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An Assessment of Voting Rights Progress in North Carolina

EXECUTIVE SUMMARY

By Edward Blum

Sizeable progress has been achieved in North Carolina voting rights. Although minority representation has not quite achieved full proportionality, it is very close. The 2004 Census Bureau estimates show African Americans comprising 20.5 percent of the state's voting age population. Blacks currently hold 15.3 percent of the seats in the legislature.

Black voters are more likely to vote in North Carolina than in the non-southern states, but North Carolina black voters register and turnout at lower rates than North Carolina whites. The disparity between black and white voter participation has declined dramatically over the past two decades, as the two races are now less than 3 points apart on rates of participation.

Black voters have been able to elect candidates of choice to the legislature and the US House, and have continued to do so with the departure of incumbents from districts with lower black voter percentages than in the early 1990s. The success of Reps. Ballance and Butterfield in succeeding Rep. Clayton from the low country 1st congressional district is representative of this ability.

The old disparity in black and white registration rates in North Carolina has been substantially reduced and, in fact, was eliminated in the 2004 election with blacks reporting higher rates of registration than whites. Additionally, in 2004, the Census Bureau estimates that black voter participation at the polls was 63.1 percent while it was only 58.1 percent for whites. Black voter participation rates in North Carolina are sometimes exceeding black voter participation rates outside of the South.

By 2000, North Carolina had approximately 500 African American officeholders, up from only 40 in 1969. A high-profile African American, Harvey Gantt, has twice won the Democratic nomination for the U.S. Senate, once beating Michael Easley (a white who later became the state's governor) with 57 percent of the primary vote. Even though Gantt lost both bids for the Senate, his performance was on par with that of other white Democrats who had challenged the incumbent, Jesse Helms.

Between the two Gantt defeats was a statewide victory for an African American. In 1992, Ralph Campbell won the Democratic nomination for state auditor and then went on to win in the general election. Four years later, Campbell won a second term in this constitutional office. Campbell won reelection in 1996 when he competed on the same ballot with Harvey Gantt. Campbell ran four percentage points ahead of Gantt and won office, while Gantt lost once again. Campbell won a third term in 2000 but failed in his bid for a fourth term in 2004.

An Assessment of Voting Rights Progress in North Carolina

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Assessment of Voting Rights Progress in North Carolina

North Carolina adopted disfranchising techniques in 1900 when amendments to the state constitution imposed a literacy test and a poll tax. Only 20 years later, however, North Carolina became the first southern state to eliminate the poll tax as a condition for voting.¹ The literacy test remained in place until struck down by the Voting Rights Act. Unlike most other southern states, North Carolina did not make use of a white primary as a technique for limiting African-American participation.²

Not all of North Carolina is subject to the trigger mechanism of the Voting Rights Act and therefore only certain counties are subject to having their election ordinances precleared by the Department of Justice. The trigger mechanism written into the 1965 statute - - the presence of tests or devices that prospective voters must satisfy coupled with a turnout rate in the 1964 presidential election or a registration rate at the time of that election of less than 50 percent of the age-eligible electorate - - subjected 40 of North Carolina's counties to preclearance (see Map 1). Statewide legislation affecting elections, such as redistricting plans, must go through the preclearance review before being implemented.

Black Registration and Turnout

The U.S. Civil Rights Commission estimated that at the time that the Voting Rights Act was originally passed, just over a quarter of a million non-whites and 1.9 million whites were registered to vote in North Carolina. These figures translated into a registration rate of 46.8 percent of the non-white and 96.8 percent of the whites of voting age.³ As of February 1967, a year and a half after passage of the Voting Rights Act, figures reported by the North Carolina State Board of Elections for all but three medium-size counties showed 277,404 non-whites and 1,602,980 whites registered to vote. African – American registration had increased from 46.8 to 51.3 of the age eligible while among whites, 83 percent of the age-eligible had signed up to vote. The share of the non-white voting age population that had registered by 1967 in the 40 counties subject to Section 5 was substantially lower than the state as a whole. In these counties just over 40 percent of the non-white voting age population had registered. In only 5 of the 40 counties was a majority of the voting age population registered as of 1967. Thus the rate of registration among non-whites in the Section 5 counties continued to lag that for the remainder of the state. The counties included among the Section 5 counties were all of those in which a majority of the voting age population as of 1960 was not white. These counties tended to have small to moderate populations with the only one of the states major counties subject to Section being Guilford which contains the city of Greensboro.

¹ J. Morgan Kousser, *The Shaping of Southern Politics* (New Haven: Yale University Press, 1974), p. 239.

² William R. Keech and Michael P. Siström, "North Carolina," in *Quiet Revolution in the South*, Chandler Davidson and Bernard Grofman, eds. (Princeton: Princeton University Press, 1994), p. 190.

³ U.S. Commission on Civil Rights, *Political Participation* (Washington, DC: U.S. Government Printing Office, 1968), pp. 222-223.

The basis for activating the trigger mechanism is not that a majority of the non-white population be registered but rather that less than half of the total population was registered as of 1964. By 1967, in the Section 5 counties, 62.2 percent of the total voting age population from the 1960 census had registered.

Table 1 provides figures on black and white registration as compiled from surveys done by the U.S. Bureau of the Census after each general election. The figures here are self-reported and suffer from the tendency of respondents to claim to have participated at higher rates than they actually did. The Census Bureau figures, while probably inflating estimates for participation can be used for comparative purposes across time and across states on the assumption that the inflation is of similar magnitude across time and space. Moreover, these surveys were the basis for the kinds of estimates that the Census Bureau used in determining whether registration or turnout rates for jurisdictions were so low as to make them subject to the trigger mechanisms included in the 1965, 1970 and 1975 voting rights acts. These self-reported figures are based on the share of the age-eligible population registered at the time of the election.

As shown in Table 1, in 1980, just under half of the age-eligible blacks in North Carolina reported being registered to vote while 63.7 percent of the whites who were of age claimed to be registered. The disparity in reported racial registration rates widened in 1982 to almost 19 percentage points. Thereafter the disparities have been smaller shrinking to 7.5 points in 1984 and remaining at roughly that size through the rest of the 1980s.

(See Table 1)

The disparity in self-reported registration shrinks to 3.5 percentage points in 1990. It then expands to more than eight percentage points in the next two mid-term elections before shrinking back to approximately five percentage points in 2002. In the presidential elections of 1992, 1996 and 2000, approximately five percentage points more of the white than the African American voting age population claims to have been registered. In 2004, for the first time, the rate at which blacks reported registering exceeds that for whites with 70.4 percent of African Americans and 69.4 percent of the whites of voting age indicating that they registered.

The bottom half of Table 1 provides estimates for the non-South as a basis for comparison with the levels of black registration in North Carolina. During the 1980s, African Americans living outside of the South always reported higher registration rates than did North Carolina's black population. The greatest disparity occurred in 1982 when 61.7 percent of the non-South African Americans said they registered compared with 43.6 percent of the black population in North Carolina. During the remainder of the decade, the disparity was approximately seven percentage points. Beginning with 1990, the reported registration rate among North Carolina blacks usually slightly exceeded that of African Americans living outside of the region. In 1990, North Carolina blacks were 1.7 percentage points more likely to be registered than were non-southern blacks. The largest advantage for North Carolina blacks comes in 1996 when 65.5 percent of the

Tarheel African Americans compared with 62.0 percent of non-southern blacks claim to have been registered. In 2000 and 2002, the advantage for the North Carolina African Americans is little more than one percentage point.

One of the two elections since 1990 in which black registration in North Carolina did not exceed that of the non-South comes in 1994 when 58.3 percent of the non-southern blacks but only 53.1 percent of North Carolina's blacks claim to be registered. In the other year inconsistent with the post-1990 pattern, 1998, 58.5 percent of non-southern blacks and 57.4 percent of North Carolina blacks reported being registered.

The data in Table 1 show that the disparity in black and white registration rates in North Carolina have been substantially reduced and in the most recent election eliminated altogether with blacks reporting that they registered at a slightly higher rate than did whites. At the same time that the racial disparity in North Carolina was being eliminated, it had been reversed when the comparison is between African Americans in North Carolina and outside of the region. In all but two of the seven most recent elections for which the comparisons are possible, a higher proportion of North Carolina African Americans than non-southern blacks report that they had registered to vote.

Table 2 contains Census Bureau estimates of turnout by race in North Carolina from 1980 through 2004. The voting age population is the denominator used to calculate these percentages. Black self-reported participation rates do not exceed those for whites in North Carolina until 2004. In 1990, 1998 and 2002, the differences are small with the smallest difference coming in 2002 when 42.2 percent of blacks and 43.5 percent of whites reported having gone to the polls in the general election.

