 2017.

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

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Attorneys for Legislative Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of November, 2017, I have served the foregoing **LEGISLATIVE DEFENDANTS' RESPONSE TO PLAINTIFFS' PROPOSED MODIFICATIONS TO SPECIAL MASTER'S DRAFT REPORT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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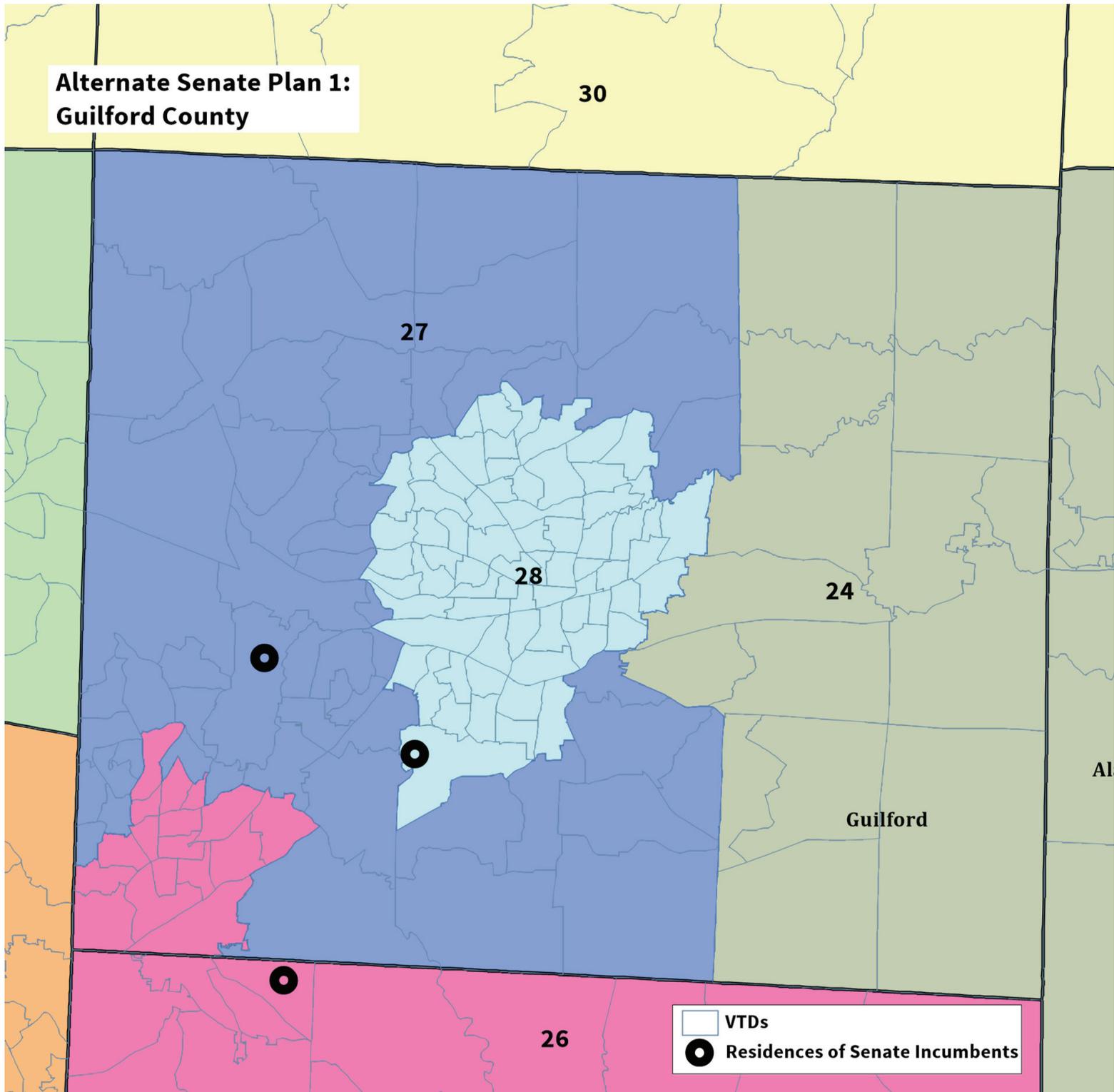
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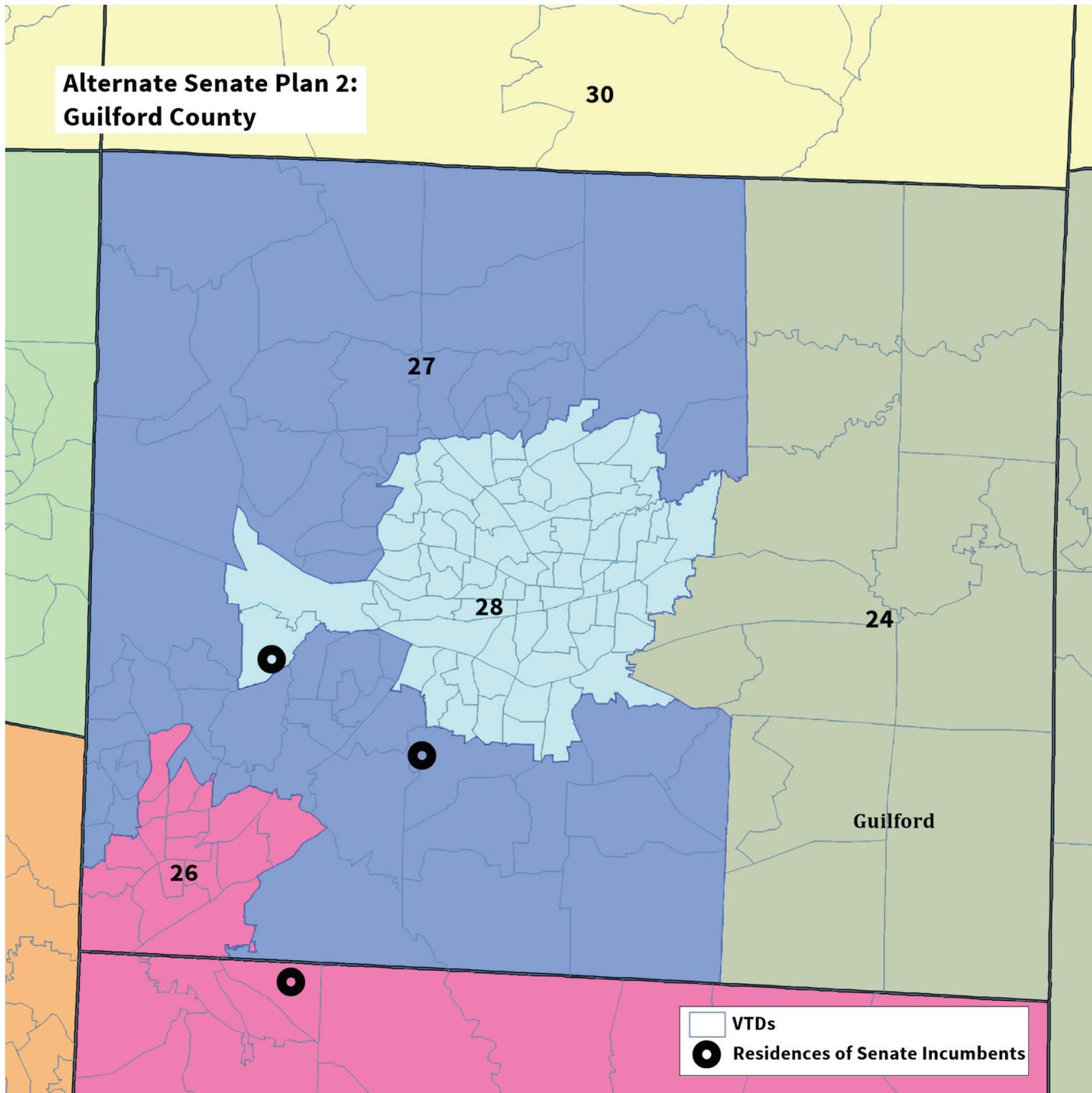
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Exhibit 10

