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**RECORD NO. 14-1329**

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*In The*  
**United States Court of Appeals**  
*For The Fourth Circuit*

**CALLA WRIGHT; WILLIE J. BETHEL; AMY T. LEE; AMYGAYLE L. WOMBLE; JOHN G. VANDENBERGH; BARBARA VANDENBERGH; AJAMU G. DILLAHUNT; ELAINE E. DILLAHUNT; LUCINDA H. MACKETHAN; WILLIAM B. CLIFFORD; ANN LONG CAMPBELL; GREG FLYNN; BEVERLEY S. CLARK; CONCERNED CITIZENS FOR AFRICAN-AMERICAN CHILDREN, d/b/a Coalition of Concerned Citizens for African-American Children; RALEIGH WAKE CITIZENS ASSOCIATION,**

*Plaintiffs – Appellants,*

**v.**

**STATE OF NORTH CAROLINA;  
WAKE COUNTY BOARD OF ELECTIONS,**

*Defendants – Appellees.*

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
AT RALEIGH**

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**BRIEF OF APPELLANTS**

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**Anita S. Earls  
SOUTHERN COALITION FOR SOCIAL JUSTICE  
1415 West Highway 54, Suite 101  
Durham, North Carolina 27707  
(919) 323-3380**

*Counsel for Appellants*

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Willie J. Bethel  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Willie J. Bethel

**CERTIFICATE OF SERVICE**

\*\*\*\*\*

I certify that on 04/16/2014 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

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allison@southerncoalition.org

Kenneth R. Murphy, III  
Scott Wood Warren  
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P. O. Box 550  
Raleigh, NC 27602  
919-856-5500  
Kenneth.Murphy@wakegov.com  
swarren@wakegov.com

/s/ Anita S. Earls  
(signature)

04/16/2014  
(date)

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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Ann Long Campbell  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Ann Long Campbell

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/s/ Anita S. Earls  
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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Beverley S. Clark  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Beverley S. Clark

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/s/ Anita S. Earls  
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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

William B. Clifford  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:



4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: William B. Clifford

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/s/ Anita S. Earls  
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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Concerned Citizens for African-American Children  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Concerned Cit. for African-Am. Childr

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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Ajamu G. Dillahunt  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Ajamu G. Dillahunt

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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Elaine E. Dillahunt  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Elaine E. Dillahunt

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/s/ Anita S. Earls  
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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Greg Flynn

(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:



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If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Greg Flynn

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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Amy T. Lee  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
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6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Amy T. Lee

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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Lucinda H. Mackethan  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Lucinda H. Mackethan

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/s/ Anita S. Earls  
(signature)

04/16/2014  
(date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Raleigh Wake Citizens Association  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Raleigh Wake Citizens Association

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/s/ Anita S. Earls  
(signature)

04/16/2014  
(date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Barbara Vandenberg  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:



4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Barbara Vandenberg

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/s/ Anita S. Earls  
(signature)

04/16/2014  
(date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

John G. Vandenberg  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: John G. Vandenberg

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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Amygayle L. Womble  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Amygayle L. Womble

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/s/ Anita S. Earls  
(signature)

04/16/2014  
(date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

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No. 14-1329 Caption: Calla Wright v. State of North Carolina

Pursuant to FRAP 26.1 and Local Rule 26.1,

Calla Wright  
(name of party/amicus)

who is Appellant, makes the following disclosure:  
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO
  
2. Does party/amicus have any parent corporations? YES NO  
If yes, identify all parent corporations, including grandparent and great-grandparent corporations:
  
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO  
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO  
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5. Is party a trade association? (amici curiae do not complete this question) YES NO  
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO  
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Anita S. Earls

Date: 4/16/2014

Counsel for: Calla Wright

**CERTIFICATE OF SERVICE**

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/s/ Anita S. Earls  
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(date)

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 14-1329

CALLA WRIGHT; WILLIE J. BETHEL; AMY T. LEE; AMYGAYLE L.  
WOMBLE; JOHN G. VANDENBERGH, BARBARA VANDENBERGH;  
AJAMU G. DILLAHUNT; ELAINE E. DILLAHUNT; LUCINDA H.  
MACKETHAN; WIMMIAM B. CLIFFORD; ANN LONG CAMPBELL; GREG  
FLYNN; BEVERLEY S. CLARK, CONCERNED CITIZENS FOR AFRICAN-  
AMERICAN CHILDREN, d/b/a Coalition of Concerned Citizens for African-  
American Children; RALEIGH WAKE CITIZENS ASSOCIATION,

Plaintiffs – Appellants

v.

STATE OF NORTH CAROLINA; WAKE COUNT BOARD OF ELECTIONS,

Defendants – Appellees

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

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BRIEF OF APPELLANTS

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**JURISDICTIONAL STATEMENT**

The Plaintiff-Appellants are voters and associations of voters who live in overpopulated election districts drawn by the North Carolina General Assembly to be used for election to the Wake County School Board. They have brought suit

seeking declaratory and injunctive relief for the violation of their equal protection rights on one-person, one-vote grounds, as protected by the 14th Amendment to the United States Constitution and the North Carolina Constitution. Thus, this is an action arising under 42 U.S.C. § 1983. The trial court had jurisdiction over the Plaintiffs' federal claims pursuant to 28 U.S.C. § 1331, 1343(a)(3), and 1357; and 42 U.S.C. §§ 1983 and 1988. Supplemental jurisdiction over Plaintiffs' state constitutional claims is authorized by 28 U.S.C. § 1367. The trial court had authority to issue declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

On March 17, 2014 the district court granted both Defendants' motions to dismiss, denied the Plaintiffs' Motion to Amend as futile, and entered final judgment dismissing the Plaintiffs' claims in their entirety. J.A. 93. All Plaintiffs filed a notice of appeal on April 7, 2014 which was timely under Rule 4(a)(1)(A). This court has jurisdiction under 28 U.S.C. § 1291.

