

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

PERSONHUBULLAH,)	
et al.,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Civil Action No. 3:13cv678
)	
ALCORN, et al.,)	
)	
<i>Defendants.</i>)	
)	

**BRIEF IN SUPPORT OF THE PROPOSED CONGRESSIONAL REDISTRICTING
PLAN SUBMITTED BY THE VIRGINIA STATE CONFERENCE
OF NAACP BRANCHES**

The Virginia State Conference of NAACP Branches (“Virginia NAACP”) respectfully submits this brief accompanying the congressional redistricting plan put forth by the Virginia NAACP for this Court’s consideration during the remedial congressional redistricting process.

INTRODUCTION

In Virginia, congressional districts have, in recent decades, been drawn to pack a disproportionate number of black voters into a single district. While this practice allowed black voters to elect one candidate of their choice to Congress, it also ensured that their influence would be limited to only one district and effectively guaranteed that black voters will continue to be underrepresented in Virginia’s congressional delegation. This Court has recognized the constitutional flaws in such a practice, *Page v. Va. State Bd. of Elections*, 58 F. Supp. 3d 533, 552-53 (E.D. Va. 2014), *vacated sub nom. Cantor v. Personhuballah*, 135 S. Ct. 1699 (2015),

and is now faced with the task of devising a new congressional redistricting plan that corrects the identified illegalities in the 2012-enacted plan.

The Virginia NAACP is a membership organization and part of the national NAACP, the oldest and largest civil rights organization in the United States. The Virginia NAACP, headquartered in Richmond, Va., has more than one hundred statewide units, including members in Richmond, Petersburg, Norfolk, and Virginia Beach. The Virginia NAACP has approximately 16,000 members statewide and has members in every congressional district in the Commonwealth of Virginia.

The Virginia NAACP is committed to advocating for an electoral system where the voices of black citizens can be heard. The NAACP believes that race should not be the dominant factor in determining district lines, but also that voters of color should have an equal opportunity to elect their candidate of choice in more than one district. The following brief and attachments document the advantages of the remedial plan proposed by the Virginia NAACP. The NAACP's proposal is designed to ensure that racial considerations are not predominant, provide African-American voters with equitable and additional representation, protect and advance the interests of easily-identifiable communities of interest, preserve the integrity of the political process by adhering to established redistricting principles, and comply with all applicable law.

More than any congressional redistricting plan in decades, the Virginia NAACP's plan faithfully employs traditional redistricting principles. The commitment to using such criteria does not merely reflect historic conventions or legal requirements, but instead is critical to a redistricting process that safeguards the interests of a changing electorate.

The redistricting process has real and dramatic consequences on voters, and because communities of color in Virginia have been historically disenfranchised and are currently facing

a barrage of social, economic, and political challenges that their white fellow citizens have not faced, special care must be taken to protect the interests of voters of color. This can be accomplished by drawing districts where black voters can elect their candidate of choice, ensuring that the interests of their communities are adequately represented in policy-making.

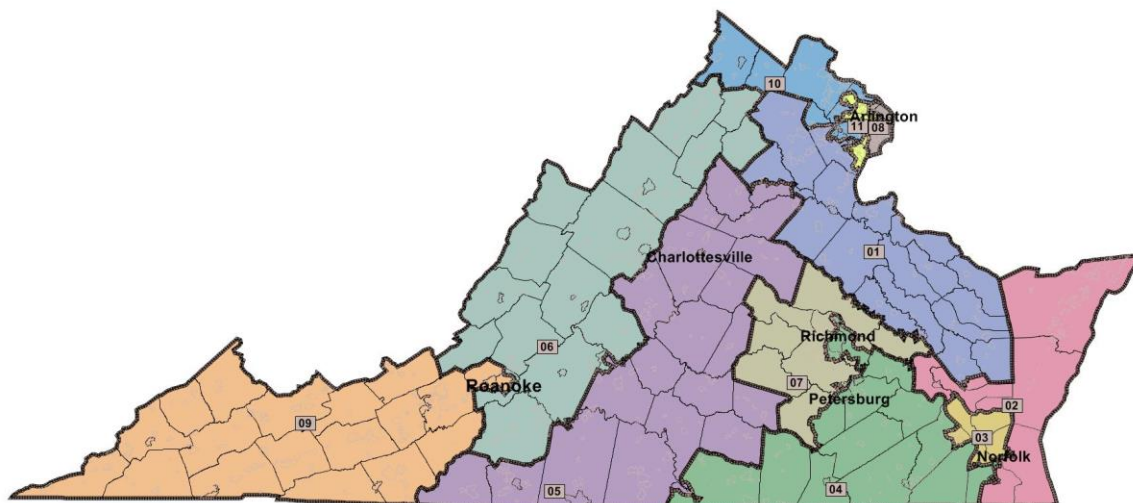
The Virginia NAACP deeply values compliance with the Constitution and Voting Rights Act (“VRA”)—according to both the letter and the spirit of the law—and especially relies upon Section 2 of the VRA, which was fundamentally designed to create new opportunities for protected voters where those voters have been excluded from the political process. This year marks the 50th anniversary of the Act, and while progress has been made toward creating an electoral system in which voters, regardless of the color of their skin, have a meaningfully equal opportunity to participate in the political process, much work remains to be done.

As of 2013, African-Americans constituted 19.7% of Virginia’s population, and Hispanics or Latinos constituted 8.6% of the population. Non-Hispanic whites constituted only 63.6% of the population. There are 11 congressional districts in Virginia, in only one of which African-American voters have the opportunity to elect their candidate of choice. Non-Hispanic whites hold 10 out of the 11 congressional seats (90.9% of the seats). If the African-American candidates of choice were elected in 2 out of the 11 congressional districts, African-Americans would still be slightly underrepresented. As of now, though, black voters are tremendously underrepresented (controlling only 9.1% of the congressional districts). This inequity in representation must be remedied.

The following page details the Virginia NAACP’s proposal for redrawing the state’s third and fourth congressional districts based on the preceding principles.