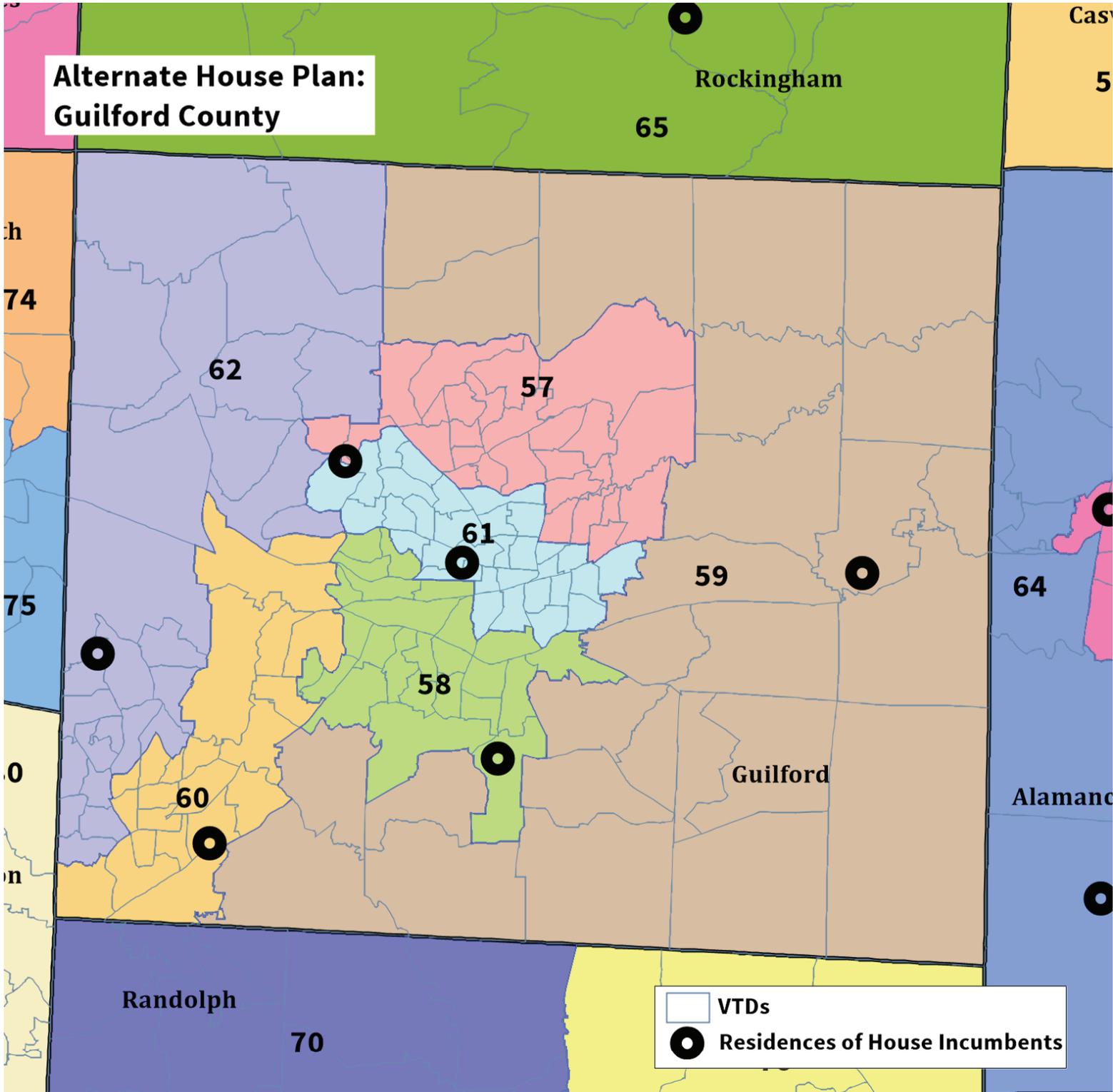
**Alternate Senate Plan 1:
Guilford County**