### **STATEMENT OF ISSUES**

- I. Whether the Plaintiffs' Complaint states a claim for relief on one-person, one-vote grounds under the equal protection clause of the Fourteenth Amendment to the United States Constitution where the overall deviations among election districts for the Wake County

Board of Education, at 9.8% and 7.11%, are not justified by neutral principles.

- II. Whether the Plaintiffs' Complaint states a claim for relief on one-person, one-vote grounds under the equal protection clause of Article 1, Section 19 of the North Carolina Constitution.
- III. Whether the trial court erred in holding that the Plaintiffs cannot sue the state actors who enacted the Wake County Board of Education districts challenged here.

### **STATEMENT OF CASE**

Thirteen individual citizens and voters, together with two civic organizations, filed suit on August 22, 2013 in the United States District Court for the Eastern District of North Carolina challenging the constitutionality of the districts established by North Carolina General Assembly Session Law 2013-110, enacted on June 13, 2013, for election to the Wake County Board of Education (hereinafter "Wake Cty. Bd. of Ed."). J.A. 10. On November 4, 2013 each Defendant filed a Motion to Dismiss, J.A. 33, 36, and together they filed a joint Answer. J.A. 39.

On November 19, 2013 Plaintiffs filed a Motion for Leave to Amend Complaint, J.A. 52, seeking to add three defendants in their official capacities and to remove the State of North Carolina as a Defendant, which was not opposed by

Defendants. Plaintiffs attached their Amended Complaint to the motion, J.A. 57, and filed a supporting memorandum of law.<sup>1</sup> See J.A. 8. On November 23, 2013, Plaintiffs timely filed a memorandum in opposition to Defendants' motions to dismiss. See J.A. 8. After a hearing noticed on Plaintiffs' motion for leave to file Amended Complaint, the trial court issued an order dismissing Plaintiffs' claims in their entirety. *Id.* Plaintiffs now appeal that final order.

*1. Facts Relating To Plaintiffs' One-Person, One-Vote Claims*

The individual plaintiffs are registered voters in Wake County eligible to vote in elections for the Wake Cty. Bd. of Ed. J.A. 12-14. They each live in one or more of the election districts that, under the state law challenged here, is overpopulated relative to other districts. J.A. 12-14, 26. They seek relief because their votes for school board members carry less weight than those of voters living in underpopulated districts. J.A. 15, 29. The Concerned Citizens for African-American Children (CCAAC) and Raleigh Wake Citizens Association (RWCA) are both non-partisan organizations whose missions include insuring that all students have access to a high quality education in Wake County. J.A. 15.

The method of electing the nine-member Wake Cty. Bd. of Ed. was previously established by North Carolina Session Law 1975-717, which

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<sup>1</sup> Indeed, as the Amended Complaint was filed within 21 days of the Defendants' Answer and Motions to Dismiss, Plaintiffs were entitled to amend the complaint as a matter of course pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure.

consolidated the Raleigh City School District and the Wake County School District into one unit governed ultimately by a nine-member board elected to staggered terms from nine single-member districts. 1975 N.C. Sess. Laws 717, §§ 5, 6 (attached hereto as Addendum A). In 1981 the General Assembly modified the composition of the nine single-member districts. 1981 N.C. Sess. Laws 742 (attached hereto as Addendum B).

The results of the 2010 census showed that Wake County's population grew 43.51% over the decade, increasing from 627,846 in 2000 to 900,993 in 2010. J.A. 16. As a result, the overall population deviation among the existing nine school board districts was 47.89%. J.A. 18. Thus, in 2011, pursuant to the statutory authority granted to it under N.C. Gen. Stat. § 155C-37(i), the Wake Cty. Bd. of Ed. redrew its nine single-member districts to comply with the one-person, one-vote requirement. J.A. 18. The redistricting plan they adopted has an overall population deviation of just 1.66% and no single district has a deviation above 1%. J.A. 20.

In 2013, the North Carolina General Assembly re-redistricted the Board by local legislation, 2013 N.C. Sess. Laws 110 (attached hereto as Addendum C), changing to a structure with seven single-member districts and two "super" districts, an urban core district completely encircled by an outer rural/suburban ring district. J.A. 25. This hybrid plan has an overall deviation of 9.8% for the

two super districts, and 7.11% for the seven numbered districts. J.A. 26. The Plaintiffs' allege that these population deviations are larger than necessary and do not further any neutral, legitimate governmental purpose. J.A. 28.