During the 1980s, whites reported voting at rates at least eight percentage points greater than did blacks and in the first three election years, the differences exceeded ten percentage points. Since 1996, the disparities have been less than nine percentage points and in the two most recent mid-term elections, differences were less than 2.5 percentage points.

In 2004, for the first time in the time series, the Census Bureau estimates of participation show blacks voting at higher rates than whites in North Carolina. Among blacks, 63.1 percent said that they participated in the 2004 election compared with 58.1 percent of the whites. The reported black participation in 2004 exceeds any figure for whites in the entire time series. This higher reported participation among blacks is also a break with the previous pattern in which whites' participation rates exceeded those for blacks by the larger margins in presidential years than in adjacent mid-term elections.

(See Table 2)

During the 1980s, self-reported black participation in North Carolina was substantially below that in the non-South. In each of those five election years except for 1986, black turnout in North Carolina was at least nine percentage points lower than in the non-South. Beginning with 1990, black turnout rates in North Carolina exceed those for the non-

South in three of the next seven election years including a difference of almost three percentage points in 2002. The greatest disparity in favor of North Carolina blacks came in 1990 when the difference was almost ten percentage points. On the other hand, the greatest overall disparity since 1990 came in 1994 when outside the South 40.2 percent of African Americans said they voted compared with only 28.3 percent participation in North Carolina. In 1992, 1996, and 1998, the figures for North Carolina and the non-South were quite similar with differences of less than three percentage points. While we do not have figures for black participation outside of the South for 2004, the 63.1 percent of the North Carolina blacks who reported voting in the most recent election is a higher proportion than for blacks outside the South in any previous year.

The patterns reported in Table 2 indicate that black participation rates in North Carolina are increasingly approximating and sometimes exceeding those outside the South. There has also been a pattern of North Carolina black self-reported participation becoming increasingly like that of Tarheel whites although whites continue to report voting at higher rates than do blacks, except in the most recent election.

North Carolina is one of the five southern states that maintains registration data by race. Registration figures by race from the State Board of Election are available beginning with 1994. The official figures show that in October 1994, almost 640,000 blacks and 2.85 million whites were registered in the state. As Table 3 shows black registration increases by more than 450,000 from 1994 to 2006. There is also a substantial increase in white registration during the twelve years as it climbs from 2.85 to 4.15 million. In 1994, African Americans constituted 17.6 percent of the state's registered voters. A dozen years later, the proportion had increased to 20.1 percent, which almost equals the 20.5 percent of the state's voting age population estimated to be black in 2004 by the Census Bureau.

(See Table 3)

Only in 2002 did North Carolina begin to report official figures on turnout by race. Among those who had registered as of October 2002 and therefore were eligible to vote in that year's elections, 41 percent of the African Americans cast ballots as did 60 percent of the whites. It should be noted here that the denominator in calculating turnout is registrants while in Table 2, the Census Bureau uses the voting age population as the denominator in calculating turnout. The participation rates for the two races converge substantially in the 2004 presidential election. In 2004, the state reports that 59 percent of its black registrants and 66 percent of its white registrants went to the polls.

The statistics maintained by the North Carolina Board of Elections and presented in Table 4 show that since the beginning of their data presentation in 1972, a majority of North Carolinians have registered to vote. The figures range from a low of just under 60 percent in 1978 to a high of over 85 percent in 2004. Two sets of turnout percentages are calculated in Table 4. In the first calculation, turnout is calculated as a percentage of registered voters. These figures show that in every presidential year, a majority of the registrants came to the polls. In most mid-term elections less than a majority turned out.

The exceptions came in 1986 and 1990. In the most recent mid-term election, almost 47 percent of the registered voters cast ballots in 2002. When participation is calculated as a share of the voting age population, only infrequently did most North Carolinians cast ballots. Only in 1992 and 2004 did most of the age eligible go to the polls with almost 55 percent of the adult population voting in 2004. Participation rates in mid-term elections tend to be lower than in presidential elections and in three mid-term elections, fewer than 30 percent of the adults participated. The turnout figures show a general increase over time in the share of the voting age population casting ballots once a type of election is controlled for.

(See Table 4)

The farthest left column presents the Census Bureau estimates of turnout. These figures are calculated using the Census Bureau's estimates of the voting age population as the denominator. Census Bureau's estimates of participation rates always exceed those calculated using the state's official figures. Up through 1996, the Census Bureau estimates are often ten percentage points higher than the official figures. For the four most recent elections, the two sets of turnout figures based upon voting age population are much closer never differing by as much as five percentage points. In 2004, the difference is only 3.4 points.

If the appropriateness of the trigger mechanism for the state were to be recalculated based upon Census Bureau estimates of turnout of the voting age population in presidential years, then in every year a majority of North Carolinians went to the polls.

In the counties subject to Section 5, the number of African Americans registered to vote is now more than four times as high as the non-white registrants in 1967. In the most recent figures, released by the North Carolina Board of Elections, 528,848 African Americans had registered in these counties up from just under 121,000 non-whites registered in 1967. This compares with 1,223,692 whites on the voting rolls in 2006. That is an increase from 523,699 in 1967. As of 2006, African Americans constitute 28.8 percent of the registered voters in the Section 5 counties. This compares with the 18.8 percent of the registrants comprised of non-whites in 1967.

African American Officeholding

At the outset of record keeping on the numbers of African-American elected officials, North Carolina had 40 in 1969 with almost two-thirds of these serving in cities. Within three years, the total had reached 103 of whom two-thirds still served at the municipal level with very few county officials. The number of black county officials did not exceed ten until 1975 at which point there were still ten times as many municipal as county black officials. By 1976, the number of black officials reached 218 and increased to 353 in 1987. During the four years between 1985 and 1989, Table 5 shows a dramatic increase in black elected officials of more than 50 percent. This dramatic increase is partially attributable to the implementation of Section 2. The initial interpretation of this re-

written section that modified the Voting Rights Act in 1982 came in a North Carolina case. With the Supreme Court's blessing for efforts to force multi-member and at-large plans to be converted into single-member districts, large numbers of additional African Americans won local offices. In North Carolina much of the increase in black elected officials came at the municipal level where numbers rose from 162 in 1985 to 279 eight years later.

(See Table 5)

As the 20th century came to close, North Carolina had approximately 500 African Americans in public office. Just under 60 percent of the public officials hold municipal office. The state still had fewer than 100 black school board members and the 100 counties in the state had produced fewer than 65 black officials.

The African Americans in Congress

North Carolina has had two black members in Congress since the 1992 districting map was implemented. The initial map drawn by the state had one majority-black district and it was located in the eastern part of the state. The U.S. Department of Justice (DOJ) which has authority to review the state's districting plan since almost half of North Carolina is subject to Section 5 of the Voting Rights Act rejected that map. In rejecting North Carolina's first effort DOJ essentially instructed the state that to secure approval it would need to create a second majority black district. It had been many years since North Carolina had even one majority-black congressional district so that creation of a majority – black district was more than required under the non-retrogression rule that had been the standard in Section 5 reviews. In denying preclearance, DOJ relied on Section 2 and measured North Carolina's effort against a "max-black" standard. Since the state could have created a second majority-black district, DOJ required it.

In response to this directive, Republicans who constituted a minority in the legislature, pushed for a second majority-black district that would be located in the southern part of the state extending from Charlotte eastward. The legislature, however, opted for an alternative configuration that had been originally drawn by a Republican legislator. This alternative, which became known as the I-95 district because it tracked closely with the interstate highway, linked blacks in a series of urban areas in the Piedmont. The district ran from Gastonia in the west to Charlotte and next northward as far as Winston-Salem and then picked up High Point, Greensboro and extended on eastward before ending in Durham. This 160-mile long district united urban black populations but carefully avoided nearby concentrations of whites so as not to violate equal population standards. As a result, in some places the district was no wider than two lanes on I-95. At times the district crossed over from the northbound lanes to the southbound lanes and in some places the district was contiguous only at a touch point.

The configuration of this district outraged Duke University Law School Professor Robinson Everett. Everett, who had once served as the chief judge of a Court of Military

Appeals, filed suit on behalf of voters who objected to the plan. Initially, Everett was unsuccessful since the three-judge federal court convened in North Carolina found the issue raised by the plaintiffs to be non-justiciable. Everett appealed to the Supreme Court and where he succeeded in convincing a five-person majority that he had a claim. Writing for the majority, Justice Sandra Day O'Connor noted:

Put differently, we believe that reapportionment is one area in which appearances *do* matter. A reapportionment plan that includes in one district individuals who belong to the same race, but who are otherwise widely separated by geographical and political boundaries, and who may have little in common with one another but the color of their skin, bears an uncomfortable resemblance to political apartheid.⁴

Following a hearing on the merits, the three-judge panel rejected Everett's claims. After a second appeal to the Supreme Court however, Everett finally prevailed and the court struck down the 12th district for violating the Equal Protection Clause because it had been drawn predominately on the basis of race.⁵

The state legislature produced a new plan that shortened the distance spanned by the twelfth district so that it extended only from Charlotte northward to Winston-Salem and Greensboro. Everett, however, continued to believe that race had been the predominate consideration in drawing this map in which the 12th district was 46.7 percent African American and filed another challenge. The trial court granted plaintiffs' motion for summary judgment forcing the legislature to draw a third map.⁶ In this third map, which was used in the 1998 election, the black percentage in the district dropped to 35.6 and the district extended only from Charlotte to Winston-Salem.