**Alternate Senate Plan 2:
Guilford County**



**Alternate House Plan:
Guilford County**



- VTDs
- Residences of House Incumbents

Plan Name: Guilford Sen Alt 1
Plan Type:
Date: 11/28/2017
Time: 10:18:17PM
Administrator:

Measures of Compactness

11/28/2017

Sum	N/A	N/A
Min	0.19	0.11
Max	0.62	0.62
Mean	0.42	0.35
Std. Dev.	0.10	0.12

DISTRICT	Reock	Polsby- Popper
1	0.46	0.46
2	0.48	0.42
3	0.23	0.15
4	0.45	0.31
5	0.62	0.44
6	0.52	0.55
7	0.46	0.35
8	0.41	0.18
9	0.24	0.27
10	0.48	0.29
11	0.22	0.24
12	0.46	0.40
13	0.41	0.33
14	0.41	0.27
15	0.38	0.11
16	0.50	0.48
17	0.39	0.34
18	0.41	0.28
19	0.51	0.30
20	0.44	0.49
21	0.48	0.35
22	0.58	0.54
23	0.39	0.37
24	0.59	0.62
25	0.46	0.28
26	0.56	0.55
27	0.46	0.18
28	0.48	0.28
29	0.27	0.27
30	0.27	0.40
31	0.32	0.14
32	0.58	0.23
33	0.32	0.30
34	0.33	0.34
35	0.49	0.56
36	0.44	0.39
37	0.42	0.27
38	0.42	0.42
39	0.33	0.24
40	0.47	0.36

Plan Name: Guilford Sen Alt 1

Administrator:

Plan Type:

User:

DISTRICT	Reock	Polsby- Popper
41	0.19	0.13
42	0.45	0.48
43	0.43	0.50
44	0.38	0.32
45	0.44	0.41
46	0.54	0.45
47	0.42	0.24
48	0.40	0.32
49	0.39	0.30
50	0.42	0.46

Plan Name: Guilford Sen Alt 2
Plan Type:
Date: 11/28/2017
Time: 10:18:56PM
Administrator:

Measures of Compactness

11/28/2017

Sum	N/A	N/A
Min	0.19	0.11
Max	0.62	0.62
Mean	0.42	0.35
Std. Dev.	0.10	0.12

DISTRICT	Reock	Polsby-Popper
1	0.46	0.46
2	0.48	0.42
3	0.23	0.15
4	0.45	0.31
5	0.62	0.44
6	0.52	0.55
7	0.46	0.35
8	0.41	0.18
9	0.24	0.27
10	0.48	0.29
11	0.22	0.24
12	0.46	0.40
13	0.41	0.33
14	0.41	0.27
15	0.38	0.11
16	0.50	0.48
17	0.39	0.34
18	0.41	0.28
19	0.51	0.30
20	0.44	0.49
21	0.48	0.35
22	0.58	0.54
23	0.39	0.37
24	0.59	0.62
25	0.46	0.28
26	0.56	0.55
27	0.45	0.16
28	0.44	0.20
29	0.27	0.27
30	0.27	0.40
31	0.32	0.14
32	0.58	0.23
33	0.32	0.30
34	0.33	0.34
35	0.49	0.56
36	0.44	0.39
37	0.42	0.27
38	0.42	0.42
39	0.33	0.24
40	0.47	0.36

Plan Name: Guilford Sen Alt 2

Administrator:

Plan Type:

User:

DISTRICT	Reock	Polsby- Popper
41	0.19	0.13
42	0.45	0.48
43	0.43	0.50
44	0.38	0.32
45	0.44	0.41
46	0.54	0.45
47	0.42	0.24
48	0.40	0.32
49	0.39	0.30
50	0.42	0.46

Plan Name: Guilford House Alt
Plan Type:
Date: 11/28/2017
Time: 10:17:21PM
Administrator:

Measures of Compactness

11/28/2017

Sum	N/A	N/A
Min	0.19	0.13
Max	0.70	0.71
Mean	0.41	0.32
Std. Dev.	0.09	0.10

DISTRICT	Reock	Polsby-Popper
1	0.49	0.18
2	0.43	0.49
3	0.37	0.33
4	0.44	0.37
5	0.25	0.27
6	0.33	0.24
7	0.52	0.32
8	0.51	0.39
9	0.40	0.27
10	0.36	0.23
11	0.33	0.26
12	0.36	0.34
13	0.24	0.22
14	0.39	0.28
15	0.55	0.37
16	0.31	0.22
17	0.48	0.30
18	0.51	0.33
19	0.20	0.28
20	0.36	0.20
21	0.40	0.28
22	0.46	0.26
23	0.35	0.24
24	0.53	0.71
25	0.50	0.35
26	0.39	0.27
27	0.52	0.40
28	0.38	0.22
29	0.39	0.34
30	0.40	0.39
31	0.50	0.37
32	0.53	0.51
33	0.54	0.41
34	0.44	0.43
35	0.35	0.35
36	0.37	0.34
37	0.34	0.22
38	0.32	0.30
39	0.43	0.40
40	0.28	0.24

DISTRICT	Reock	Polsby-Popper
41	0.28	0.25
42	0.50	0.40
43	0.34	0.31
44	0.50	0.24
45	0.46	0.22
46	0.23	0.16
47	0.57	0.42
48	0.48	0.45
49	0.46	0.31
50	0.38	0.34
51	0.52	0.40
52	0.32	0.25
53	0.59	0.47
54	0.45	0.43
55	0.42	0.29
56	0.49	0.34
57	0.42	0.34
58	0.44	0.18
59	0.41	0.23
60	0.29	0.21
61	0.33	0.28
62	0.31	0.31
63	0.34	0.30
64	0.34	0.28
65	0.52	0.47
66	0.40	0.35
67	0.51	0.31
68	0.33	0.28
69	0.37	0.20
70	0.54	0.54
71	0.35	0.19
72	0.50	0.26
73	0.46	0.47
74	0.38	0.23
75	0.22	0.16
76	0.49	0.46
77	0.39	0.35
78	0.36	0.28
79	0.48	0.30
80	0.28	0.22
81	0.50	0.22
82	0.42	0.43
83	0.32	0.25
84	0.51	0.45
85	0.39	0.23
86	0.38	0.27
87	0.50	0.57
88	0.60	0.33
89	0.34	0.26
90	0.29	0.15
91	0.32	0.32
92	0.40	0.29
93	0.57	0.42
94	0.34	0.22
95	0.43	0.37
96	0.30	0.21