The General Assembly also moved the elections for Wake Cty. Bd. of Ed. from odd-numbered years to even-numbered years, 2013 N.C. Sess. Laws 110 (hereinafter "S.L. 2013-110"), § 2, and specified that no elections for the Board will occur in 2015. *Id.* § 1. The law further prohibits the Wake Cty. Bd. of Ed. from changing its structure as would otherwise be permissible under state law. *Id.* § 5. Plaintiffs do not challenge these provisions of the new law. J.A. 29-30; 76-77.

Plaintiffs' complaint alleges that the reasons for the imbalanced election districts are arbitrary and capricious, and that the population deviations are not justified as furthering a rational state policy. J.A. 28. This allegation in the complaint is not merely a conclusory one, Plaintiffs specifically allege that all of the imbalanced districts are drawn to favor one political party over another, J.A. 27-28, and that the urban and rural super-districts map favors rural voters. J.A. 11, 26. Plaintiffs also allege that the fact that the districts are not geographically compact and were accomplished only by splitting numerous election precincts is further evidence that there was not a legitimate governmental purpose justifying the large population deviation. J.A. 28.

Additional factual allegations supporting Plaintiffs' contention that the unbalanced districts were drawn for impermissible reasons include the unfavorable conditions the plan creates for incumbent school board members who are registered Democrats, J.A. 27-28, and the fact that a majority of the members of the Wake Cty. Bd. of Ed. objected to the proposal to change the method of electing the Board, and passed a resolution to that effect before S.L. 2013-110 was enacted. J.A. 21, 46. Moreover, no Democratic member of the North Carolina General Assembly voted in favor of the legislation, and no African-American member of the legislature voted for it. J.A. 21, 46.

Because their voting strength will be diluted by the imbalanced districts, Plaintiffs seek a declaratory judgment that the districts as enacted in S.L. 2013-110 violate their equal protection rights under the Fourteenth Amendment to the United States Constitution and Article I, Section 19 of the North Carolina Constitution. J.A. 30. They further seek a permanent injunction preventing the Defendants from implementing the method of election established by S.L. 2013-110, and a declaration that the Wake Cty. Bd. of Ed. may itself adopt a redistricting plan that complies with the one-person, one-vote requirement if the North Carolina General Assembly does not enact a lawful method of election for the Board. J.A. 31.

## *2. Facts Relating to Suit Against State Actors in Their Official Capacities*

The Plaintiffs initially brought suit against the State of North Carolina and the Wake County Board of Elections. J.A. 10, 16. When its answer made clear that the State of North Carolina would not consent to suit against it in this matter, J.A. 39, Plaintiffs promptly sought to join state actors sued in their official capacities. J.A. 52, 57, 63. In the joint brief filed in support of the Defendants' separate motions to dismiss, the Attorney General of North Carolina indicated that he intends to move to intervene in the action pursuant to 28 U.S.C. § 2403(b), N.C. Gen. Stat. § 114-2 and Rule 24(a) of the Federal Rules of Civil Procedure if the case is not dismissed in its entirety. J.A. 7 (Doc. 28 at 17 n. 6).

The North Carolina General Assembly enacted the law Plaintiffs' contend is unconstitutional, J.A. 21, 46. That law prohibits the Wake Cty. Bd. of Ed. from changing its structure except to correct population imbalances after the 2020 census. S.L. 2013-110, § 5(c).

## *3. Ruling of the Court Below*

In its Order dismissing all of Plaintiffs' claims, the trial court first noted that because the State of North Carolina raised Eleventh Amendment immunity as a defense, the Court lacks jurisdiction over the State. Thus the Court granted the State's motion to dismiss pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. J.A. 82.



The Court next considered Plaintiffs' motion to amend the complaint to name instead Governor Patrick McCrory, North Carolina Senate President Pro Tem Phil Berger, and North Carolina House Speaker Thom Tillis as defendants in their official capacities. Noting that under *Ex Parte Young*, 209 U.S. 123, 159-60 (1908), federal courts permit suits against state actors in their official capacities as a way of enjoining a state from unconstitutional action, the trial court nonetheless found that the individual state actors are not proper parties because enforcement of the law challenged here, S.L. 2013-110, is the responsibility of the Wake County Board of Elections. J.A. 83-84. The court concluded that "no other parties are proper defendants to this suit even under the *Ex Parte Young* doctrine." J.A. 84. In light of this conclusion, the court denied Plaintiffs' motion to amend their complaint as futile. *Id.*

The court then turned to the remaining Defendant's motion to dismiss under Fed. R. Civ. P. 12(b)(6).<sup>2</sup> J.A. 84. The Defendants argued that Plaintiffs have failed to state a claim for relief on two grounds: first, because the population deviations of the challenged districts are *de minimis*, and second, because the complaint is in fact a claim for relief from political gerrymandering which is a non-justiciable political question. J.A. 85. Implicitly rejecting the first argument, the

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<sup>2</sup> The Opinion mistakenly identifies the remaining Defendant as the Wake County Board of Education although in fact it is the Wake County Board of Elections. *Compare* J.A. 84 *with* J.A. 16.

trial court followed *Daly v. Hunt*, 93 F.3d 1212, 1220 (4th Cir. 1996) in holding that in order to rebut the presumption of constitutionality, the Plaintiffs must allege that the population deviations are tainted by arbitrariness or discrimination. J.A. 86 (also citing *Roman v. Sincock*, 377 U.S. 695, 710 (1964)).