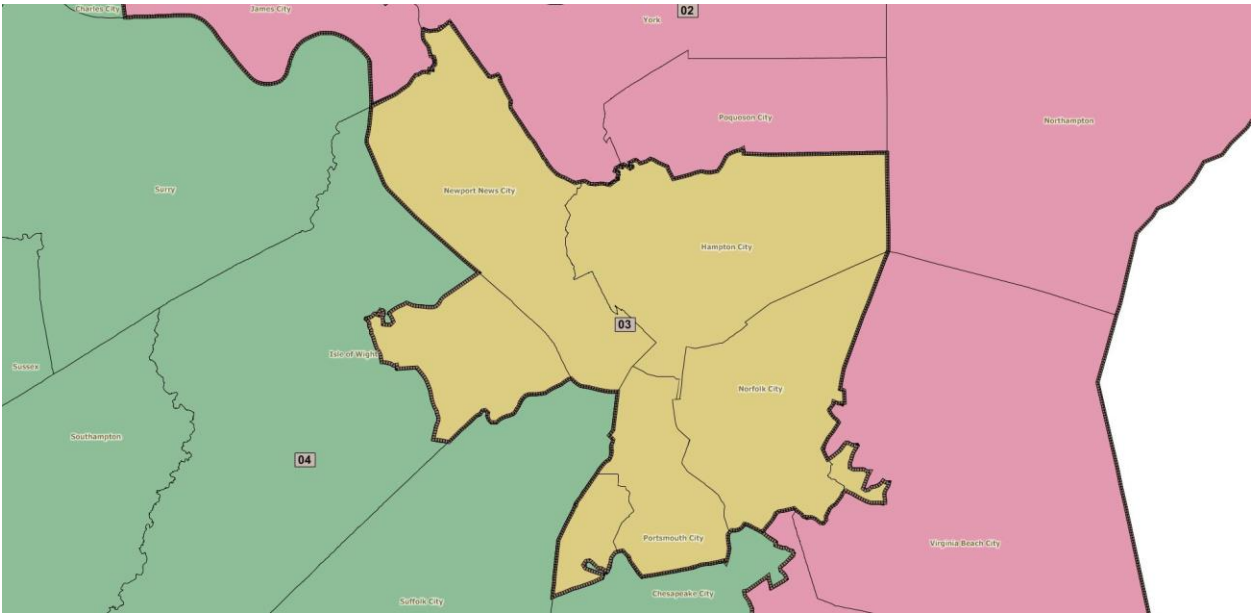
THE VIRGINIA NAACP'S PROPOSED CONGRESSIONAL MAP

The Virginia NAACP has constructed a remedial congressional district map that corrects the constitutional flaws identified in Congressional District 3, creates an additional African-American opportunity district in Congressional District 4, is compact and reflects well-established communities of interest, and complies with all applicable state and federal law. This plan was based on the congressional map introduced by Senator Mamie Lock in 2011, with adjustments made based on the input of the Virginia NAACP's membership. Below is that map:



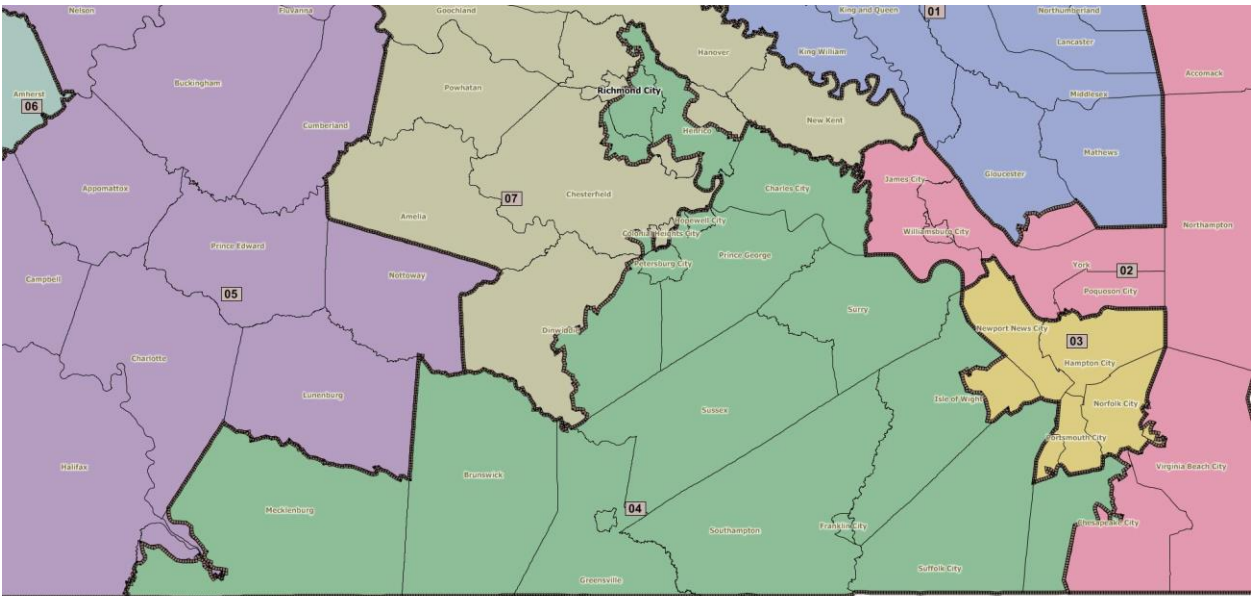
See also Appendix A.