DISTRICT	Reock	Polsby- Popper
97	0.33	0.52
98	0.70	0.64
99	0.43	0.42
100	0.43	0.35
101	0.51	0.34
102	0.64	0.43
103	0.19	0.25
104	0.35	0.29
105	0.37	0.30
106	0.43	0.44
107	0.38	0.20
108	0.44	0.32
109	0.46	0.47
110	0.36	0.26
111	0.40	0.28
112	0.39	0.30
113	0.24	0.21
114	0.39	0.13
115	0.38	0.19
116	0.35	0.23
117	0.40	0.28
118	0.36	0.15
119	0.36	0.20
120	0.40	0.37

Exhibit 11

**North Carolina House
Assignments of Incumbents to Districts in Recommended Plan**

District	Incumbent(s)
1	Steinburg
2	Yarborough
3	Speciale
4	Dixon
5	Hunter
6	Boswell
7	Richardson
8	
9	Murphy
10	Bell
11	Hall
12	Graham
13	McElraft
14	Cleveland
15	Shepard
16	Muller
17	Iler
18	Butler
19	Davis
20	Grange
21	
22	Bell Brisson
23	Willingham
24	Farmer-Butterfield Martin
25	Collins
26	White
27	Wray
28	Strickland
29	Black
30	Morey
31	Michaux
32	Garrison
33	Gill
34	Martin
35	Malone
36	Dollar
37	Williams
38	Holley
39	Jackson
40	John
41	Adcock
42	Lucas
43	Floyd
44	Richardson
45	Szoka
46	Jones
47	Graham
48	Pierce
49	Ball
50	Meyer

**North Carolina House
Assignments of Incumbents to Districts in Recommended Plan**

District	Incumbent(s)
51	Sauls
52	Boles
53	Lewis
54	Reives
55	Brody
56	Insko
57	Blust
58	Quick
59	Hardister
60	Brockman
61	Harrison
62	Faircloth
63	Ross
64	Riddell
65	Jones
66	Goodman
67	Burr
68	Horn
69	Arp
70	Hurley
71	Terry
72	Hanes
73	Zachary
74	Conrad
75	Lambeth
76	Warren
77	Howard
78	McNeill
79	
80	Watford
81	Potts
82	Johnson
83	Ford Pittman
84	Turner
85	Dobson
86	Blackwell
87	Hall
88	Belk
89	Setzer
90	Stevens
91	Hall
92	Beasley
93	Jordan
94	Elmore
95	Fraley
96	Adams
97	Saine
98	Bradford
99	Moore
100	Autry

**North Carolina House
Assignments of Incumbents to Districts in Recommended Plan**

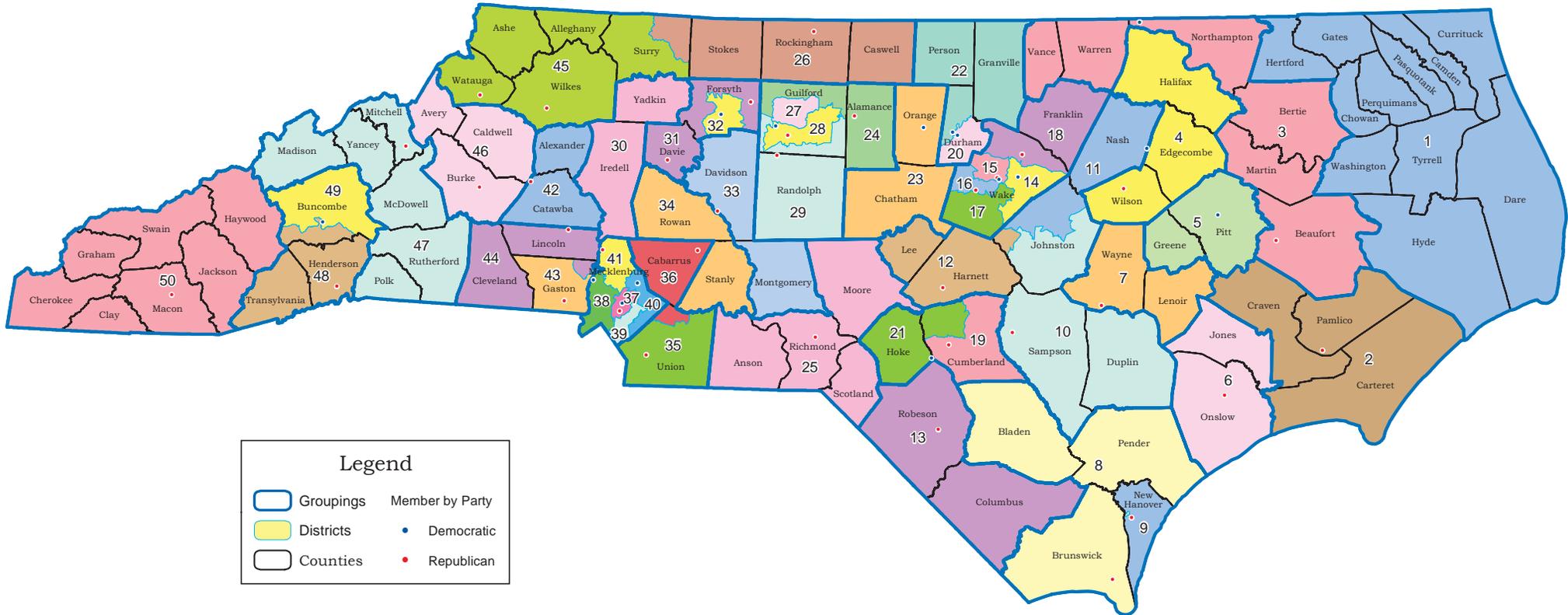
District	Incumbent(s)
101	Earle
102	Carney
103	Brawley
104	Dulin
105	Stone
106	Cunningham
107	Alexander
108	Torbett
109	Bumgardner
110	Hastings
111	Moore
112	Rogers
113	Henson
114	Fisher
115	Ager
116	Turner
117	McGrady
118	Presnell
119	Clampitt
120	Corbin