The court concluded that Plaintiffs have failed to allege that the population deviations are tainted by arbitrariness or discrimination because “[t]he remainder of plaintiffs’ alleged facts state a political gerrymandering claim.” J.A. 88. First, the court collapsed all of Plaintiffs’ evidence of arbitrariness and discrimination, including evidence that rural areas were favored over urban areas, into a single category of “impermissible political bias.” Citing the dissenting opinion in *Cox v. Larios*, 542 U.S. 947, 952 (2004) (Scalia, J. dissenting), the trial court concluded that political advantage is a traditional and legitimate state interest justifying population deviations. J.A. 88.

The court considered *Larios* distinguishable from this case because of differences of scale and concluded that even though the *Larios* court found that favoring rural interests and seeking partisan advantage using districts that were oddly shaped did not justify population deviations of 9.98% under the one-person, one-vote requirement, the *Larios* court did not squarely address the question in this case. J.A. 89. Finding that the complaint was actually a political gerrymandering

claim in one-person, one-vote clothing, the court dismissed the Plaintiffs' federal equal protection claim. J.A. 90.

In analyzing Plaintiffs' state constitutional claim, the court acknowledged that under the North Carolina Supreme Court's holding in *Stephenson v. Bartlett*, 562 S.E.2d 377, 397 (2002), "[p]opulation deviations that weaken the vote of one citizen at the expense of another must be justified by compliance with state and federal redistricting principles." J.A. 90. However, for exactly the same reason given for dismissal of the federal equal protection claim, the court concluded that the Plaintiffs' factual allegations amount to nothing more than a claim of political gerrymandering and therefore the state constitutional claim is non-justiciable and must be dismissed as well. J.A. 91.

## **SUMMARY OF ARGUMENT**

### **I. The Challenged Districts Violate One-Person, One-Vote**

Voters living in election districts that are larger in population than other districts do not have an equal opportunity to have their voices heard because their votes do not carry the same weight at the ballot box. In 1964 the United States Supreme Court held that "the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and

meticulously scrutinized.” *Reynolds v. Sims*, 377 U.S. 533, 562-63 (1964). Accordingly, the Court found that “[w]eighting the votes of citizens differently, by any method or means, merely because of where they happen to reside, hardly seems justifiable. ... Full and effective participation by all citizens in state government requires, therefore, that each citizen have an equally effective voice in the election of members of his state legislature.” *Reynolds*, 377 U.S. at 563, 565. Four years later the Court made clear that the Fourteenth Amendment’s one-person, one-vote requirement applies to local government districts as well. *Avery v. Midland Cnty*, 390 U.S. 474, 480-81 (1968).

The two super districts at issue in this case have an overall deviation of 9.8% and the seven numbered districts have an overall deviation of 7.11%. J.A. 26. Accordingly, the Plaintiffs alleged facts showing that these population deviations are the result of arbitrary and discriminatory factors and not justified by neutral principles. Those facts include 1) that the imbalanced super districts favor rural and suburban voters at the expense of urban voters in Wake County, J.A. 11; 2) that the super districts and numbered districts were drawn to achieve a particular partisan outcome, favoring Republican voters and disadvantaging Democratic voters, J.A. 28; 3) that the super districts and numbered districts placed then-incumbent school board members who were registered as Democrats in districts in which they were disadvantaged, and placed incumbents registered as Republicans

in districts where they had more favorable chances of re-election, including because of how the incumbents were paired and because of the partisan composition of the districts' voters, J.A. 27-28; 4) that the districts are not geographically compact and divide nearly twice as many precincts as the previous nine single-member district plan, J.A. 23, 25, 28; 5) that a majority of the school board opposed the re-redistricting, J.A. 21; and 6) that Democrats and African-Americans in the General Assembly unanimously opposed the law. J.A. 21.

The Supreme Court has held that a redistricting plan for the Georgia Legislature which had greater population deviations than necessary and was "intended not only to aid Democrats in getting re-elected but also to oust many of their Republican incumbent counterparts" violated the one-person, one-vote standard. *Cox v. Larios*, 542 U.S. 947, 948 (2004). The Court held that "the drafters' desire to give an electoral advantage to certain regions of the State and to certain incumbents (but not incumbents as such) did not justify the conceded deviations from the principle of one person, one vote." *Cox v. Larios*, 542 U.S. at 949. The same principles apply to the redistricting plan for the Wake Cnty. Bd. of Ed. enacted by the North Carolina General Assembly in 2013 after the Board had already redrawn its districts to comply with the one-person one-vote requirement in a plan that had an overall deviation of 1.66%. Plaintiffs have alleged facts which,

if proven, establish a violation of the equal protection clause of the Fourteenth Amendment.

Plaintiffs' also alleged facts which demonstrate why they are harmed by the imbalanced districts. At issue is whether they will have an equal footing in which to elect candidates that share their views about student assignment policies. J.A. 16-17. While the North Carolina General Assembly may pass legislation designed to favor their preferred education policies, when engaged in redistricting, what they cannot do is deviate from the one-person, one-vote principle for non-neutral reasons. It is fundamental to our democracy that voters engage on a level playing field, not one that is set up to minimize their voting strength relative to others. Traditional, legitimate justifications for such deviations might be the desire to create geographically compact districts, or districts that respect subdivision boundaries (for example, city boundaries within Wake County, or precinct boundaries), or to preserve the core of previous districts. *See Cox v. Larios*, 542 U.S. at 949. None of those explanations exist here and the way those neutral principles were violated highlight precisely why, if Plaintiffs' allegations are true, the districts established by S.L. 2013-110 violate the equal protection clause.