Zoomed View of NAACP-Proposed Congressional District 3



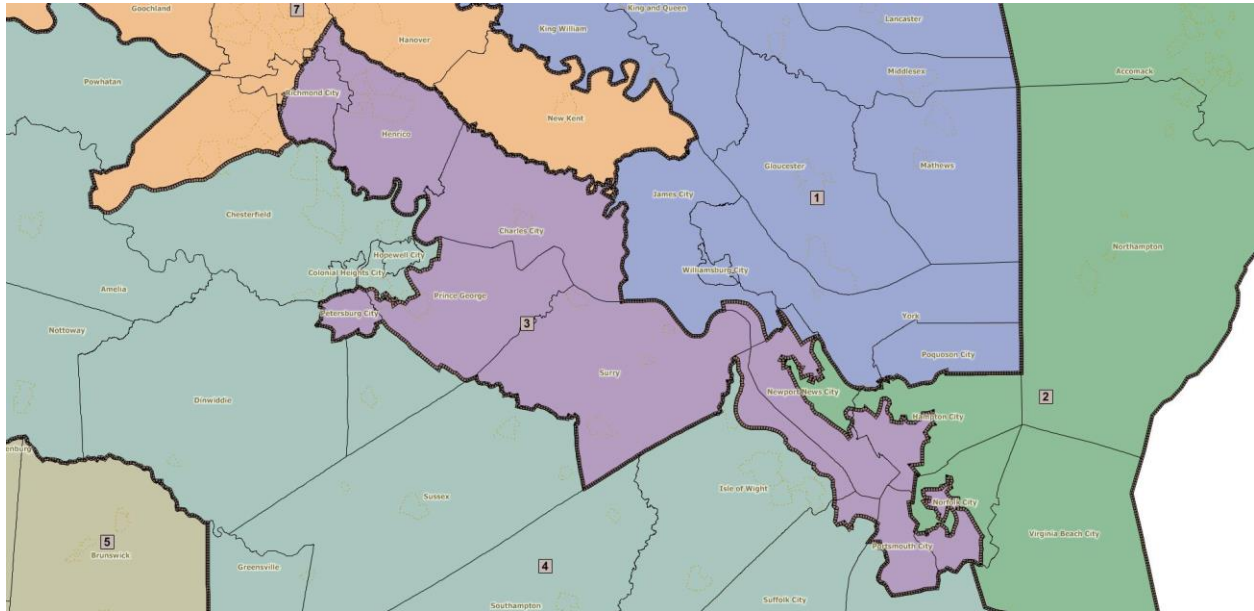
See also Appendix B.

Zoomed View of NAACP-Proposed Congressional District 4



See also Appendix C.

Below is a map depicting the current Congressional District 3—the district that was invalidated as a racial gerrymander.



In comparing the two maps, the current racially gerrymandered districts are visibly less compact than the Virginia NAACP's proposed districts. The NAACP's map, and specifically Congressional Districts 3 and 4, easily satisfy the eyeball test of compactness, and are superior to the enacted versions. The Virginia NAACP plan is also preferable using mathematical measures of compactness, as demonstrated below:

Measures of Compactness

Virginia NAACP Plan			Current Plan		
District	Perimeter	Polsby-Popper		Perimeter	Polsby-Popper
1	606.80	0.18		565.23	0.18
2	486.07	0.18		415.01	0.20
3	153.18	0.25		419.46	0.08
4	669.33	0.13		518.81	0.20
5	850.53	0.16		913.31	0.15
6	788.91	0.17		677.66	0.16

7	537.28	0.11		520.03	0.13
8	87.89	0.26		87.89	0.26
9	651.75	0.23		797.32	0.18
10	373.22	0.12		373.22	0.12
11	161.29	0.09		161.29	0.09
	Total: 5366.25	Av.: 0.17		Total: 5449.26	Av.: 0.16

Based on two commonly used metrics for measuring compactness, the Perimeter and the Polsby-Popper, the Virginia NAACP plan is more compact. With the Perimeter test, one number is computed for the whole plan—the sum of the perimeters of each district. When comparing plans, the plan with the smallest total perimeter is the most compact. The total perimeter of the Virginia NAACP plan is smaller than the total perimeter of the current plan, meaning it is the more compact plan. With the Polsby-Popper test, the score closest to 1 is the more compact. It is common to look at both the scores of the individual districts and the average score in a plan. The average Polsby-Popper score in the Virginia NAACP plan is 0.17, and the average score in the current plan is 0.16. Thus, overall, the Virginia NAACP plan is more compact using this measure of compactness. Using another measure, the Reock, to compare Congressional District 3 in the current and NAACP-proposed plan, the difference is even more stunning. Congressional District 3 in the current plan scores a 0.19, but in the Virginia NAACP plan, the district scores a 0.47 (with the score closer to 1 being the more compact district).

Additionally, both Congressional District 3 and Congressional District 4 in the NAACP's proposed map are contiguous. The proposed districts are bounded by county lines along the majority of their border length with slight deviations from political boundaries in order to equalize the population among districts.

Virginia NAACP Plan District Populations

District	Total Population	Deviation	% Deviation
01	727366	0	0.00
02	727365	-1	0.00
03	727366	0	0.00
04	727366	0	0.00
05	727366	0	0.00
06	727365	-1	0.00
07	727367	1	0.00
08	727366	0	0.00
09	727366	0	0.00
10	727365	-1	0.00
11	727366	0	0.00

The Virginia NAACP Plan splits fewer counties and independent cities than does the current plan. The NAACP's plan splits 14 counties or independent cities, while the current plan splits 17 counties or independent cities.

The remedial redistricting plan proposed by the Virginia NAACP employs neutral traditional redistricting criteria in the development of a plan that makes sense and reflects good government principles. Additionally, the iterations of Congressional Districts 3 and 4 would allow this Court to defer to elements of the enacted congressional plan that are not constitutionally infirm. *See Reynolds v. Sims*, 377 U.S. 533, 586-87 (1964) (holding that the district court's consideration of "the best parts" of two constitutionally infirm plans in crafting its remedial map "was an appropriate and well-considered exercise of judicial power"). When compared to the current plan, the Virginia NAACP plan is superior by every measure of traditional redistricting criteria.

Additional Opportunity for Voters of Color

Mostly importantly, the Virginia NAACP plan creates more opportunity for African-American voters than any congressional redistricting in the history of the Commonwealth. The

NAACP's plan preserves Congressional District 3 as a district in which black voters have the ability to elect their candidate of choice. It also creates a new opportunity district in Congressional District 4. For the first time in history, black voters will be able to elect their candidates of choice in two congressional districts.

Demographics of Virginia NAACP Plan

District	Voting Age Population	White VAP	% White VAP	AP Black VAP	% AP Black VAP	Hispanic VAP	% Hispanic VAP
1	536389	381960	71.21%	92439	17.23%	40656	7.58%
2	556485	397397	71.41%	97949	17.60%	27167	4.88%
3	561119	271105	48.32%	241187	42.98%	29190	5.20%
4	559377	233098	41.67%	287390	51.38%	26193	4.68%
5	573901	414893	72.29%	129535	22.57%	16348	2.85%
6	574347	508975	88.62%	37240	6.48%	17211	3.00%
7	552613	426557	77.19%	78619	14.23%	20145	3.65%
8	580212	327441	56.43%	82025	14.14%	98819	17.03%
9	583498	522023	89.46%	38443	6.59%	10983	1.88%
10	520811	359099	68.95%	38233	7.34%	55325	10.62%
11	548595	290837	53.01%	69494	12.67%	84820	15.46%

The Virginia NAACP's proposal brings the electoral power of black voters into close balance with their percentage of the state's population. African-Americans comprise approximately 43 percent of the voting age population in District 3 and approximately 51 percent in District 4. While black voters are not a majority in District 3, the Virginia NAACP's demographic analysis indicates that using 2015 population estimates, the district is approximately 2% higher in BVAP than it was using 2010 Census numbers, and the district is now currently majority minority. This district will still allow black voters to elect their candidate of choice. The Virginia NAACP's conclusion on this point is confirmed by outcomes in local elections; African-Americans hold the mayor's office in both Hampton and Newport News, two

of the largest cities in the district, and black politicians fill the majority of the region's state senate and state delegate seats.