**North Carolina Senate
Assignments of Incumbents to Districts in Recommended Plan**

District	Incumbent(s)	
1		
2	Sanderson	
3	Cook	Smith-Ingram
4	Horner	
5	Davis	
6	Brown	
7	Pate	
8	Rabon	
9	Lee	
10	Jackson	
11	Bryant	
12	Rabin	
13	Britt	
14	Blue	
15	Chaudhuri	
16		
17	Barringer	
18	Alexander	Barefoot
19	Meredith	
20	McKissick	
21	Clark	
22	Woodard	
23	Foushee	
24	Gunn	
25	McInnis	
26	Tillman	
27	Robinson	Wade
28		
29	Dunn	
30	Berger	
31	Barrett	Krawiec
32	Lowe	
33		
34		
35	Tucker	
36	Newton	
37	Jackson	
38	Ford	
39	Bishop	
40	Waddell	
41	Tarte	
42	Wells	
43	Harrington	
44	Curtis	
45	Ballard	Randleman
46	Daniel	
47	Hise	
48	Edwards	
49	Van Duyn	
50	Davis	

Exhibit 12

STV-1-Blue-Fair, Legal and Competitive Senate Districts

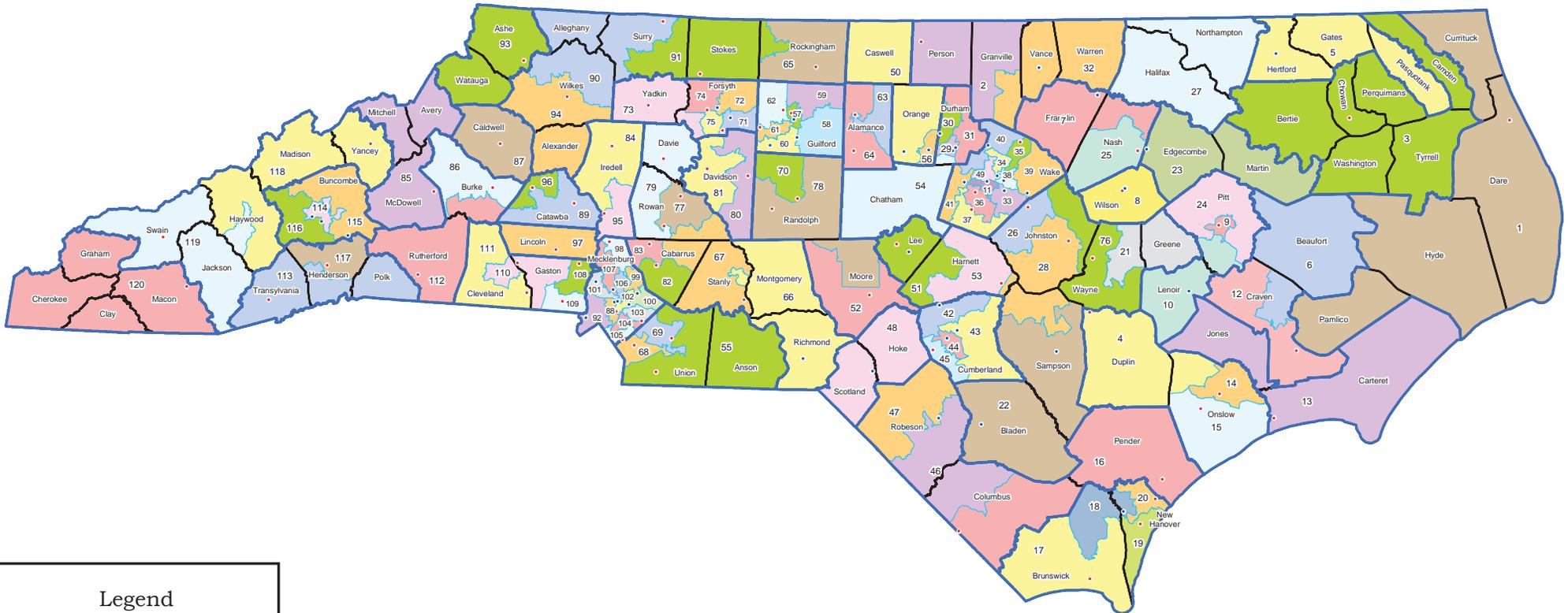


STV-1

Printed by the NC General Assembly, August 23, 2017.



Covington Plaintiffs Proposed House Plan



Legend

- Groupings
- Districts
- Counties
- Member by Party
- Democratic
- Republican



Covington Plaintiffs Proposed House Plan



Printed by the NC General Assembly, August 24, 2017.



Exhibit 13

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SANDRA LITTLE COVINGTON, et)
al.,)
)
Plaintiffs,)
)
v.) 1:15-CV-399
)
THE STATE OF NORTH)
CAROLINA, et al.,)
)
Defendants.)