## **II. Unequal School Board Districts Violate the North Carolina Constitution's Equal Protection Guarantees**

The North Carolina Supreme Court has held that population deviations that unfairly strengthen the vote of one citizen at the expense of another must be

justified by compliance with state and federal redistricting principles. *Stephenson v. Bartlett*, 355 N.C. 354, 382-84, 562 S.E.2d 377, 396-97 (2002). Moreover, the *Stephenson* court went even further than federal courts in holding that the state cannot use multimember districts and single-member districts in the same state legislative redistricting plan because it “creates an impermissible distinction among similarly situated citizens based upon the population density of the area in which they reside.” *Id.*, 355 N.C. at 379, 562 S.E.2d at 395. There is a strong presumption in favor of traditional redistricting principles embodied in the North Carolina Constitution.

The trial court correctly held that “[a]s in federal law, *Stephenson* does not mean that a deviation of less than 5% cannot be challenged.” J.A. 90. However, the court erred in concluding that the Plaintiffs’ claim in this case is non-justiciable under the equal protection clause of the North Carolina Constitution. Plaintiffs claim under the state constitution is not a partisan gerrymandering claim but rather states a claim for unjustified vote dilution under the one-person, one-vote principle which has especially robust protection under the North Carolina Constitution.

### **III. The Court Erred in Ruling that State Officials are Not Proper Parties**

There is no precedent for the court’s counter-intuitive proposition that even under *Ex Parte Young*, 209 U.S. 123, 159-60 (1908), state officials cannot be sued in their official capacities for declaratory and injunctive relief concerning this

redistricting law passed by the North Carolina General Assembly because the law is administered by the Wake County Board of Elections. J.A. 84. At a minimum, the legislative officials are necessary to enjoin the state from further unconstitutional action. The court below confuses implementation with enforcement. The notion that the legislature has no role in the enforcement of the law they enacted is equivalent to suggesting that the Wake County Board of Elections is free to disregard implementing the new election method if they so desire. Moreover, it would mean that state officials could never be sued for enacting unconstitutional laws as virtually every law they enact is actually implemented by some other entity.

In addition to providing a remedy should the Plaintiffs' prevail, three other significant considerations also mandate the need for state officials as parties in this case. First, it is entirely possible that the parties could negotiate a mutually agreeable resolution to the case that resolves the one-person, one-vote violation. However, the Wake County Board of Elections has no power to change S.L. 2013-110 and therefore cannot negotiate in any manner whatsoever with the Plaintiffs.

Second, the central issue in the case is whether there was a legitimate and neutral justification for the population deviations in the districts established by S.L. 2013-110. The legislative defendants control information relevant to that issue and Plaintiffs would be unfairly limited in their discovery of that information if third-



party discovery rules apply rather than the discovery responsibilities of parties to the case.

Third, while the Plaintiffs are only seeking declaratory and injunctive relief, they are also entitled to their attorneys' fees if they prevail. *See* 42 U.S.C. § 1988. The party that should incur the responsibility for those fees is the entity that violated Plaintiffs' rights in the first place, which is the North Carolina General Assembly. It makes no sense to leave only the Wake County Board of Elections, which cannot negotiate a settlement or devise a remedy, or otherwise on its own, change the method of election, responsible for the violation of Plaintiffs' rights.

Thus, because the true enforcement of S.L. 2013-110 remains with the North Carolina General Assembly, and because it is their action in passing the law which violated Plaintiffs' equal protection rights, the individual officials sued in their official capacities are proper parties in this case.

## ARGUMENT

### **I. THE COMPLAINT STATES A CLAIM FOR RELIEF FOR VIOLATION OF THE ONE-PERSON, ONE-VOTE REQUIREMENT UNDER THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT**

#### **A. Standard of Review**

The trial court dismissed Plaintiffs' federal equal protection claims under Fed. R. Civ. P. 12(b)(6) for failure to state a claim for which relief can be granted.

J.A. 84, 90. The standard of review for dismissal pursuant to Rule 12(b)(6) is de

novo. *Kendall v. Balcerzak*, 650 F.3d 515, 522 (4th Cir. 2011). The Court must “accept as true all of the factual allegations contained in the complaint,” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); construe the evidence in the light most favorable to the non-moving party, *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 255 (4th Cir. 2009), and “draw all reasonable inferences in [their] favor.” *E. I. du Pont de Nemours & Co. v. Kolon Indus.*, 637 F.3d 435, 440 (4th Cir. 2011).

The purpose of a Rule 12(b)(6) motion is to test the sufficiency of a complaint, “importantly, it does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses.” *Republican Party v. Martin*, 980 F.2d 943, 952 (4th Cir. 1992) (citations omitted). Thus, the court evaluates only whether the complaint states “a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 547 (2007). Allegations are facially plausible “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Tobey v. Jones*, 706 F.3d 379, 386 (4th Cir. 2013). A complaint “need only give the defendant fair notice of what the claim is and the grounds upon which it rests.” *Coleman v. Md. Ct. of Apps.*, 626 F.3d 187, 190 (4th Cir. 2010) (internal quotation marks omitted).