The state appealed the summary judgment asserting that the legislature relied on partisan and not racial data in drawing the second map. Since the state's claims meant that the case involved a controversy, the Supreme Court overturned the trial court decision and ordered a full hearing on the merits.⁷ In the subsequent hearing, the three-judge trial panel found again for the plaintiffs. The plaintiffs introduced into evidence an e-mail that had been sent by the staff person primarily responsible for redistricting to the senator who led the redistricting effort. In that e-mail, the staffer asked the chair of the Senate committee for guidance. "I have moved Greensboro Black community in to the 12th and now need to take 'bout [sic] 60,000 out of the 12th. I await your direction on this."⁸ The trial court agreed with the plaintiffs that this email indicated that race and not partisan considerations had been the predominant factor in shaping the 12th district.

The state appealed again and in *Easley v. Cromartie*, the Supreme Court's fourth ruling on North Carolina redistricting efforts during the 1990s, the court upheld the state's

⁴ *Shaw v. Reno*, 509 U.S. 630 (1993).

⁵ *Shaw v. Hunt*, 517 U.S. 899 (1996).

⁶ *Cromartie v. Hunt*, No. 4: 96-CV-104. BO (3) (E.D. N.C., 1998)

⁷ *Hunt v. Cromartie*, 526 U.S. 541 (1999).

⁸ *Cromartie v. Hunt*, No. 4: 96-CV-104-BO (3) (E.D.N.C., 2000).

plan.⁹ Justice O'Connor who had supported the first two challenges to North Carolina's plan, switched sides and now joined the more liberal wing of the court in a 5-4 opinion. In *Easley*, the Supreme Court accepted the state's contention that it had relied predominately upon partisan data from elections held almost a decade earlier and had considered race as nothing more than a secondary factor if that.

Table 6 shows the changes in the racial make up of the two districts that have elected African Americans since 1992. The First District in the eastern part of the state was represented by Eva Clayton from 1993 until 2003. Frank Ballance succeeded Clayton but resigned in 2004 shortly before pleading guilty to federal fraud charges. The seat is currently held by G.K. Butterfield. All three incumbents in the First District since 1993 have been African Americans. The district has had a black majority in its population since 1993 although the voting age population and the registered electorate have been majority white since the redistricting of 1998.

In contrast, the 12th District represented by Melvin Watt since 1993 lost its black majority with the first remapping pursuant to *Shaw* in 1998. Despite a dramatic drop in the black population from 56.6 percent to 35.6 percent, Watt won handily taking 56 percent of the vote. The next redistricting, the one used for the 2000 election, increased the black percentage in the 12th District to 46.7 percent of the population and again, Watt won easily with 65 percent of the vote. With the redrawing following the 2000 census, the black percentage dropped to 44.6 percent but Watt continues to win reelection.

(See Table 6)

Melvin Watt has successfully fashioned a biracial coalition and defended his seat even as it has undergone three reconfigurations and had its black population substantially reduced. In the First District, the black percentage has remained higher than in the 12th, nonetheless Eva Clayton and her successors have also fashioned biracial coalitions. The elections of Ballance and Butterfield following Clayton's retirement in 2002 indicate that it was not just incumbent Clayton who could win in this district in which most voters were white. In the critical 2002 Democratic primary, Ballance took 47 percent of the vote and thereby avoided a runoff.¹⁰ The only white candidate in the four-person field, finished second with 26 percent of the vote. Now that many whites choose to participate in the Republican primary, it is not necessary that districts be majority minority in order to nominate African Americans.¹¹

The success of African Americans in winning and holding two congressional seats in North Carolina since 1993 contrasts with the earlier unsuccessful efforts mounted by African Americans. Immediately after the 1982 redistricting, Mickey Michaux, a black legislator, ran for the open Second District that included Durham and portions of

⁹ *Easley v. Cromartie*, 532 U.S. 234 (2001).

¹⁰ North Carolina requires 40 percent of the vote and not a majority to win a nomination.

¹¹ Bernard Grofman, Lisa Handley and David Lublin, "Drawing Effective Minority Districts: A Conceptual Framework and Some Empirical Evidence," *North Carolina Law Review*, 29 (June 2001): 1383-1430.

northeast North Carolina. In the initial primary, Michaux captured 44 percent of the vote while Tim Valentine, a white former legislator, took 33 percent. The remainder of the vote went to a second white candidate. In the early 1980s, North Carolina still required a majority vote for nomination, a threshold later lowered to 40 percent. In the runoff, Valentine leap-frogged past Michaux and won the Democratic nomination with 54 percent. The district in which Valentine defeated Michaux was 40 percent black by total population. In 1984, a second black legislator, Kenneth Spalding challenged Valentine in the primary. Valentine once again survived but with only 52 percent of the vote.

Michaux's runoff defeat after having led in the primary prompted the Reverend Jesse Jackson to make the runoff requirement (used by a number of southern states in their primaries) a major issue in his 1984 campaign for the Democratic presidential nomination. Jackson contrasted Michaux's fate with the experience of Harold Washington who won the Democratic nomination to become mayor of Chicago with a plurality vote against multiple white candidates.

As far back as 1972, Chapel Hill Mayor Howard Lee competed for the open Second District Congressional seat. In this 40 percent black district, Lee, one of the first African-Americans to be elected mayor of a predominately white city in the South, lost the nomination to a white opponent. Paul Leuke, a Democratic legislator and sociologist, speculates that Lee probably did not help himself in this conservative district by running as an economic populist.¹²

African-American State Legislators

The first African American elected to the North Carolina legislature in modern times won a House seat in 1968. Little increase in the black presence in the House occurs until after the 1982 redistricting when blacks win eleven of the 120 seats. During the 1980s, black representation in the House hovers around ten percent. After the next redistricting in the early 1990s, black representation increased so that during the 1990s approximately 15 percent of the House seats were filled by African Americans as shown in Table 7. Redistricting at the beginning of the new century had no significant impact on the number of African Americans serving in the House.

(See Table 7)

In the Senate, no black won a seat until 1974 when two members entered the upper chamber. During the next 14 years no more than three of the 50 seats in the Senate were held by blacks. In 1989 the number of black senators roses to five and after a new redistricting, it went to seven, which remained the number in 2005.

The 2004 Census Bureau estimates show African Americans comprising 20.5 percent of the state's voting age population. Blacks currently hold 15.3 percent of the seats in the legislature.

¹² Paul Leubke, *Tarheel Politics, 2000* (Chapel Hill: University of North Carolina Press, 1998), p. 157.

North Carolina has a tradition of multi-member districts. The consequences of this tradition for minority legislative representation was challenged in *Thornburg v. Gingles*, decided by the U.S. Supreme Court in 1986.¹³ This was the first case in which the Supreme Court dealt with Section 2 as amended in the 1982 Voting Rights Act. At issue were six multimember legislative districts which in 1982 sent five African Americans to the General Assembly. Notwithstanding the fact that blacks were winning some seats in these districts, plaintiffs contended that they had less opportunity than whites to elect their candidates of choice. The plaintiffs sought to replace the multi-member districts with single-member districts. Under a single-member districting plan, it would be possible to draw a heavily black district within the confines of each of the multi-member districts being challenged. Although five of the multi-member districts at issue in *Thornburg* had a black member in the delegation at the time of the litigation, the Supreme Court struck down all but one of these districts. The one district that survived had a tradition of electing an African American.

In finding that the multi-member districts diluted black political influence, the court relied heavily upon the evidence presented by the plaintiffs to demonstrate the presence of racial bloc voting. The court put its stamp of approve on two techniques for measuring racial voting patterns. One of these is the homogenous precinct approach that calculates the share of the vote in heavily black precincts going to each candidate and the share of the vote in heavily white precincts going to these candidates. The second approach used by the plaintiffs' expert, Political Science Professor Bernard Grofman of the University of California at Irvine, was ecological regression and it is this approach that Grofman put more confidence in. The court accepted Grofman's definition that racial bloc voting occurs when white and black voters prefer different candidates. Thus if the candidate preferred by black voters loses despite receiving the bulk of the black vote, this would be evidence of racial bloc voting.