When comparing the demographics of the current plan, it is clear that the map currently governing congressional elections in Virginia needlessly packs black voters into one congressional district—District 3—and thus limits their opportunity to elect their candidate of choice in any of the adjacent districts.

Demographics of Current Plan

District	Voting Age Population	White VAP	% White VAP	AP Black VAP	% AP Black VAP	Hispanic VAP	% Hispanic VAP
1	543139	405154	74.59%	91813	16.90%	38845	7.15%
2	565464	389929	68.96%	120213	21.26%	33688	5.96%
3	560158	208802	37.28%	315603	56.34%	25479	4.55%
4	547486	346507	63.29%	171434	31.31%	21796	3.98%
5	574341	436040	75.92%	116491	20.28%	15077	2.63%
6	572702	488611	85.32%	60264	10.52%	19899	3.47%
7	549562	428788	78.02%	80425	14.63%	23883	4.35%
8	580212	375269	64.68%	79591	13.72%	98819	17.03%
9	584877	538799	92.12%	30113	5.15%	9226	1.58%
10	520811	387308	74.37%	36962	7.10%	55325	10.62%
11	548595	334137	60.91%	67339	12.27%	84820	15.46%

The proposed districts are also intended to group other constituencies with common economic, social, and environmental interests. Some of the most prominent of these interests are described in the following sections.

DISTRICT THREE: HAMPTON ROADS

The Hampton Roads District is defined by its major industries: shipping and defense. The district contains Norfolk Harbor and Newport News, two of the 25 largest ports in the country in

terms of total tonnage.¹ Combined, the two ports constitute the third-largest exporting harbor in the United States.² Fortune 500 shipbuilding company Huntington Ingalls Industries is headquartered in Newport News, and the local division is “the largest industrial employer in Virginia and the largest shipbuilding company in the United States.”³ Several military installations are located in the district, including Naval Amphibious Base Little Creek, the Norfolk Naval Shipyard, and Naval Station Norfolk, the largest naval facility in the world.⁴ Many of the district’s bases have been targeted by the Base Realignment and Closure Commission. In 2010, Langley Air Force Base was forced to merge with Fort Eustis,⁵ and Fort Monroe was deactivated the following year.⁶ By placing several bases in a single district, and centering that district on those bases, the Virginia NAACP’s proposal will allow the voters of Hampton Roads to advocate more effectively for their shared interest in their military facilities.

Transportation infrastructure represents another central interest shared by the residents of Hampton Roads. The district is connected by a system of bridges and tunnels, many of which are in need of repair or replacement.⁷ While many of the projects may be funded by state and local governments, the district does have specific federal interests, as well. Interstate 64 runs through Newport News and Norfolk, and federal funding for the route is apportioned based on a federal transit formula. Due to the relatively large scale of local infrastructure projects and the

¹ Bureau of Transp. Statistics Office of the Assistant Sec’y for Research & Tech., Table 1-57: Tonnage of Top 50 U.S. Water Ports, Ranked by Total Tons (2012), http://www.rita.dot.gov/bts/sites/rita.dot.gov/bts/files/publications/national_transportation_statistics/html/table_01_57.html.

² Am. Ass’n of Port Auths., U.S. Ports Ranked by Cargo Volume (2012), <http://www.aapa-ports.org/Industry/content.cfm?ItemNumber=900>.

³ *Our Businesses*, Huntington Ingalls Industries, <http://www.huntingtoningalls.com/about/businesses> (last visited Sept. 17, 2015).

⁴ *Virginia Military Bases*, MilitaryBases.com, <http://militarybases.com/virginia> (last visited Sept. 17, 2015).

⁵ *Langley Air Force Base in Hampton, VA*, MilitaryBases.com, <http://militarybases.com/langley-afb-air-force-base-in-hampton-va> (last visited Sept. 17, 2015).

⁶ *Fort Monroe Army Base in Hampton, VA*, MilitaryBases.com, <http://militarybases.com/fort-monroe-army-base-in-hampton-va> (last visited Sept. 17, 2015).

⁷ Va. Dep’t of Transp., Hampton Roads Projects (Oct. 9, 2013), <http://www.virginiadot.org/projects/hampton%20roads>.

military significance of the region, many transit projects will likely be competitive for additional federal grants.

Hampton Roads is one of the regions most vulnerable to climate change in the United States. According to Demos, “[t]he pace of sea level rise at Norfolk is the highest on the East Coast,” and the surrounding area is likely to lose “19 percent of undeveloped dry land, 79 percent of beaches, and a third of brackish and freshwater marshes.”⁸ Hence, the residents of the district have a significant common interest in federal climate policies and federal actions to protect local ports and shipyards.

Congressional District 3 in the NAACP’s plan is a very compact district that encapsulates an easily identifiable community of interest. Drawing this district as proposed here employs race-neutral criteria and results in a unified district that will allow its representative to effectively advocate for his or her constituents.

DISTRICT FOUR: THE SOUTHERN PIEDMONT

Located along Virginia’s southeastern border, the residents of the Southern Piedmont District share a rich cultural heritage shaped by the rhythms of a traditional agrarian society. The Southern Piedmont is famous for its handmade furniture, and the region boasts its own style of music, the Piedmont Blues, as well as its own distinctive dialect. Together the people of the Southern Piedmont adapted to the arrival and the departure of the textile mills, and together they face the new challenges of a post-industrial society. This legacy of stability in the midst of change continues to inform modern practices in the district and contributes to a foundation of common interests that chart the region’s path into the future.

⁸ Robert Repetto, *Economic and Environmental Impact Change in Virginia*, Demos (Apr. 19, 2012), <http://www.demos.org/publication/economic-and-environmental-impacts-climate-change-virginia>.