In *Twombly*, the Supreme Court explained that “once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint.” *Twombly*, 550 U.S. at 563 (citing *Sanjuan v. American Bd. of Psychiatry & Neurology*, 40 F.3d 247, 251 (7th Cir. 1994) (once a claim for relief has been stated, a plaintiff “receives the benefit of imagination, so long as the hypotheses are consistent with the complaint”)) (additional citations omitted). Moreover, in reviewing a Rule 12(b)(6) dismissal, the court “may properly take judicial notice of matters of public record,” including statutes, *Philips v. Pitt Cnty. Mem’l Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009), and “documents incorporated into the complaint by reference,” *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322, (2007).

**B. Plaintiffs Alleged Sufficient Facts to Establish the Elements of a One-Person, One-Vote Claim**

The court below erroneously dismissed Plaintiffs one-person, one-vote claims because, in the court’s view, the complaint stated a partisan gerrymandering claim dressed in one-person, one-vote clothing. J.A. 89. This mischaracterization of the allegations of the complaint is, in fact, a rejection of long-standing Supreme Court precedent establishing the elements of a one-person, one-vote claim. The court dismissed a claim that was not brought in this case, and failed to allow the Plaintiffs to proceed on the claim that is actually asserted in their complaint. A review of the allegations of the complaint, the relief sought, and the governing law

make clear that the Plaintiffs have stated a claim for relief and the court's dismissal under Rule 12(b)(6) must be reversed.

Unequal election districts impose grave hardships on the most “precious [right] in a free country”: the right to “a voice in the election of those who make the laws under which, as good citizens, we must live.” *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964). Just as in *Baker v. Carr*, “[t]he question here is the consistency of state action with the Federal Constitution.” *Id.*, 369 U.S. 186, 226 (1962). In *Baker*, the court reviewed the wide disparities in voting strength caused by the “crazy quilt” of districts used to elect the Tennessee legislature and concluded that “the complaint’s allegations of a denial of equal protection present a justiciable constitutional cause of action upon which appellants are entitled to a trial and a decision. The right asserted is within the reach of judicial protection under the Fourteenth Amendment.” *Baker*, 369 U.S. at 237.

The Equal Protection Clause requires that election districts must be as nearly equal in population as is possible. *Reynolds v. Sims*, 377 U.S. 533, 577 (1964). “So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational state policy, some deviations from the equal-population principle are constitutionally permissible.” *Id.* at 579. Any divergence from equality among districts must

therefore result from “factors that are free from any taint of arbitrariness or discrimination.” *Roman v. Sincock*, 377 U.S. 695, 710 (1964).

That election districts must be roughly equal in size to guarantee equal protection to all voters is as true of local governmental districts as it is of state legislative districts. *Avery v. Midland Cnty.*, 390 U.S. 474, 480-81 (1968). The Court in *Avery* explained:

If voters residing in oversize districts are denied their constitutional right to participate in the election of state legislators, precisely the same kind of deprivation occurs when the members of a city council, school board, or county governing board are elected from districts of substantially unequal population. ... In either case, the votes of some residents have greater weight than those of others; in both cases the equal protection of the laws has been denied.

*Id.*, 390 U.S. at 480-81. There is no reason to exempt local governing bodies from the constitutional requirement that the votes of all voters should carry equal weight.

While Congressional districts must be exactly equal in size to be presumptively constitutional, *Karcher v. Daggett*, 462 U.S. 725 (1983), for state legislative districts and local governing bodies, if the maximum population deviation<sup>3</sup> is greater than 10% it is *prima facie* evidence of a one person, one vote violation and “the state must justify the population disparity by showing a rational

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<sup>3</sup> Maximum deviations, (also referred to here as the “overall deviation”) are computed by calculating how much each district’s actual population deviates from the ideal population. See *Dean v. Leake*, 550 F. Supp. 2d 594, 598 (E.D.N.C. 2008) (explaining the calculation of population deviations).

and legitimate state policy for the districting plan.” *Daly v. Hunt*, 93 F.3d 1212, 1217 (1996) (citing *Brown v. Thompson*, 462 U.S. 835, 842-43 (1983)). However, the 10% *de minimis* threshold does not completely insulate a districting plan from challenge. *Daly*, 93 F.3d at 1220. The presumption of constitutionality in those circumstances is overcome by the plaintiff’s showing that the redistricting process had a “taint of arbitrariness or discrimination.” *Id.*, (quoting *Roman*, 377 U.S. at 710). Thus, to allege a one-person, one-vote claim here where the overall population deviations are very close to but not greater than 10%, the Plaintiffs must allege facts showing that the redistricting plan was not supported by legitimate, consistently applied state policy, but rather the product of “bad faith, arbitrariness, or invidious discrimination.” *Daly*, 93 F.3d at 1222. *See also, Cox v. Larios*, 542 U.S. 947, 949 (2004) (deviations under 10% must be justified by neutral principles).