The court used the *Thornburg* decision to establish three preconditions for a successful Section 2 challenge. First, plaintiffs must demonstrate that minority voters are sufficiently numerous and compact to constitute a majority within a single-member district. Second, plaintiffs must prove that the minority electorate is cohesive in its political choices. Third, the plaintiffs must show that the political preferences of minority voters are usually defeated by a white bloc vote.

Statewide African-American Candidacies

A high-profile African-American candidate has twice won the Democratic nomination for the U.S. Senate from North Carolina. In 1990, Harvey Gantt, who had been the first African-American student at Clemson University and later won election as mayor of Charlotte, sought the Democratic nomination for the U.S. Senate. To win the Democratic nomination in 1990, Gantt defeated Michael Easley (later to become North Carolina's governor) with 57 percent of the primary vote.

¹³ *Thornburg v. Gingles*, 478 U.S. 30 (1986).

The general election pitted Gantt against Jesse Helms the Republican incumbent seeking his fourth term in the Senate. Despite being outspent by Helms by a margin of more than 2:1, most polls showed Gantt leading until the closing days of the campaign. Helms pulled out a 53 percent victory after airing what has become a classic racial appeal ad. In what has become known as the “white hands” ad, there was a picture of white hands crumpling an envelope. The voice over commiserated:

You needed that job, and you were the best qualified. But they had to give it to a minority because of a racial quota. Is that really fair? Harvey Gantt says it is. Harvey Gantt supports Ted Kennedy’s racial quota law that makes the color of your skin more important than your qualifications. You’ll vote on this issue next Tuesday. For racial quotas: Harvey Gantt. Against racial quotas: Jesse Helms.¹⁴

This racial appeal helped mobilize conservative white Democrats in the eastern part of the state known as Jessecrats because of their willingness to forsake their Democratic moorings in order to support Helms.

In 1996, Gantt again opposed Helms as the conservative Republican mounted his last Senate election bid. The results were very similar to those six years earlier as Helms won again with 53 percent of the vote.

Even though Gantt failed in his two bids for the Senate, his performance was on par with that of the white Democrats who opposed Helms. In 1984, Helms had beaten Jim Hunt who had just completed two successful terms as governor. Helms devastated the popular governor with a series of ads showing conflicting statements made by the governor on key issues and then asked “Jim, where do you stand?” Helms took that election with 52 percent of the vote. Six years earlier, he had defeated state Insurance Commissioner John Ingram with 55 percent of the vote. While this was Helms’ largest margin, it came against a Democrat who ran little more than a shadow campaign as Helms outspent Ingram by a margin of \$7.5 million to \$264,088.¹⁵ In his initial election, Helms had won the open seat being vacated by B. Everett Jordan with 54 percent of the vote against U.S. Representative Nick Galifianakis. Thus the 53 percent of the vote that Helms took in his two victories over Gantt was right in line with his vote share against white Democratic challengers.

Between the two Gantt defeats was a statewide victory for an African American. In 1992, Ralph Campbell, the brother of Atlanta Mayor Bill Campbell, won the Democratic nomination for state auditor and then went on to win in the general election. Four years later, Campbell won a second term in this constitutional office. Campbell won reelection in 1996 when he competed on the same ballot with Harvey Gantt. As Gantt was losing,

¹⁴ Paul Luebke, *Tarheel Politics 2000*. (Chapel Hill: University of North Carolina Press, 1998): pp. 182-183.

¹⁵ Michael Barone, Grant Ujifusa and Douglas Matthews, *The Almanac of American Politics, 1980*. (New York: E.P. Dutton, 1979), p. 649.

Campbell ran four percentage points ahead of the Democratic Senate candidate. Campbell won a third term in 2000 but failed in his bid for a fourth term in 2004.

The 2004 elections proved more difficult for Democrats than previous ones as the Democratic nominees lost the presidency, a Senate seat, the Commissioner of Agriculture and the Commissioner of Labor as well as the Auditor position. Although unsuccessful, Campbell polled 49.6 percent of the vote and took approximately 1,000 more votes than did the Senate nominee, Erskine Bowles. Since more votes were cast in the Senate than the Auditor's contest, Campbell ran 2.6 points ahead of Bowles. Campbell got almost six percentage points more of the vote than did the Democratic presidential ticket that included the retiring North Carolina Senator John Edwards.

In, a much earlier statewide contest, in 1976, Howard Lee, who seven years earlier had been elected mayor of the majority white university town of Chapel Hill, made it into the runoff for the Democratic nomination for lieutenant governor. Lee's white opponent, conservative Democrat, Jimmy Green turned to a racial appeal by running newspaper ads that contained pictures of the two candidates.¹⁶

The North Carolina Supreme Court currently has one black member its first African American woman. The newly elected representative from the First Congressional District, G.K. Butterfield, served briefly on the Supreme Court but was one of the victims of rising Republicanism. As far back as 1986, Henry Frye, who ultimately became Chief Justice, won a seat on the Supreme Court. Recently, black Democratic justices like white Democrats have fallen to Republicans in their election bids. Currently the Supreme Court has only two Democrats, one of whom, Justice Timmons-Goodson, was appointed to fill a vacancy by Democratic governor Mike Easley in early 2006. Although judicial elections became non-partisan with the 2004 election, five Supreme Court justices are Republicans, several of whom very narrowly defeated Democrats.

North Carolina's second highest court is the 15-member Court of Appeals. This body, which uses three-member panels to hear appeals on a wide range of issues, has had several African-American members. At times there have been as many as three. As of 2006, two blacks served on this court. Both the Court of Appeals and the Supreme Court are elected statewide.

Racial Voting Patterns

Estimates of racial voting behavior prepared by Richard Engstrom provide an indication of how North Carolina blacks and whites voted in the early 1980s. The Engstrom estimates indicate that Mickey Michaux and Kenneth Spaulding lost in Congressional District 2 despite winning approximately winning 90 percent of the black vote because

¹⁶ Paul Luebke, *Tarheel Politics: Myth and Realities* (Chapel Hill: University of North Carolina Press, 1990), p. 118.

they failed to attract as much as 15 percent of the white vote in this 40 percent black district.¹⁷

As Table 8 shows, Howard Lee running in the Democratic primary in District 4 in 1984 attracted a larger share of the white vote (24.32 percent) than did Michaux or Spaulding, but was substantially weaker among black voters and failed to win the Democratic nomination.

(See Table 8)

Table 7 shows that in the 1992 primary in District 1, the black vote went heavily for black candidates. In the primary, it splintered among four African-American candidates but when the support for those four is summed, it accounts for approximately 90 percent of the black vote. In the other 1992 contests in District 1, Eva Clayton takes more than 90 percent of the black vote. In the general and special elections, the white vote is far less cohesive than the black vote with Clayton getting a third of the white vote in the general election and two-fifths of the white vote in the special election.

The results for the six statewide contests in Table 7 also show black voters to be generally more cohesive than white voters. In three of the contests, the black candidates get virtually all of the African American vote and in the 1990 Senate runoff, Gantt takes 86 percent of the black vote. In those four contests, 36 percent or more of the white votes are also cast for the black candidate. In the other two contests, the white vote is somewhat more cohesive than the black vote. In the 1990 Senate primary, Gantt takes 70.67 percent of the black vote while more than 76 percent of the white vote goes for Mike Easley, the white candidate. In the 1992 Democratic primary for Auditor, Campbell gets 65 percent of the black vote while 69 percent of the white vote is cast against him.

Table 9 provides additional estimates of racial voting behavior in Districts 1 and 12. These show that in 1994, 1996, and 1998, the black vote continued to be substantially more cohesive than the white vote. Three estimates of voting behavior of whites and blacks are provided. The first of these, OLS, is the ecological regression technique used by Bernard Grofman in *Thornburg v. Gingles*. The third estimate, HP, provides homogeneous precinct figures again comparable to what Grofman did in *Gingles*. The middle estimate, EI, uses the ecological inference technique developed by Gary King.¹⁸

(See Table 9)

The African American candidates consistently got more than 95 percent of the black vote in general elections. They usually attracted more than 30 percent of the white vote with Watt able to get slightly larger shares of the white vote than did Clayton.

¹⁷ Richard Engstrom, "Racial Differences in Candidate Preferences in North Carolina Elections," Report in *Shaw v. Reno*.

¹⁸ Gary King, *A Solution to the Ecological Inference Problem*, (Princeton: Princeton University Press, 1997).

Table 10 presents estimates of white support for white Democratic candidates running in North Carolina congressional districts between 1994 and 1998. Like in Table 8, this table presents three sets of estimates of white support for the Democratic nominees. No Democratic candidate consistently attracts a majority of the white vote. Indeed, it is rare for a white candidate to be the candidate of choice among white North Carolinians. To put the performance of the two African-American members of Congress from North Carolina in perspective, their failure to attract most white voters is in line with the difficulties encountered by their white Democratic colleagues. By the mid-1990s, white North Carolinians had become predominately Republican in their congressional voting preferences. However, the share of the white vote going to the two African-American incumbents, Eva Clayton in the First District and Melvin Watt in the Twelfth District, are somewhat lower than the share of the white vote going to the white Democratic incumbents. The African-American incumbents, however, do frequently attract more white support than do white Democratic challengers.