ORDER

On August 11, 2016, this Court unanimously concluded that the Defendants unjustifiably relied on race in drawing lines creating twenty-eight majority-minority districts in the 2011 state legislative districting plans, in violation of the Plaintiffs' rights under the Equal Protection Clause of the Fourteenth Amendment. *Covington v. North Carolina*, 316 F.R.D. 117, 176 (M.D.N.C. 2016), *aff'd*, 137 S. Ct. 2211 (2017) (mem.). To remedy the constitutional violation, the North Carolina General Assembly enacted proposed remedial plans on August 31, 2017. On September 15, 2017, the Plaintiffs filed objections to three Senate districts and nine House districts created by the proposed remedial plans. Thereafter, the Legislative Defendants filed a response to Plaintiffs' objections. This Court held a hearing concerning the objections on October 12, 2017.

After careful review of the parties' written submissions, arguments, and evidence, the Court has serious concerns that 2017 Enacted Senate Districts 21 and 28 and 2017 Enacted House Districts 21 and 57 fail to remedy the identified constitutional violation.

See id. at 146-47 (Senate District 21); *id.* at 147-48 (Senate District 28); *id.* at 155-56 (House District 21); *id.* at 163-64 (House District 57). Among other concerns, some or all of the proposed remedial districts preserve the core shape of the unconstitutional version of the district, divide counties and municipalities along racial lines, and are less compact than their benchmark version. In some cases, the General Assembly's use of incumbency and political data in drawing its proposed remedial districts embedded, incorporated, and perpetuated the impermissible use of race that rendered unconstitutional the 2011 districts. The 2017 Enacted Districts do not appear to cure the constitutional violations found as to 2011 Enacted House Districts 21 and 57 and Senate Districts 21 and 28. The Court is concerned that, among other things, some of the districts proposed by the Plaintiffs may be the result of impermissible political considerations. *See infra* ¶ 2(h).

The Court further has serious concerns that the 2017 redrawing of 2011 Enacted House Districts 36, 37, 40, and 41 in Wake County and House District 105 in Mecklenburg County exceeded the authorization to redistrict provided in the Court's previous orders. None of these districts as enacted in 2011 was found to be an unconstitutional racial gerrymander, nor do any of these districts adjoin such a district. The Legislative Defendants have not provided any evidence that it was necessary to redraw these districts in order to cure the constitutional violations found by the Court as to 2011 House Districts 33 and 38 in Wake County or House Districts 99, 102, or 107 in Mecklenburg County. Unless required by court order, the General Assembly was prohibited by the North Carolina Constitution from redrawing these districts. N.C. Const.

art. II §§ 3(4), 5(4). If these 2017 Enacted Districts cannot be used, it also becomes impossible to use the other 2017 Enacted Districts in Mecklenburg and Wake Counties, thus necessitating the redrawing of the 2011 unconstitutional districts – House Districts 33, 38, 99, 102, and 107 – and only such adjoining districts as are necessary to remedy the violations found as to those districts. *See Covington*, 316 F.R.D. at 159-61 (House Districts 33 and 38); *id.* at 164-66 (House Districts 99, 102, and 107); *see also Cleveland Cnty. Ass'n for Gov't by the People v. Cleveland Cnty. Bd. of Comm'rs*, 142 F.3d 468, 477 (D.C. Cir. 1998) (per curiam) (“[I]f a violation of federal law *necessitates* a remedy barred by state law, the state law must give way; if no such violation exists, principles of federalism dictate that state law governs.” (emphasis added)).

Constitutionally adequate districts must be in place in time for the 2018 election, and the Court finds it appropriate to appoint a Special Master to assist the Court in drawing such districts, should the Court ultimately determine they are necessary. *See* Doc. 202 at 2. After reviewing the Special Master’s report, and with the benefit of his analysis, this Court will issue an order finally deciding whether the Plaintiffs’ objections will be sustained and determining the districting plan to be used going forward. *See Personhuballah v. Alcorn*, 155 F. Supp. 3d 552, 562-65 (E.D. Va. 2016) (relying on special master report and remedial districting plan to assess proposed legislative remedial plan); Order Appointing Special Master, *Navajo Nation v. Ariz. Indep. Redistricting*, Nos. CV 02-0799, 02-0807 (D. Ariz. May 17, 2002) (appointing special master “to evaluate evidence regarding proposed redistricting plans,” including remedial plan adopted by state redistricting body, and to “assist the court in developing an appropriate plan”).

In view of the fast-approaching filing period for the 2018 election cycle and the specialized expertise necessary to draw district maps, the Court has previously given notice of its intent to appoint Professor Nathaniel Persily as Special Master pursuant to Federal Rule of Civil Procedure 53(a)(1)(C). *See* Doc. 202. The Court's selected Special Master has filed the affidavit required by Federal Rule of Civil Procedure 53(b)(3)(A). Doc. 203.

The parties have had an opportunity to object to the Court's selection of a Special Master. The Legislative Defendants filed objections, Doc. 204, and the Plaintiffs have responded. Doc. 205. The Court has considered those objections and overrules them. The State is not entitled to multiple opportunities to remedy its unconstitutional districts. *See Reynolds v. Sims*, 377 U.S. 533, 585-87 (1964) (affirming remedial districting map drawn by a district court after district court found state legislature's first proposed remedial map failed to remedy constitutional violation). Additionally, the fast-approaching candidate filing deadline necessitates an expedited schedule. In light of the need for an expedited schedule, the Court's two notices of its intent to appoint a special master, the first of which was issued approximately three weeks ago, provided the parties with more than adequate notice and opportunity to be heard. It is comparable to the timeline followed in similar cases. *See* Order, *Personhuballah v. Alcorn*, No. 3:13cv678, Doc. No. 241 (E.D. Va. Sept 25, 2015) (appointing special master approximately three weeks after first notifying parties of its intent to appoint special master); *see also* Order, *Personhuballah v. Alcorn*, No. 3:13cv678, Doc. No. 207 (E.D. Va. Sept. 3, 2015) (notifying parties of intent to appoint special master). The Legislative Defendants'

specific objections to the identified Special Master are speculative and insubstantial, and they have not made an alternative suggestion despite the Court's invitation to do so.