The complaint in this case does just that. Plaintiffs allege that the second redistricting of the Wake Cnty. Bd. of Ed., less than two years after the 2011 districts were enacted, was designed to create a conservative majority on the Board and oust existing progressive representatives, at the expense of weighting all Wake County voters’ votes equally. J.A. 22. In order to achieve this, the General Assembly greatly increased the deviation between districts that had been rebalanced only two years ago, without complying with legitimate redistricting

principals. J.A. 26. The 2011 plan had an overall deviation of 1.66%, with the deviation in five of the nine districts under 0.5%. J.A. 20. In contrast, the challenged districts have far greater population deviations. The two super-districts have an overall deviation of 9.8%. The urban “superdistrict,” District A, is substantially overpopulated, and the rural “superdistrict,” District B, is substantially underpopulated. There are approximately 45,000 more Wake County voters in District A than there are in District B. J.A. 26.

The seven single-member districts have an overall deviation of 7.11%. J.A. 26. District 2 is substantially underpopulated by 4.19% J.A. 27. District 3 is highly irregular in shape and overpopulated by 3.63%. In contrast, District 7, encompassing some of the more rural areas of Wake County, is underpopulated by 3.48%. *Id.* Several Plaintiffs live in super district A, and in numbered district 3, putting them in overpopulated districts for each seat for which they are eligible to vote and devaluing their vote twice over. *See* J.A. 14.

The court below correctly held that the differences in deviations between the 2011 redistricting plan adopted by the Wake Cnty. Bd. of Ed. and the 2013 plan enacted by the General Assembly alone are not sufficient to establish a violation of the one-person, one-vote requirement, *see* J.A. 87, but it is not correct that this comparison is of no consequence. The fact that a redistricting plan that complied with traditional redistricting principles was adopted by the Board with a 1.66%

overall deviation shows that the more highly imbalanced districts were not required by the need to comply with those principles.

Plaintiffs allege that the high population deviations in the seven-two district structure are unjustified, J.A. 11, and can be corrected, J.A. 29. Taking the facts in the light most favorable to the Plaintiffs, a reasonable inference from these allegations is that even within the seven-two structure, it is possible to draw a seven-district plan and a two district plan with much lower population deviations. This is particularly true in light of the fact that as early as 1983 the Supreme Court observed that “the rapid advances in computer technology and education during the last two decades make it relatively simple to draw contiguous districts of equal population.” *Karcher*, 462 U.S. at 733. Thus, the trial court’s inference that the greater population deviations in the districts “might be expected” from the new structure, J.A. 87, is not a fair reading of Plaintiffs’ allegations.

Additionally, the Plaintiffs are not required to include in their complaint alternative seven-two district maps with lower overall deviations in order to successfully withstand a motion to dismiss; such maps are evidence they can produce during discovery. At the pleading stage, under Fed. R. Civ. P. 8(a), a complaint only must contain “a short and plain statement of the claim showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550



U.S. 544 (2007) (internal citations, quotation marks, and alterations omitted). The complaint in this case meets that standard. The complaint plainly states that the Plaintiffs will experience the dilution of their voting strength because they are in overpopulated districts, and that such dilution is unjustified by legitimate, neutral redistricting principles. They seek a remedy that enacts more equally balanced districts. J.A. 31.

Achieving a shift in the partisan balance of the Wake Cnty. Bd. of Ed. is not the only illegitimate factor that led to the enactment of the imbalanced districts in S.L. 2013-110. Plaintiffs point to the favoring of rural and suburban voters in underpopulated super district B, which forms an outer ring around the entire county and includes voters from the very northernmost reaches with those in the southern border of the county as an improper governmental purpose. J.A. 11. This has implications for important policy issues such as socioeconomic diversity in school assignment policies, where new schools are built, and the extent to which the Board will seek to establish neighborhood schools as a criterion for student assignment. The votes of all voters should count equally, no matter what their views on these policy issues and no matter where they live in the county. While there are partisan implications to this issue, it goes beyond the mere favoring of one political party over another. New school siting decisions, for example, may not always fall along partisan lines. The trial court incorrectly collapsed all of

Plaintiffs' arguments about the arbitrary and discriminatory nature of the population imbalances into a single, partisan argument, when the complaint alleges that there were additional arbitrary and discriminatory motives. J.A. 88.

Plaintiffs also point to the way in which the 2013 re-redistricting plan enacted by the General Assembly treats incumbents differently as an impermissible purpose for the population deviations. Three registered-Democrat incumbents are redistricted into two Republican-leaning districts with Republican-registered incumbents. J.A. 24, 28. Here, the point is not simply that incumbents registered as Democrats were paired in districts with incumbents registered as Republicans, but that the substantial change in the composition of the Democratic incumbents' districts was designed to achieve their defeat. J.A. 28. The complaint alleges that the intent of the new plan is to protect incumbents who support conservative education policies while disfavoring incumbents who are registered Democrats and support progressive education policies. *Id.* Thus, simply counting up the number of paired incumbents, as the lower court did, J.A. 89, misses this point and fails to take the evidence in the light most favorable to the Plaintiffs.

Finally, Plaintiffs allege additional facts that tend to show the large population deviations in the challenged plan were caused by arbitrary, non-neutral and discriminatory purposes rather than adherence to traditional redistricting principles. First is the fact that a majority of the Wake Cnty. Bd. of Educ. opposed

the new plan. J.A. 21. If the Board itself had supported the change, it might suggest that there was a legitimate, neutral reason for the population deviations. However, that is not the case and the new districts were opposed by a majority of the Board. Second, no Democrats and no African-American member of the North Carolina General Assembly supported the measure. J.A. 21.