This same point is reinforced by the analysis of the more recent congressional contests. Table 10 presents OLS estimates of white voter preferences in congressional elections in 2000 and 2002. All but two of these contests are incumbent elections. Regardless of the race, Democratic incumbents garnered at least an estimated 40% of the white vote, and some white Democratic incumbents even enjoyed majority support. In the open seat First District in 2002, OLS estimates showed the black candidate –Ballance -- polling majorities of the black and white vote. Other Democrats fared less well, usually pulling between 20% and 38% of the white vote in losing challenges to incumbent Republicans.

(See Table 10)

An examination of recent statewide election voting patterns reveals only minority-white support for Democratic candidates for statewide office. In 1996, 2000, and 2004, Democrats won 13 of 13, 13 of 16, and 9 of 12 statewide constitutional offices that were contested. In 1996, when the Democrats last swept all of the state offices, African-American candidate Ralph Campbell commanded the lowest estimated share of the white vote, 40.8 percent, in barely winning election. In 2000 he garnered the second lowest share of the white vote –39.7 percent -- in barely winning reelection. Campbell was defeated for reelection in 2004, though he bested two other losing Democrats in terms of white vote share. Overall, when Democrats won statewide, they ran as incumbents and were able to garner at least 40 percent of the white vote statewide.

(See Tables 11 and 12)

CONCLUSION

Substantial progress has been observed in North Carolina voting rights. Minority representation has not achieved full proportionality. Figures 1 and 2 show the relative ranking of North Carolina, compared to the other eight southern, Section 5 states, in

terms of attaining black proportionality in the legislature and the congressional delegation. The Tar Heel State ranks fourth in terms of congressional delegation proportionality and fifth of nine on state legislative proportionality.

Black voters are more likely to vote in North Carolina than in the non-southern states, but North Carolina black voters register and turnout at lower rates than North Carolina whites. The disparity between black and white voter participation has declined dramatically over the past two decades, as the two races are now less than 3 points apart on rates of participation.

Black voters have been able to elect candidates of choice to the legislature and the US House, and have continued to do so with the departure of incumbents from districts with lower black voter percentages than in the early 1990s. The success of Frank Ballance and G.K. Butterfield in succeeding Rep. Clayton from the low country first congressional district is representative of this ability.

Statewide, the ability to elect candidates preferred by blacks will rest on the ability to create coalition with white voters. For the past decade, Democrats have been generally successful in creating such coalitions. The lack of success of African-American candidates in 2004 indicates that the very fine line of white minority support required to elect Democrats could be crossed in the near future.

TABLE 1

REPORTED REGISTRATION BY RACE IN NORTH CAROLINA AND OUTSIDE THE SOUTH, 1980-2004

	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004
North Carolina													
Black	49.2	43.6	59.5	57.1	58.2	60.1	64	53.1	65.5	57.4	62.9	58.2	70.4
White	63.7	62.5	67	65.8	65.6	63.6	70.8	63.9	70.4	65.6	67.9	63.1	69.4
Non-South													
Black	60.6	61.7	67.2	63.1	65.9	58.4	63	58.3	62	58.5	61.7	57	na
White	69.3	66.7	70.5	66.2	68.5	64.4	70.9	65.6	68.1	63.9	65.9	63	na

Source: Various post-election reports by the U.S. Bureau of the Census

TABLE 2

REPORTED TURNOUT BY RACE IN NORTH CAROLINA AND OUTSIDE THE SOUTH, 1980-2004

	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004
North Carolina													
Black	38.8	30.4	47.2	39.1	46.6	48.1	54.1	28.3	48.7	38.2	47.6	42.2	63.1
White	55.9	41.7	59.1	47.1	55.2	49.9	62.4	38.4	56.4	40.5	55.9	43.5	58.1
Non-South													
Black	52.8	48.5	58.9	44.2	55.6	38.4	53.8	40.2	51.4	40.4	53.1	39.3	na
White	62.4	53.1	63	48.7	60.4	48.2	64.9	49.3	57.4	45.4	57.5	44.7	na

Source: Various post-election reports by the U.S. Bureau of the Census

TABLE 3
OFFICIAL REGISTRATION AND TURNOUT IN
NORTH CAROLINA, 1994-2004

Date		Registration		Turnout	
		Black	White	Black	White
October	1994	639,642	2,847,688	na	na
October	1996	808,735	3,433,526	na	na
October	1998	885,159	3,721,525	na	na
October	2000	979,448	4,028,032	na	na
May	2002	848,939	3,567,520	na	na
October	2002	971,162	3,933,220	41%	60%
October	2004	1,112,959	4,224,098	59%	66%
February	2006	1,093,594	4,150,510		

Source: North Carolina State Board of Elections

TABLE 4

OFFICIAL NORTH CAROLINA REGISTRATION AND TURNOUT, 1972-2004

Voting Age Population	Registered Voters	Turnout	Percent Reg.	Percent Reg. TO	Percent VAP TO	Census Bureau TO Estimates
3,541,399	2,357,645	1,518,612	66.57	64.41	42.88	NA
3,725,037	2,279,646	1,020,367	61.20	44.76	27.39	NA
3,884,477	2,553,717	1,677,906	65.74	65.70	43.20	NA
4,053,977	2,430,306	1,135,814	59.95	46.74	28.02	NA
4,222,654	2,774,844	1,855,833	65.71	66.88	43.95	52.20
4,416,444	2,674,787	1,330,630	60.56	49.75	30.13	39.00
4,585,788	3,270,933	2,239,051	71.33	68.45	48.83	56.50
4,738,687	3,080,990	1,591,330	65.02	51.65	33.58	45.20
4,887,358	3,432,042	2,134,370	70.22	62.19	43.67	52.90
5,016,747	3,347,635	2,068,904	66.73	61.80	41.24	49.30
5,182,321	3,817,380	2,611,850	73.66	68.42	50.40	60.00
5,359,333	3,635,875	1,533,728	67.84	42.18	28.62	35.80
5,499,000	4,330,657	2,513,357	78.75	58.04	45.71	54.00
5,670,221	4,700,779	2,012,149	82.90	42.80	35.49	39.40
6,085,266	5,122,123	3,015,964	84.17	58.88	49.56	53.20
6,277,883	5,003,297	2,349,966	79.70	46.97	37.43	42.40
6,483,010	5,519,992	3,552,499	85.15	64.36	54.80	58.20

TABLE 5
NUMBER OF AFRICAN-AMERICAN ELECTED OFFICIALS
IN NORTH CAROLINA, 1969-2001

Year	Total	County	Municipal	School Board
1969	40	1	29	8
1970	62	1	47	15
1971	68	3	49	12
1972	103	3	68	29
1973	112	7	70	30
1974	159	7	113	34
1975	194	12	125	46
1976	218	14	140	53
1977	221	15	142	53
1980	247	20	152	62
1981	255	20	152	70
1984	294	27	163	79
1985	291	33	162	66
1987	353	34	213	66
1989	449	45	249	82
1991	443	48	276	74
1993	458	49	279	81
1995	-----No Data Gathered by Joint Center-----			
1997	506	64	290	96
1999	506	62	297	92
2001	491	61	288	85

Source: Various volumes of *The National Roster of Black Elected Officials* (Washington, D.C.: Joint Center for Political and Economic Studies).