Pursuant to Federal Rule of Civil Procedure 53, it is hereby **ORDERED** that:

1. Dr. Nathaniel Persily is appointed as a Special Master to submit a report and proposed plans to remedy the unconstitutional racial gerrymander of 2011 Enacted Senate Districts 21 and 28 and House Districts 21, 33, 38, 57, 99, 102, and 107 (hereinafter the "Subject Districts"), as more specifically identified in this Court's opinion in *Covington v. North Carolina*, 316 F.R.D. 117 (M.D.N.C. 2016), *aff'd in relevant part*, 137 S. Ct. 2211 (2017) (mem.). His report is due no later than December 1, 2017.
2. In drawing remedial districts, the Special Master shall:
 - a. Redraw district lines for the Subject Districts and any other districts within the applicable 2017 county grouping necessary to cure the unconstitutional racial gerrymanders. As to House District 57, the redrawn lines shall also ensure that the unconstitutional racial gerrymanders in 2011 Enacted House Districts 58 and 60 are cured. As to 2011 Enacted House Districts 33, 38, 99, 102, and 107, no 2011 Enacted House Districts which do not adjoin those districts shall be redrawn unless it is necessary to do so to meet the mandatory requirements set forth in Paragraphs 2(b) through 2(e) of this Order, and if the Special Master concludes that it is necessary to adjust the lines of

a non-adjointing district, the Special Master shall include in his report an explanation as to why such adjustment is necessary.

- b. Use the 2010 Federal Decennial Census Data;
- c. Draw contiguous districts with a population as close as possible to 79,462 persons for the House Districts and 190,710 persons for the Senate Districts, though a variance up to +/- 5% is permitted and authorized if it would not conflict with the primary obligations to ensure that remedial districts remedy the constitutional violations and otherwise comply with state and federal law, would enhance compliance with state policy as set forth in subsection (f) below, and would not require redrawing lines for an additional district.
- d. Adhere to the county groupings used by the General Assembly in the 2017 Enacted Senate and House Plans;
- e. Subject to any requirements imposed by the United States Constitution or federal law, comply with North Carolina constitutional requirements including, without limitation, the Whole County Provision as interpreted by the North Carolina Supreme Court.
- f. Make reasonable efforts to adhere to the following state policy objectives, so long as adherence to those policy objectives does not conflict with the primary obligations of ensuring that remedial districts remedy the constitutional violations and otherwise comply with state and federal law:

- i. Split fewer precincts than the 2011 Enacted Districts;
 - ii. Draw districts that are more compact than the 2011 Enacted Districts, using as a guide the minimum Reock (“dispersion”) and Polsby-Popper (“perimeter”) scores identified by Richard Pildes & Richard Neimi, *Expressive Harms, “Bizarre Districts,” and Voting Rights: Evaluating Election-District Appearances After Shaw v. Reno*, 92 Mich. L. Rev. 483 (1993); and
 - iii. Consider municipal boundaries and precinct lines.
- g. After redrawing the districts, in view of the policy decision by the General Assembly that efforts to avoid pairing incumbents are in the interest of North Carolina voters, the Special Master may adjust district lines to avoid pairing any incumbents who have not publicly announced their intention not to run in 2018, but only to the extent that such adjustment of district lines does not interfere with remedying the constitutional violations and otherwise complying with federal and state law. Additionally, the Special Master shall treat preventing the pairing of incumbents as “a distinctly subordinate consideration” to the other traditional redistricting policy objectives followed by the State. *Ga. State Conf. of NAACP v. Fayette Cty. Bd. of Comm’rs*, 996 F. Supp. 2d 1353, 1363 (N.D. Ga. 2014) (collecting cases).
- h. Except as authorized in Paragraph 2(g), the Special Master shall not consider incumbency or election results in drawing the districts. *See*,

e.g., *Wise v. Lipscomb*, 437 U.S. 535, 541 (1978) (noting that courts lack “political authoritativeness” and must act “in a manner free from any taint of arbitrariness or discrimination” in drawing remedial districts) (quoting *Connor v. Finch*, 431 U.S. 408, 417 (1977)); *Wyche v. Madison Par. Police Jury*, 769 F.2d 265, 268 (5th Cir. 1985) (“Many factors, such as the protection of incumbents, that are appropriate in the legislative development of an apportionment plan have no place in a plan formulated by the courts.”); *Wyche v. Madison Par. Police Jury*, 635 F.2d 1151, 1160 (5th Cir. 1981) (noting that “a court is forbidden to take into account the purely political considerations that might be appropriate for legislative bodies”); *Favors v. Cuomo*, Docket No. 11–cv–5632, 2012 WL 928216, at *18 (E.D.N.Y. Mar. 12, 2012), *report and recommendation adopted as modified*, No. 11-cv-5632, 2012 WL 928223, at *6 (E.D.N.Y. Mar. 19, 2012); *Molina v. Cty. of Orange*, No. 13CV3018, 2013 WL 3039589, at *8 (S.D.N.Y. June 3, 2013), *supplemented*, No. 13CV3018, 2013 WL 3039741 (S.D.N.Y. June 13, 2013), *report and recommendation adopted*, No. 13 CIV. 3018 ER, 2013 WL 3009716 (S.D.N.Y. June 14, 2013); *Larios v. Cox*, 306 F. Supp. 2d 1214, 1218 (N.D. Ga. 2004); *Balderas v. Texas*, No. 6:01CV158, 2001 WL 36403750, at *4 (E.D. Tex. Nov. 14, 2001).

- i. The Special Master may consider data identifying the race of individuals or voters to the extent necessary to ensure that his plan cures

the unconstitutional racial gerrymanders and otherwise complies with federal law.