The district also unites several agricultural interests specific to the region. The eastern counties of the Southern Piedmont represent Virginia's sole producers of peanuts and upland cotton and some of the state's largest producers of winter wheat, while the western counties of the district form the northern boundary of the country's largest tobacco producing region.⁹ The Virginia NAACP's redistricting plan allows the comparatively small-scale agricultural operations in the eastern portion of the district to benefit from the political influence of tobacco producers. Heavily funded tobacco interests ensure the district will be well represented in rural development and agricultural policy discussions, protecting the interests of other historic farming communities in the district.

Moreover, Richmond plays an important role in ensuring the success of those agricultural communities, and having Richmond in the district makes good sense. In order to get on the market, much of the agricultural product from the southern counties must be routed through Richmond because of transportation pathways. The economic fates of Richmond and the southern counties in the district are dependent on each other. Finally, portions of the district that are in Richmond comprise only 22% of the district's total population, so Richmond, while an important part of the district for the reasons described above, in no way dominates the district.

Additionally, the Southern Piedmont District contains the majority of Virginia's portion of the Chowan Watershed. Residents of the district draw from the same water supply and jointly share both the responsibility of maintaining the watershed and the consequences of environmental pollution. According to the Virginia Conservation Land Needs Assessment, the Chowan River Basin is among the state's most vital regions for maintaining water quality

⁹ U.S. Dep't of Agric. Nat'l Agric. Statistics Serv., Charts and Maps: Crops County (2014), http://www.nass.usda.gov/Charts_and_Maps/Crops_County.

integrity.¹⁰ The Southern Piedmont District also feeds the North Carolina portion of the Chowan River Basin, which has been classified as nutrient sensitive by the State of North Carolina.¹¹ The district therefore possesses important unique interests on issues such as runoff control policies and water usage regulations that impact not only the residents of the district but also residents of the North Carolina portion of the watershed further downstream.

Socioeconomically, the district is also very unified and distinct from other districts in the state. The Southern Piedmont District contains a disproportionately large low-income population compared to the rest of the state. Three counties and five independent cities in the district possess a poverty rate of more than 20 percent, and no county wholly contained in the district claims a poverty rate below 10 percent.¹² Of the 13 counties and independent cities wholly contained in the district, 10 possess an unemployment rate greater than the national average.¹³ By joining the economically disadvantaged residents along Virginia's southern border in a district with the economically disadvantaged residents of Richmond and Petersburg, the district enhances the ability of both groups to secure representation for shared interests such as social programs and economic policy.

Overlaying a map of Congressional District 4 onto different socioeconomic metrics visibly highlights the commonalities captured in the district. For example, residents in Congressional District 4 as proposed by the Virginia NAACP receive Supplemental Nutrition Assistance Program benefits at higher rates than residents in counties not in the district.

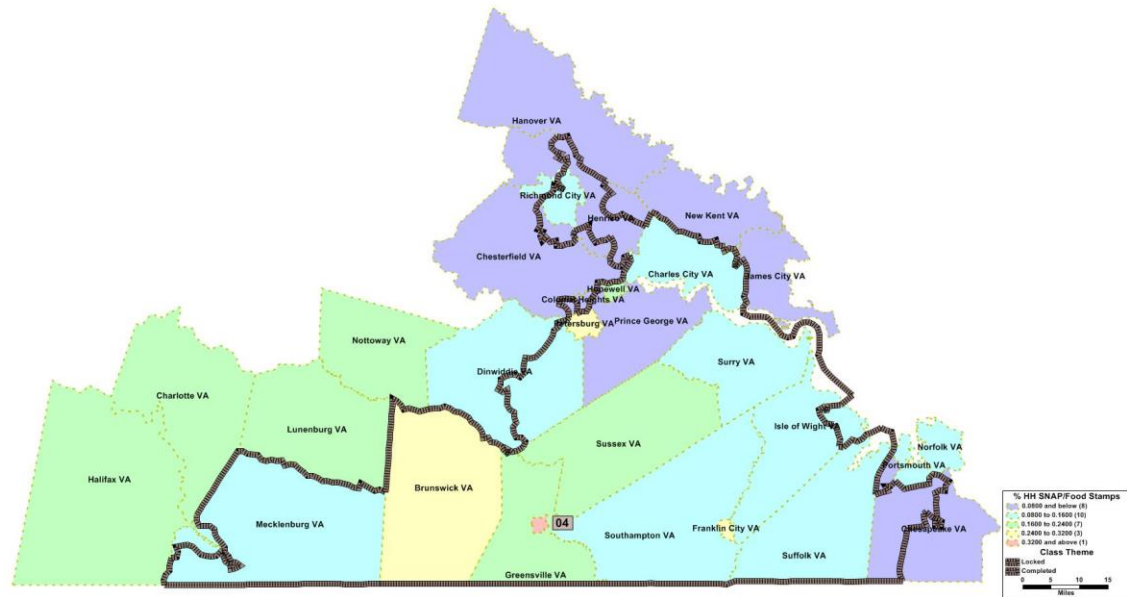
¹⁰ Va. Dep't of Conservation & Recreation, Natural Heritage: Watershed Integrity Model (2011), http://www.dcr.virginia.gov/natural_heritage/vaconviswater.shtml.

¹¹ U.S. Gov't Printing Office, Chowan River Action Plan (1979), <http://www.gpo.gov/fdsys/pkg/CZIC-td365-n8-c54-1979/html/CZIC-td365-n8-c54-1979.htm>.

¹² U.S. Dep't of Agric. Econ. Research Serv., County Level Datasets: Poverty: Virginia (2013), <http://www.ers.usda.gov/data-products/county-level-data-sets/poverty.aspx>.

¹³ U.S. Bureau of Labor Statistics, Labor Force Data by County, Not Seasonally Adjusted (2015), <http://www.bls.gov/lau/laucntycur14.txt>.