TABLE 6

PERCENT BLACK IN NORTH CAROLINA CONGRESSIONAL
DISTRICTS WITH A BLACK REPRESENTATIVE

District	Percent Black in Population			
	1993-1998	1999-2000	2001-2002	Since 2003
1	57.3	50.3	50.3	50.5
12	56.6	35.6	46.7	44.6

TABLE 7
 RACIAL MAKEUP OF THE NORTH CAROLINA
 GENERAL ASSEMBLY, 1967-2005

Year	Numbers of Blacks		Percent Black	
	Senate	House	Senate	House
1965	0	0	0.00	0.00
1967	0	0	0.00	0.00
1969	0	1	0.00	0.83
1971	0	2	0.00	1.67
1973	0	3	0.00	2.50
1975	2	4	4.00	3.33
1977	2	4	4.00	3.33
1979	1	4	2.00	3.33
1981	1	3	2.00	2.50
1983	1	11	2.00	9.17
1985	3	13	6.00	10.83
1987	2	13	4.00	10.83
1989	5	14	10.00	11.67
1991	5	14	10.00	11.67
1993	7	18	14.00	15.00
1995	7	17	14.00	14.17
1997	7	17	14.00	14.17
1999	7	17	14.00	14.17
2001	7	18	14.00	15.00
2003	6	18	12.00	15.00
2005	7	19	14.00	15.83

TABLE 8

ESTIMATES OF SUPPORT BY RACE FOR AFRICAN-AMERICAN CANDIDATES IN
NORTH CAROLINA CONGRESSIONAL AND STATEWIDE CONTESTS,
1982 – 1992

Contest	Percentage of Support for African American Candidates		
	Black Candidate(s)	White	African-America
1982 CD2 Primary	Michaux	13.88	88.55
1982 CD2 Runoff	Michaux	13.12	91.48
1984 CD2 Primary	Spaulding	14.10	89.70
1984 CD4 Primary	Lee	24.32	68.57
	Winters	9.17	13.86
1992 CD1 Primary	Clayton	1.38	51.88
	Riddick	3.00	15.07
	Hardaway	0.10	11.08
	Powell	0.53	11.02
1992 CD1 Runoff	Clayton	0.00	93.26
1992 CD1 General	Clayton	33.93	95.22
	Williams	2.47	0.80
1992 CD1 Special	Clayton	41.15	98.46
	Williams	2.56	0.22
1990 Senate Primary	Gantt	22.61	70.67
	Hannon	1.20	1.01
1990 Senate Runoff	Gantt	38.25	86.29
1990 Senate General	Gantt	36.73	98.14
1990 Ct of App Genl	Johnston	43.08	100
1992 Auditor Primary	Campbell	31.14	65.01
1992 Auditor General	Campbell	43.16	100

Source: Richard Engstrom, "Racial Differences in Candidate Preferences in North Carolina Elections," Report in *Shaw v. Reno*.

TABLE 9

RACIAL VOTING PATTERNS IN MAJORITY BLACK NORTH CAROLINA CONGRESSIONAL
DISTRICTS INVOLVING AFRICAN-AMERICAN AND WHITE
CANDIDATES, 1992 - 1998
(Percentages)

	Race	Party	WHITES		HP	(N)	BLACKS		HP	(N)
			OLS	EI			OLS	EI		
<u>1992 Primaries</u>										
<i>District 1</i>										
4 Candidates	B	D	3.8	n/a	10.4	(n/a)	88.8	n/a	90.5	(n/a)
3 Candidates	W	D	96.2	n/a	89.6		11.2	n/a	9.5	
<u>1992 Runoffs</u>										
<i>District 1</i>										
Clayton	B	D	0.0	n/a	4.3	(n/a)	93.3	n/a	96.4	(n/a)
Jones	W	D	100	n/a	95.7		6.7	n/a	3.6	
<u>1992 General Election</u>										
Clayton	B	D	33.9	n/a	34.6	(n/a)	95.2	n/a	97.9	(n/a)
Tyler	W	R	63.6	n/a	63.1		4.0	n/a	1.9	
<u>1994 General Election</u>										
<i>District 12</i>										
Watt	B	D(I)	32.2	36.4	30.1	(10)	100	98.7	97.5	(30)
Martino	W	R	67.8	63.6	69.9		0.0	1.3	2.5	
<u>1996 General Election</u>										
<i>District 1</i>										
Clayton	B	D(I)	27.9	34.3	28.6	(5)	100	99.0	97.7	(19)
Tyler	W	R	72.1	65.7	71.4		0.0	1.0	2.3	
<i>District 12</i>										
Watt	B	D(I)	35.3	41.8	34.3	(10)	100	99.3	98.0	(41)
Martino	W	R	64.7	58.2	65.7		0.0	0.7	2.0	
<u>1998 General</u>										
<i>District 1</i>										
Clayton	B	D(I)	27.9	33.0	29.6	(9)	100	98.2	96.8	(13)
Tyler	W	R	72.1	67.0	70.4		0.0	1.8	3.2	
<i>District 12</i>										
Watt	B	D(I)	32.8	38.3	31.0	(48)	100	98.7	97.9	(24)
Keadle	W	R	67.2	61.7	69.0		0.0	1.3	2.1	

TYPE refers to the type of candidate: I = incumbent; OS = open seat candidate; C = challenger.

OLS = ecological regression; EI = district - level estimates from King's method for ecological inference; HP = racially homogenous precincts. N = number of homogeneous precincts.

Source: Charles S. Bullock, III, and Richard E. Dunn, "The Demise of Racial Districting and the Future of Black Representation," *Emory Law Journal* 48 (Fall 1999): 1209 - 1253.

TABLE 10

WHITE SUPPORT FOR WHITE NORTH CAROLINA DEMOCRAT

HOUSE CANDIDATES, 1994-1998 (Percentages)

	State	Dist.	Candidate	OLS	White Support		(N)
					EI	HP	
<u>1994</u>							
Moore	NC	2	OS	33.4	36.0	36.8	(66)
Lancaster	NC	3	I	40.3	39.8	42.8	(106)
Price	NC	4	I	46.3	44.0	50.7	(80)
Sands	NC	5	OS	35.7	38.5	37.6	(128)
Rose	NC	7	I	46.5	47.1	48.8	(65)
Hefner	NC	8	I	44.0	47.0	45.0	(84)
Blake	NC	9	OS	30.4	34.4	33.0	(113)
Avery	NC	10	C	25.8	27.1	27.0	(200)
Lauterer	NC	11	C	38.1	38.5	39.0	(233)
<u>1996</u>							
Etheridge	NC	2	C	42.4	45.8	44.7	(57)
Parrott	NC	3	C	26.4	27.1	29.7	(93)
Price	NC	4	C	48.6	48.9	52.3	(92)
Cashion	NC	5	C	28.8	28.4	31.3	(139)
Costley	NC	6	C	19.6	22.9	22.8	(148)
McIntyre	NC	7	OS	48.1	48.4	51.2	(64)
Hefner	NC	8	I	44.9	48.0	45.3	(80)
Daisley	NC	9	C	28.6	32.3	32.0	(103)
Neill	NC	10	C	26.0	26.5	27.7	(188)
Ferguson	NC	11	C	37.5	37.8	38.4	(232)
<u>1998</u>							
Etheridge	NC	2	I	44.3	50.3	48.6	(6)
Williams	NC	3	C	29.6	30.5	32.4	(97)
Price	NC	4	I	49.9	51.5	51.8	(76)
Robinson	NC	5	C	23.3	25.5	27.0	(135)
Taylor	NC	8	OS	32.6	37.6	34.0	(79)
Blake	NC	9	C	22.3	25.5	25.9	(113)
Young	NC	11	C	39.8	41.5	41.0	(250)

OLS = ecological regression; EI = district-level estimates from King's (1997) method for ecological inference; HP = racially homogenous precincts; I = incumbent; OS = open seat candidate; C = challenger; N= number of homogeneous precincts.

Source: Charles S. Bullock, III, and Richard E. Dunn, "The Demise of Racial Districting and the Future of Black Representation," *Emory Law Journal* 48 (Fall 1999): 1209 - 1253.