3. The Special Master may consider the plans submitted by the Plaintiffs and the 2017 Enacted plans as background. Because any remedy must be narrowly tailored to address the harm, he further should use any 2017 Enacted Districts within a relevant county grouping which do not abut or overlap with a Subject District, except to the extent modification of such district is necessary to comply with and meet the requirements of this Order. *See Personhuballah*, 155 F. Supp. 3d at 563 (discussing Supreme Court precedent and concluding that in remedying a violation, the only districts which should be changed are those that are “require[d]” to be changed). Any such decisions shall be explained in his report. Otherwise, he shall draw his own plans using the criteria set forth herein.
4. The Special Master is authorized to hire research and technical assistants and advisors reasonably necessary to facilitate his work, who shall be reasonably compensated by the State of North Carolina in the same way as the Special Master. He is authorized to buy any specialized software reasonably necessary to facilitate his work.
5. To facilitate the consideration of incumbency authorized by Paragraph 2(g), the parties shall confer and, no later than November 8, 2017, shall file a Joint Submission identifying incumbents covered by Paragraph 2(g) by name, address, and date first elected.

6. Upon request from the Special Master, the parties shall promptly make available to the Special Master electronic copies of trial and hearing transcripts, trial exhibits, motions, briefs, and evidentiary material otherwise submitted to the Court. Such a request shall be communicated by way of an email message to counsel of record for all parties.
7. The parties, including the North Carolina Legislative Analysis Division, shall promptly respond to the best of their ability to any reasonable request by the Special Master for supporting data or information as is reasonably necessary to carry out his assignment. All such requests and responses shall be made by email, with all counsel copied. Upon such a request, the requested party shall respond promptly to the best of its ability. The Special Master may, but is not required to, request briefs on such background matters as he would find helpful. The Special Master is not authorized to take new evidence, absent request to do so and approval from the Court.
8. The Special Master may, but is not required to, convene the parties for a discussion about logistics, software, data, and other housekeeping or technical issues, including whether it would or might save time or other resources to use computers, software, data, or other facilities and materials controlled by the State and to have technical assistance from a support person employed by the State in the use of such materials. He may convene such a discussion upon reasonable notice at a time and place and in a method convenient to him, though if an in-person meeting or hearing is convened it shall occur in North

Carolina. He shall advise the parties of the time and other details by way of an email message to counsel of record for all parties.

9. If the Special Master determines that it would save time and otherwise facilitate prompt completion of his work to use state technical resources and so long as the parties consent to such use under terms which would not give the State advance or ex parte knowledge of the Special Master's work and which would prevent the State from accessing such work or communicating with its support employee about such work, the Court will entertain a request to supplement this Order.
10. If time permits and the Special Master would find it helpful, he may publicly release preliminary maps or plans and convene a hearing, meeting, or informal conference to evaluate whether the preliminary maps meet the criteria set forth herein or raise unanticipated problems. The Special Master shall advise the parties of the time and other details by way of an email message to counsel of record for all parties and shall file notice with the court. A transcript shall be prepared of any such hearing, meeting, or conference, and, if it does not occur in open court, be made available on the Court's docket.
11. The Special Master is prohibited from engaging in any ex parte communication with the parties or their counsel, except as specifically authorized by this Order.
12. The Special Master is prohibited from discussing this matter with anyone else, other than assistants or advisors he retains to complete his work, except as

specifically authorized by this Order. Any assistants or advisors retained by the Special Master may discuss the matter only with the Special Master.

13. The Special Master may communicate ex parte with the Clerk of Court, the Clerk's staff, and the Court about housekeeping, scheduling, and logistical matters. If necessary to clarify or supplement these instructions, the Special Master may communicate ex parte with the Court, provided he promptly advises the parties that the communication has occurred and discloses any material guidance he has received.

14. Pursuant to Rule 53(b)(2)(C), the Special Master shall maintain orderly files consisting of all documents submitted to him by the parties and any written orders, findings, and recommendations. All other materials relating to the Special Master's work should be preserved until relieved of this obligation by the court. The Special Master shall preserve all datasets used in the formulation of redistricting plans, and any drafts considered but not recommended to the court, in their native format.

15. The Special Master's final report shall contain:

- a. At least one recommended redistricting plan for each Subject District;
- b. For each county or county grouping encompassing a Subject District, a color map showing the recommended remedial plan;
- c. For each Subject District, an analysis (i) explaining the proposed remedial plan and the recommendation of that plan over the 2017 Enacted Districts or the Plaintiffs' proposed districts; (ii) covering any

matters required elsewhere in this Order; and (iii) discussing any criteria, issues, or questions which the Special Master believes may arise or which will otherwise aid the Court;

- d. A comparison of the Special Master's districts with the related 2011 and 2017 Enacted Districts as to population deviations; compactness; county, municipal, and precinct splits; incumbency pairing; Black Voting Age Population; and any other relevant criteria; and
- e. A "stat pack" for the recommended plans.

16. If any party believes the report should contain additional information, it shall meet and confer with other parties and thereafter file an appropriate request no later than November 6, 2017. In lieu of a brief in support, the request shall be accompanied by a Joint Submission including the positions of all parties so that responses will not be needed.

17. The Special Master shall file his report electronically on the Court's CM/ECF system. The Legislative Defendants shall promptly post the Special Master's report and supporting electronic files to its redistricting website.

18. The Court will review the report pursuant to Fed. R. Civ. P. 53(f).

19. If any party or non-party believes that one or more proposed districts set forth in the Special Master's report is legally unacceptable or otherwise should not be adopted, specific objections must be filed within five business days. Any response must be filed within three business days. Briefs are limited to 5000 words. Reply briefs limited to 2500 words may thereafter be filed within two

business days. The Court anticipates scheduling a hearing on the report in early January 2018. Fed. R. Civ. P. 53(f)(1).

20. The Court understands the candidate filing period to be from February 12 to February 28, 2018. Doc. 162-1. If that is or becomes incorrect, the Defendant State Board of Elections shall immediately advise the Court.

21. The Court may modify this order pursuant to Federal Rule of Civil Procedure 53(b)(4). The parties may seek to modify this order for good cause shown, but no such motion shall be filed without meeting and conferring in person with all other counsel. Absent agreement, the time to respond to such a motion is two business days and no reply will be permitted.

Entered by the Court, this the 1st day of November, 2017.


FOR THE COURT