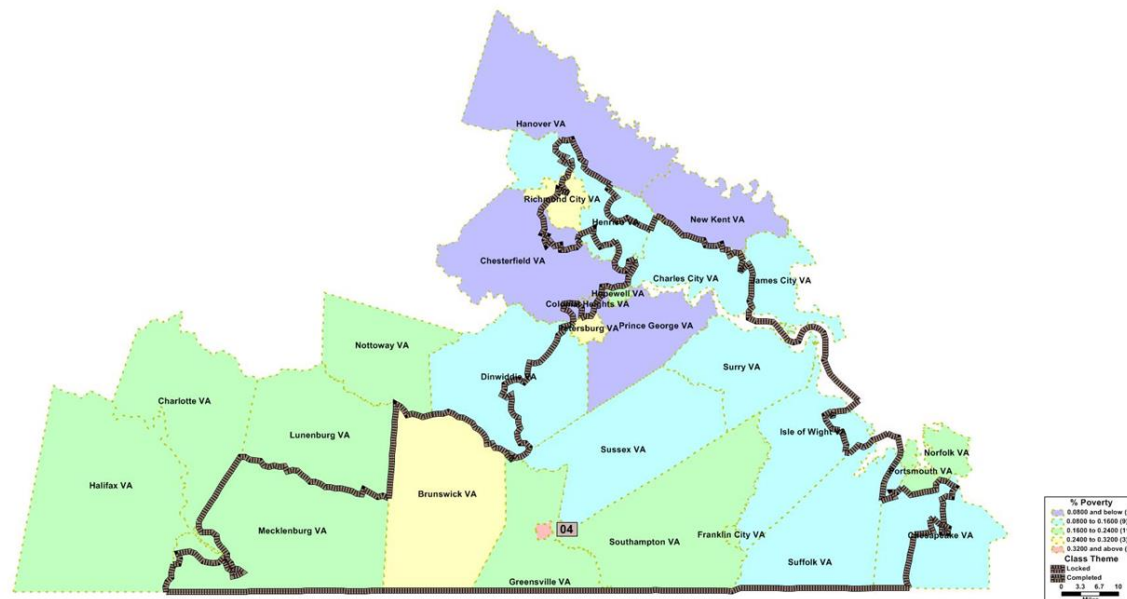
Percentage of Households Receiving SNAP Benefits by County



See also Appendix D.

Likewise, Congressional District 4 as drawn captures counties in the region experiencing the highest poverty rates.

Percentage of Poverty by County



See also Appendix E.

Likewise, the experience of NAACP members throughout proposed Congressional District 4 is that the educational challenges facing residents in the district, from Richmond to Mecklenburg County, are a unifying factor, with high dropout rates, high illiteracy rates, and other factors that make having representation for this community of interest so critical.

Finally, the Southern Piedmont District has a significant political history in this geographic configuration. For much of the 1960s, Congressional District 4 was drawn in a similar configuration, from Petersburg south to the border, stretching from Suffolk to near Danville. During that time period, prominent NAACP attorney and civil rights advocate S.W. Tucker twice ran for the seat. He lost both times, but garnered a substantial percentage of the vote running against a staunch segregationist incumbent. This is a region of the state that historically has wanted responsive representation, but has not been able to get it.

The version of Congressional District 4 proposed by the Virginia NAACP is one that predominantly uses race-neutral criteria to construct a district reflective of the unique cultural, historical socioeconomic bonds common to the region.

CONCLUSION

In consultation with its constituent chapters, composed of thousands of Virginia voters, the Virginia NAACP has developed a remedial redistricting plan that embodies good government principles and creates unprecedented opportunity for voters of color in the state. It is a plan that is compact, respects political subdivisions, and creates districts in which voters in the districts share common interests, needs, and backgrounds. The Virginia NAACP's plan complies with, and is compelled by, all applicable state and federal law. The Virginia NAACP respectfully

submits its map for consideration, in part or whole, by this Court in the construction of the remedial congressional redistricting plan.

Respectfully submitted this 18th day of September, 2015.

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CERTIFICATE OF SERVICE

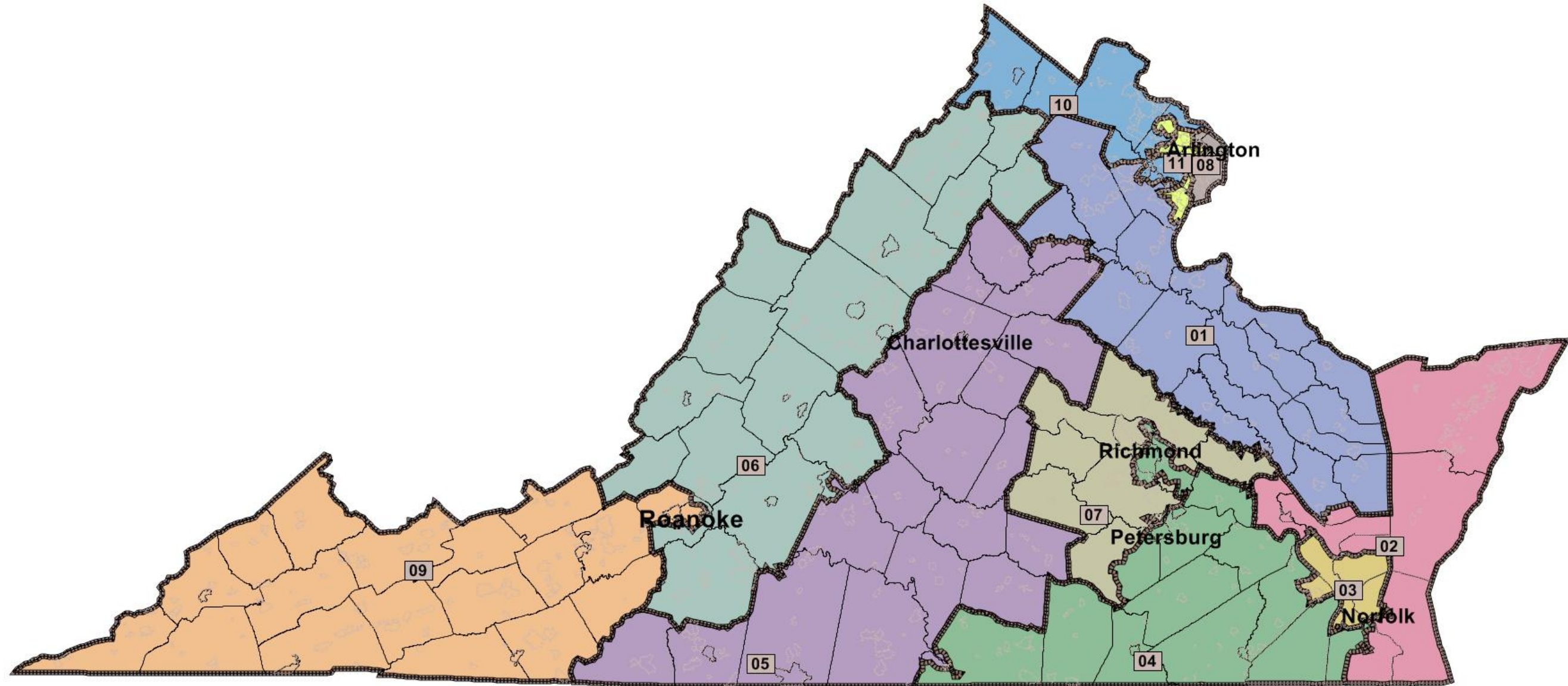
I hereby certify that on this 18th day of September, 2015, a true and correct copy of the foregoing Brief was delivered to Plaintiffs, Defendants, and Defendant-Intervenors via the United States District Court, Eastern District of Virginia, Richmond Division, CM/ECF system.