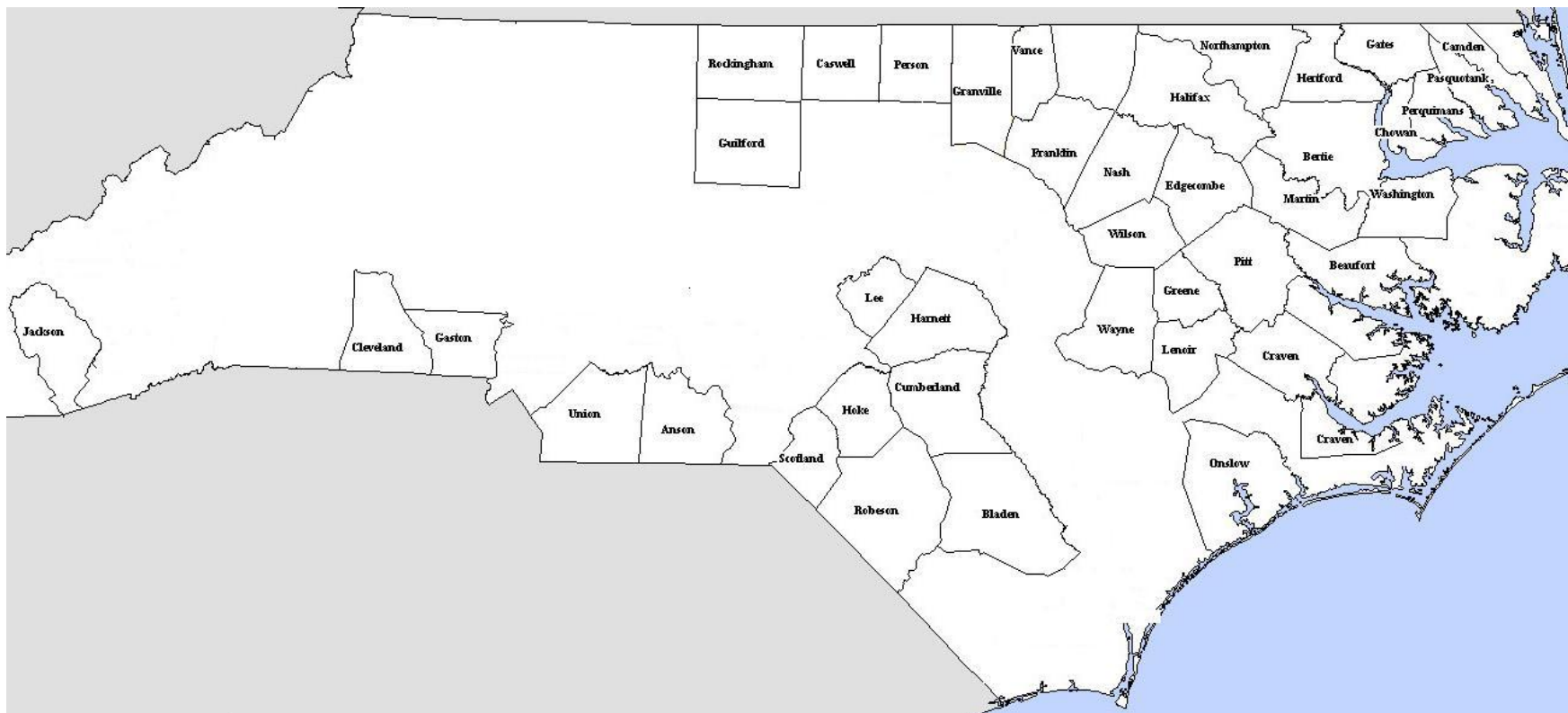
TABLE 11
 CONGRESSIONAL ELECTION RESULTS IN NORTH CAROLINA, 2000-2002

District	Democratic Candidate	Dem%	Dem%White- OLS
2000			
NC1	Black Inc.	66.0	46.0
NC2	White Inc.	58.0	51.6
NC3	White Ch.	37.0	36.3
NC4	White Inc.	62.0	55.9
NC5		---	---
NC6		---	---
NC7	White Inc.	70.0	66.4
NC8	White ch.	44.0	36.6
NC9	White ch.	30.0	20.5
NC10	White ch.	29.0	25.7
NC11	White ch.	42.0	39.2
NC12	Black Inc.	65.0	40.0
2002			
	Black		
NC1	Open Seat	63.8	84.3
NC2	White Inc.	65.4	53.3
NC3		---	---
NC4	White Inc.	61.1	55.4
NC5	White Inc.	29.8	27.9
NC6		---	---
NC7	White Inc.	71.1	67.3
NC8	White Ch.	44.6	28.8
NC9	White Ch.	25.8	22.1
NC10	White Ch.	37.8	32.0
NC11	White Ch.	42.8	38.1
NC12	Black Inc.	65.2	41.8
	White		
NC13	Open Seat	54.7	43.7

TABLE 12
STATEWIDE ELECTION RESULTS IN NORTH CAROLINA, 1996-2004

Office	Dem%	Dem%White- OLS	Office	Dem%	Dem%White- OLS
1996			2004		
Attorney General	59.1	48.3	Attorney General	55.6	44.6
Auditor	49.9*	40.8	Auditor	49.6	38.6
Agriculture Comm.	57.8	46.7	Agriculture Comm.	49.96	38.1
Insurance Comm.	56.7	46.3	Insurance Comm.	57.6	46.9
Labor Comm.	51.0	40.9	Labor Comm.	47.9	37.5
Lt. Governor	55.0	44.8	Lt. Governor	55.6	
Governor	55.9		Governor	55.6	46.2
Sec'y of State	53.5	42.4	Sec'y of State	57.3	46.4
Supt. Public			Supt. Public		
Instruction	52.0	42.4	Instruction	50.1	39.4
Treasurer	50.6	41.8	Treasurer	54.5	42.6
Court of Appeals p1	52.0	43.1	Court of Appeals p1	55.1	49.6
Supreme Court p1	55.7	46.1	Court of Appeals p2	54.5	50.4
Supreme Court p2	51.3	41.4	Court of Appeals p3	57.8	51.8
2000					
Attorney General	51.0	39.4			
Auditor	51.0	39.7			
Agriculture Comm.	51.0	40.2			
Insurance Comm.	57.0	45.4			
Labor Comm.	50.0	39.0			
Lt. Governor	52.0	41.5			
Governor	52.0	42.1			
Sec'y of State	54.0	43.3			
Supt. Public					
Instruction	53.0	42.5			
Treasurer	55.0	43.9			
Court of Appeals p1	49.9	39.2			
Court of Appeals p2	49.9	39.6			
Court of Appeals p3	51.0	40.8			
Court of Appeals p4	51.0	39.9			
Court of Appeals p5	51.0	40.5			
Supreme Court p1	48.0	38.0			
*Plurality Winner					

MAP 1: NORTH CAROLINA COUNTIES COVERED BY SECTION 5 OF THE VOTING RIGHTS ACT



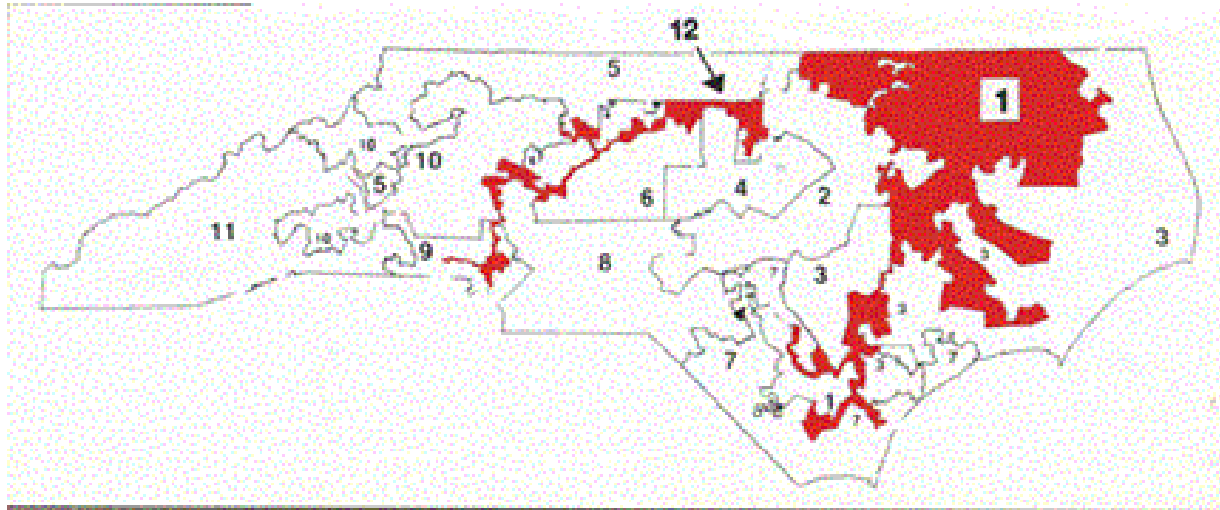
Source: http://www.usdoj.gov/crt/voting/sec_5/covered.htm, accessed September 21 2005

Counties identified in Map 1:

<u>County</u>	<u>Effective Date</u>	<u>County</u>	<u>Effective Date</u>
Anson	Aug 7, 1965	Hoke	Aug 7, 1965
Beaufort	Mar 29, 1966	Jackson	Oct 22, 1975
Bertie	Aug 7, 1965	Lee	Mar 29, 1966
Bladen	Mar 29, 1966	Lenoir	Aug 7, 1965
Camden	Mar 2, 1966	Martin	Jan 4, 1966
Caswell	Aug 7, 1965	Nash	Aug 7, 1965
Chowan	Aug 7, 1965	Northampton	Aug 7, 1965
Cleveland	Mar 29, 1966	Onslow	Aug 7, 1965
Craven	Aug 7, 1965	Pasquotank	Aug 7, 1965
Cumberland	Aug 7, 1965	Perquimans	Mar 2, 1966
Edgecombe	Aug 7, 1965	Person	Aug 7, 1965
Franklin	Aug 7, 1965	Pitt	Aug 7, 1965
Gaston	Mar 29, 1966	Robeson	Aug 7, 1965
Gates	Aug 7, 1965	Rockingham	Mar 29, 1966
Granville	Aug 7, 1965	Scotland	Aug 7, 1965
Greene	Aug 7, 1965	Union	Mar 29, 1966
Guilford	Mar 29, 1966	Vance	Aug 7, 1965
Halifax	Aug 7, 1965	Washington	Jan 4, 1966
Harnett	Mar 29, 1966	Wayne	Aug 7, 1965
Hertford	Aug 7, 1965	Wilson	Aug 7, 1965

MAP 2

NORTH CAROLINA CONGRESSIONAL DISTRICTS 1 AND 12, 1992



Source: <http://www.csulb.edu/~astevens/posc100/files/notes/REAPORT.htm>

IMPACT OF USING NON-HISPANIC WHITE DATA

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Some have raised concerns about our use of Census Bureau estimates for whites rather than for non-Hispanic whites in our longitudinal analyses of statewide registration and turnout, in our series of reports prepared for the American Enterprise Institute and submitted to the Senate Judiciary Committee.