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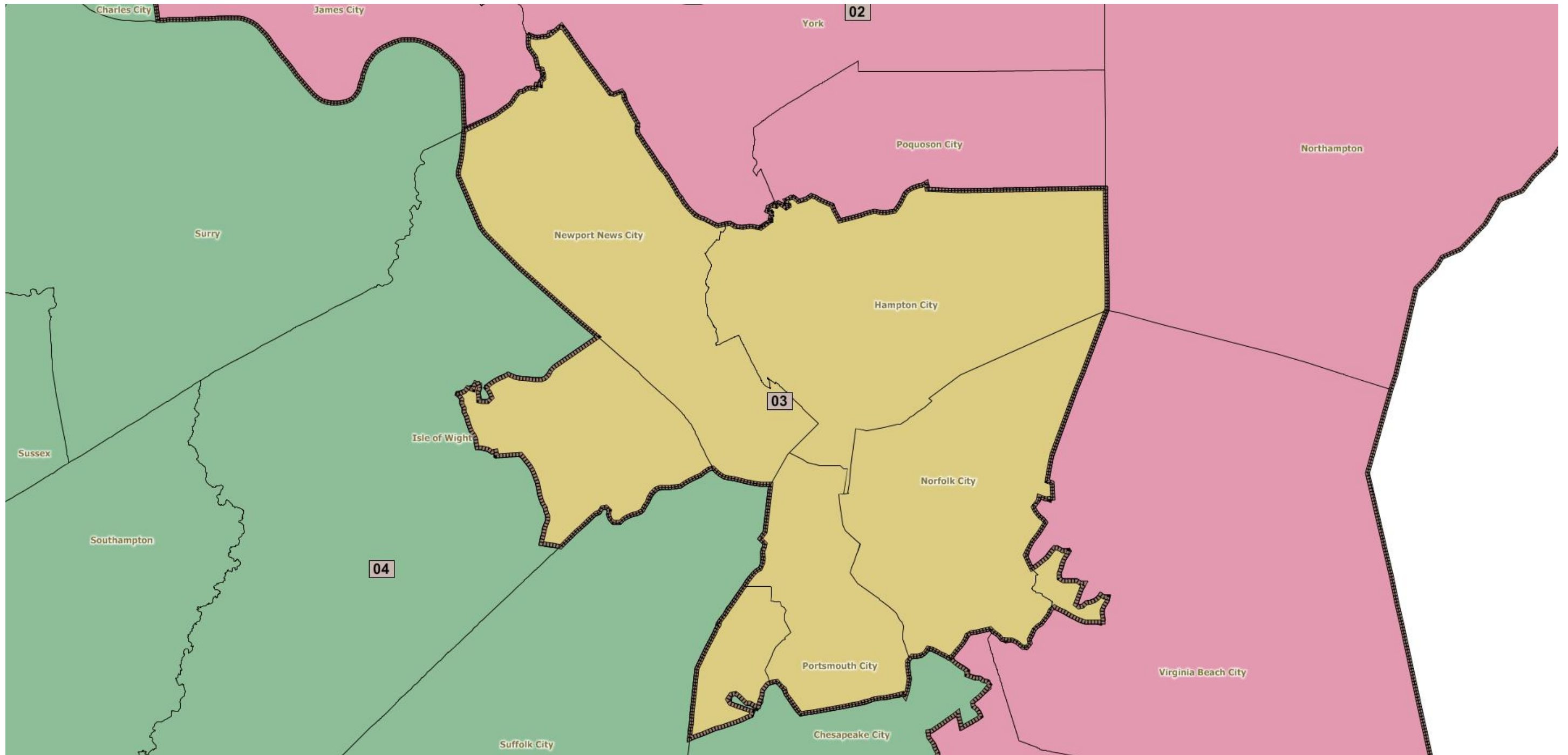
APPENDIX A