The Census Bureau did not report estimates for non-Hispanic whites before 1998.²¹ In order to have comparable data beginning with 1980, our reports continued to focus on the same kind of racial data rather than switching to the non-Hispanic white estimates for the last four elections. To address concerns that failure to exclude white Hispanics resulted in misleading inferences about the relative levels of political activity of whites and blacks, in this report we review the consequences of adding estimates for non-Hispanic whites to the tables for six of the southern states subject wholly or partially to Section 5 (AL, LA, MS, NC, SC, and VA) and for the three comparison non-Section 5 states (AR, OK and TX).

There are no changes of consequence for Florida, where we previously possessed Latino participation data for the entire time series. For Georgia and Texas substituting non-Hispanic white figures for white estimates resulted in more consequential changes in the relationships between black and white registration and turnout. To address those changes we have submitted separate revised reports to American Enterprise Institute.

Briefly, however, in Texas the comparison of black versus no-Hispanic white registration and turnout from 1998 through 2004 reveals that black registration and turnout lag white registration and turnout for the entire period. Black registration lags white registration by an estimated 2.4 to 5.2 points, while black turnout lags white turnout by 0.1 to 7.6 points, with the latter difference observed in 2004. Black and white voter turnout lag the nation for the period in question.²² This reverses out previous interpretation using the census data, for 1998-2004.

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²¹ From 1998 – 2002 the Census Bureau reported estimates for non-Hispanic African Americans. These changes tend to be smaller than the increase observed when non-Hispanic whites are substituted for whites. In no instance would the conclusion change if estimates for non-Hispanic blacks were substituted for black estimates.

²² Charles S. Bullock III and Ronald Keith Gaddie, 2006. *An Assessment of Voting Rights Progress in Texas* (revised). Prepared for the American Enterprise Institute, May 2006, pp.20-21.

In Georgia, controlling for Hispanic ethnicity does increase the rates of white voter registration and turnout. However, from 1998-2004 black registration and turnout still exceeded white rates in 1998 and 2000 and lagged white registration and turnout in 2002, as we previously observed. In 2004, non-Hispanic white registration is 3.8 points greater than black registration, while non-Hispanic white turnout is now 3.0 points greater.²³ This last relationship, in 2004, is the only change of consequence, and it falls just outside the sampling error for the survey.

In the remaining states examined, eliminating non-Hispanic whites produces higher estimates than for the remaining white adults. Although the non-Hispanic white figure is larger than the white registration figure, only infrequently does the increase in participation change the observed relationship. It may narrow or increase the difference between black and white voter registration rates, but usually the shifts are less than the size of the confidence interval for the white sample. Of 36 comparisons between African-American and white registration rates, in only six instances did the black figure exceed the white but not the non-Hispanic white estimate.

The instances in which the relationship changes and the magnitude of the shift in percentage points are: Alabama in 1998 (0.4), Arkansas in 2000 (1.7), North Carolina in 2004 (3.8), South Carolina in 1998 (0.5) and 2000 (1.6) and Tennessee in 2004 (1.5). In each of these instances the black registration figure exceeded the white figure but not the white, non-Hispanic figure. Each of the changes from white to non-Hispanic white is smaller than the confidence interval for the white sample except for the North Carolina shift of 3.8 points.

Of 36 comparisons between black and white turnout estimates, the direction of the relationship is never reversed. That is, there is never an instance in which the black turnout rate exceeded the white but not the non-Hispanic white rate. The closest situation to a reversal of direction comes in Alabama in 1998. In that year the turnout estimates for whites and blacks were equal at 51.6 percent while the estimate for non-Hispanic whites was 51.9 percent. This change of 0.3 points is less than the confidence interval.

²³ Charles S. Bullock III and Ronald Keith Gaddie, 2006. *An Assessment of Voting Rights Progress in Georgia* (revised). Prepared for the American Enterprise Institute, May 2006, pp.23-24.

REPORTED REGISTRATION BY RACE IN NORTH CAROLINA AND OUTSIDE THE SOUTH, 1980 – 2004

	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004
NORTH CAROLINA													
Black	49.2	43.6	59.5	57.1	58.2	60.1	64.0	53.1	65.5	57.4	62.9	58.2	70.4
White	63.7	62.5	67.0	65.8	65.6	63.6	70.8	63.9	70.4	65.6	67.9	63.1	69.4
White non-Hispanic										66.9	71.5	66.2	73.2
Non-South													
Black	60.6	61.7	67.2	63.1	65.9	58.4	63.0	58.3	62.0	58.5	61.7	57.0	NA
White	69.3	66.7	70.5	66.2	68.5	64.4	70.9	65.6	68.1	63.9	65.9	63.0	NA

REPORTED TURNOUT BY RACE IN NORTH CAROLINA AND OUTSIDE THE SOUTH, 1980 – 2004

	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004
NORTH CAROLINA													
Black	38.8	30.4	47.2	39.1	46.6	48.1	54.1	28.3	48.7	38.2	47.6	42.2	63.1
White	55.9	41.7	59.1	47.1	55.2	49.9	62.4	38.4	56.4	40.5	55.9	43.5	58.1
White non-Hispanic										41.5	58.9	45.7	61.5
Non-South													
Black	52.8	48.5	58.9	44.2	55.6	38.4	53.8	40.2	51.4	40.4	53.1	39.3	NA
White	62.4	53.1	63.0	48.7	60.4	48.2	64.9	49.3	57.4	45.4	57.5	44.7	NA

FIGURE 1

Black CVAP and Ratio of BlackSeats to Black CVAP

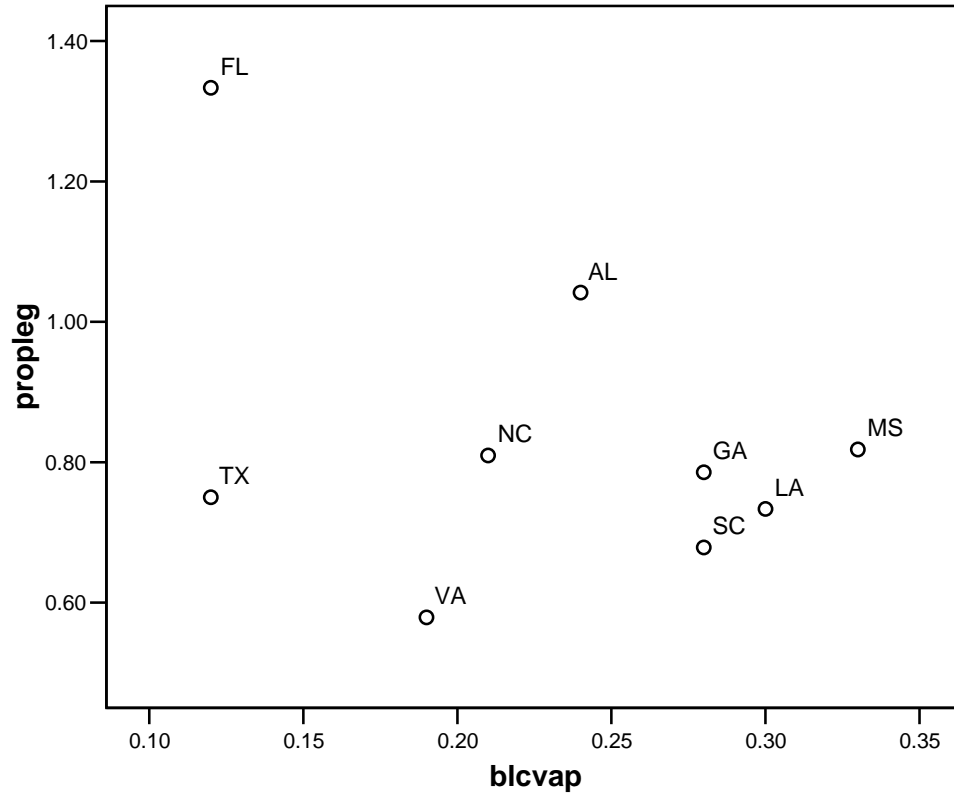


FIGURE 2

Black CVAP and Ratio of Black Congressional Seats to Black CVAP