The Virginia NAACP's Proposed Congressional Map



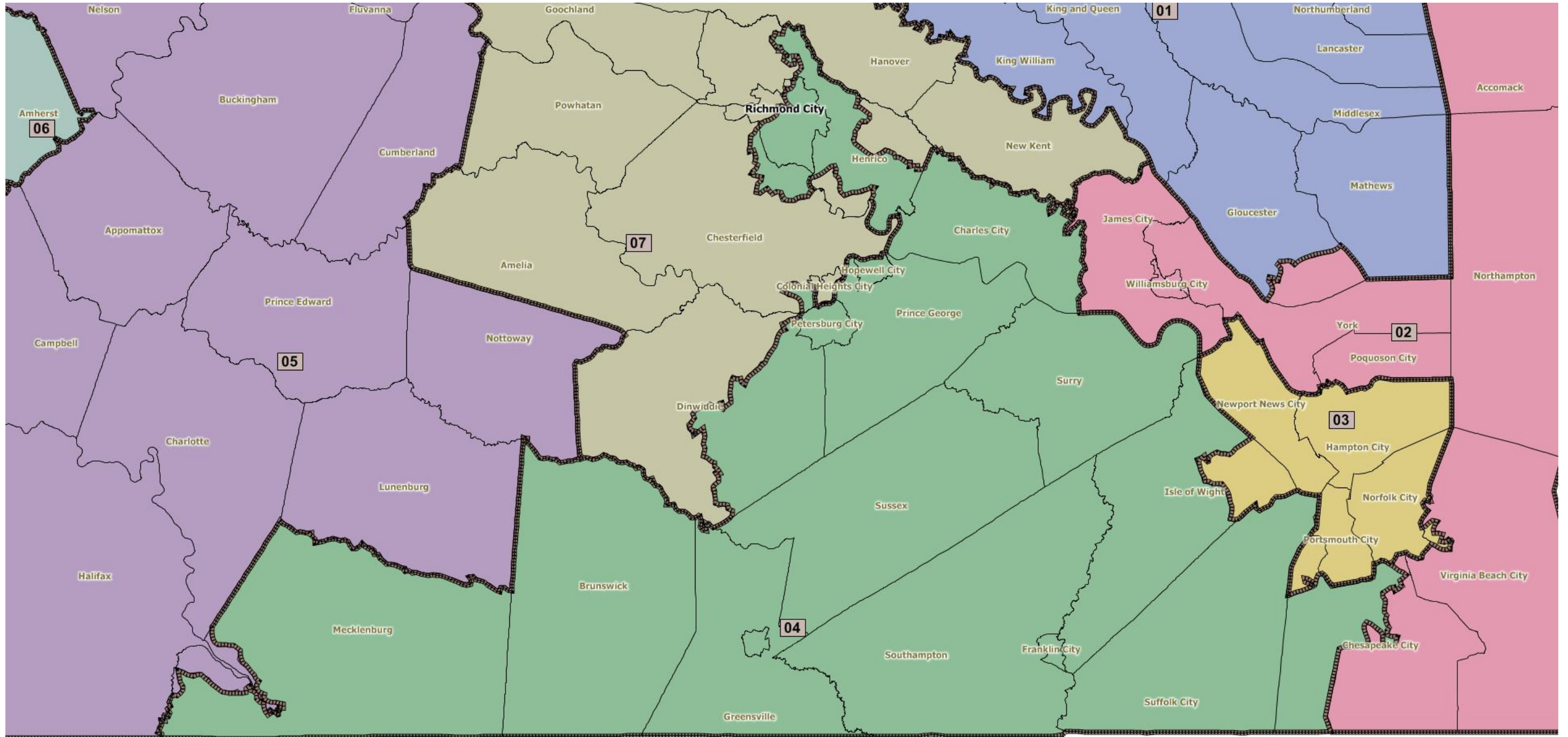
APPENDIX B

The Virginia NAACP's Proposed Congressional Map – CD 3 Zoom



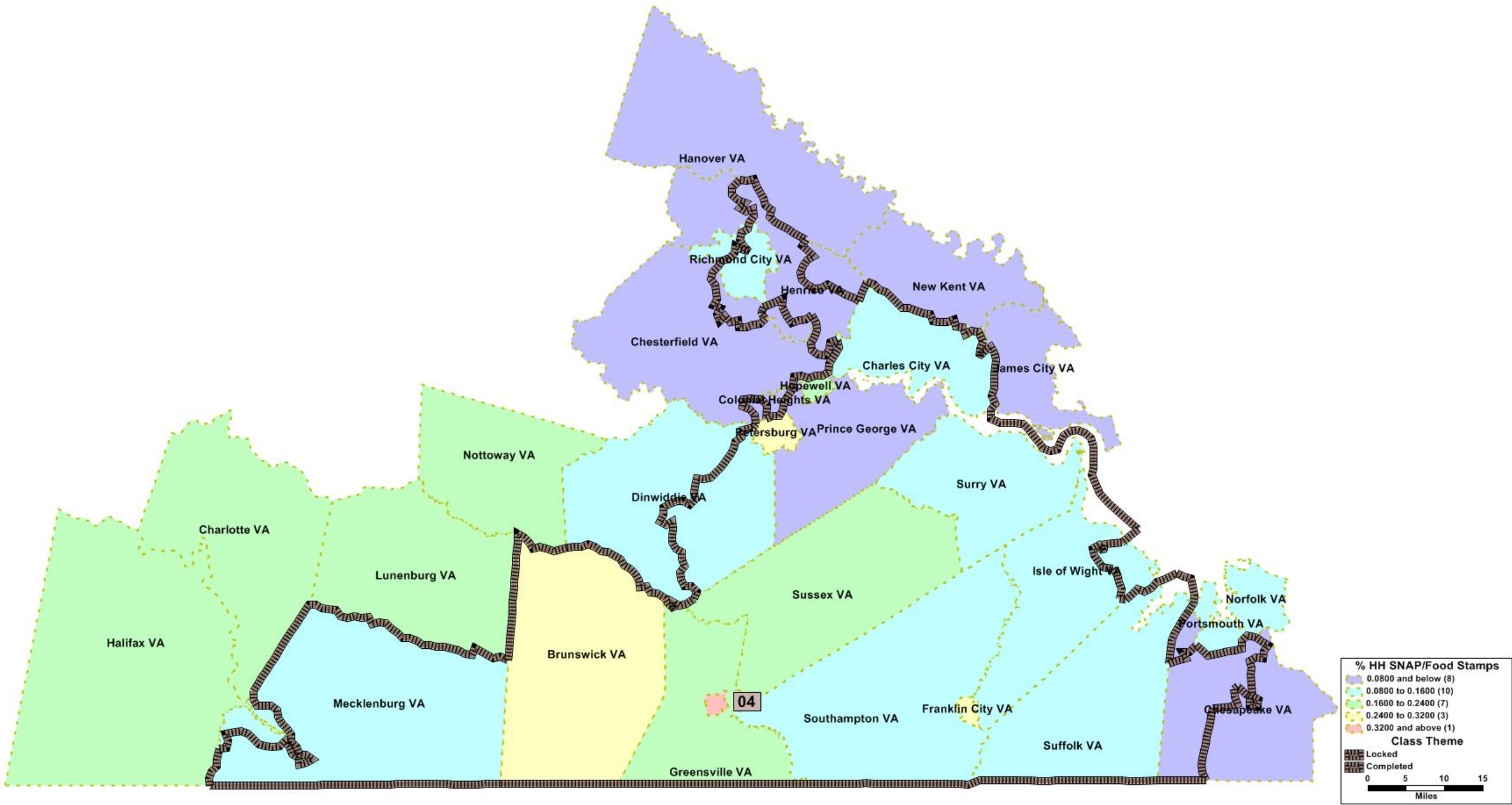
APPENDIX C

The Virginia NAACP's Proposed Congressional Map – CD 4 Zoom



APPENDIX D

Proposed CD 4 - % Households Receiving SNAP Benefits by County



APPENDIX E

Proposed CD 4 - % Poverty by County