Third, the geography of the districts indicates that traditional redistricting principles were not followed. They are geographically less compact than the 2011 districts. J.A. 28. They do not preserve the core of the prior districts. *Compare* J.A. 19 *with* J.A. 23. The challenged districts divide more traditional political units, as the lettered and numbered districts split 21 unique precincts in the county, and over half of them are split in both the lettered and the numbered plans, while the 2011 plans split only 11 precincts. J.A. 28. *Cf. James v. Bartlett*, 359 N.C. 260, 267, 607 S.E.2d 638, 642 (2005) (“The precinct voting system is woven throughout the fabric of our election laws.”). The complaint alleges that the population deviations among the districts in the new election method established by S.L. 2013-110 are greater than is necessary to comply with traditional redistricting principles and are instead caused by the pursuit of arbitrary, discriminatory and non-neutral goals. This adequately states a claim for relief under the one-person, one-vote principle of the Fourteenth Amendment to the Constitution, and the court’s dismissal of Plaintiffs claims must be reversed.

C. Cox v. Larios is Good Law and Applies to This Case

The General Assembly's drafting of new districts in S.L. 2013-110 to increase the voting strength of rural voters at the expense of urban voters, target certain incumbents and favor others, achieve a particular partisan outcome and override the express intent of a majority of Wake County voters parallels the facts in *Larios v. Cox*, 300 F. Supp. 2d 1320 (N.D. Ga. 2004), which held that Georgia's legislative reapportionment plan with just less than 10 percent overall population deviation, was arbitrary and discriminatory in violation of the Equal Protection Clause, a decision that was summarily affirmed by the United States Supreme Court in *Cox v. Larios*, 542 U.S. 947 (2004).

In *Larios*, the lower court found that the total population deviation of 9.98% in state legislative districts, only slightly above the total deviation of 9.8% in the Wake County plan, violated the equal protection clause. *Larios*, 300 F. Supp. 2d at 1353. The court found that Georgia drew districts within "what they perceived to be a 10% safe harbor" to favor Democrats. *Id.* at 1328. The court also found that the shape of the districts suggested an intent to favor incumbent Democrats and prejudice Republican incumbents. *Id.* at 1329. After examining the districts, the lower court found that Georgia did not consider compactness, respecting municipal boundaries, preserving the cores of prior districts, and avoiding contests between incumbent in drawing the districts. *Id.* at 1331. The court concluded that:

The population deviations in the Georgia House and Senate Plans are not the result of an effort to further any legitimate, consistently applied state policy. Rather, we have found that the deviations were systematically and intentionally created (1) to allow rural southern Georgia and inner-city Atlanta to maintain their legislative influence even as their rate of population growth lags behind that of the rest of the state; and (2) to protect Democratic incumbents. Neither of these explanations withstands Equal Protection scrutiny.

*Id.* at 1338. The lower court held that “this policy was both arbitrary in its inconsistency of application and discriminatory in its goal of protecting only one political party. It in no way resembles anything the Supreme Court has ever found to be a constitutional justification for population deviations.” *Id.* at 1339.

Here, as in *Larios*, the districts drawn by the General Assembly were designed to further one party’s political advantage by purposeful deviations between urban and rural areas, and the disadvantageous pairings of Democratic incumbents. The General Assembly’s neglect of traditional redistricting principles is also apparent. The lettered and numbered districts in S.L. 2013-110 are visually and mathematically less compact than the districts in the 2011 plan. Further, the plan splits nearly twice as many districts as the 2011 redistricting plan.

In affirming the lower court’s opinion on direct appeal, the Supreme Court explicitly found that the reasons for the population deviations in the Georgia plans were not neutral justifications. *Larios*, 542 U.S. at 950. In rejecting the state’s invitation to create a safe harbor for population deviations under 10%, the Court explained that “[a]fter our recent decision in *Vieth v. Jubelirer*, 541 U.S. 267

(2004), the equal-population principle remains the only clear limitation on improper districting practice, and we must be careful not to dilute its strength.” *Larios*, 542 U.S. at 949.

Summary affirmances by the Supreme Court, which involve the same issues, are binding upon lower courts. *See Hicks v. Miranda*, 422 U.S. 332, 344-345 (1975) (“[T]he lower courts are bound by summary decisions by this Court until such time as the Court informs [them] that they are not.”); *Mandel v. Bradley*, 432 U.S. 173, 176 (1977) (“[Summary affirmances] prevent lower courts from coming to opposite conclusions on the precise issues presented and necessarily decided by those actions.”); *Ledesma v. Block*, 825 F.2d 1046, 1050 (6th Cir. Mich. 1987) (“While the case was only summarily affirmed by the Supreme Court on a direct appeal, it is established that such summary decisions are binding on the lower courts.) Thus, the *Larios* holding applies in this case.

The Supreme Court’s rationale in *Larios* is well-grounded in the Court’s one-person, one-vote jurisprudence. For example, in 1971 Justice Marshall explained that “we have underscored the danger of apportionment structures that contain a built-in bias tending to favor particular geographic areas or political interests or which necessarily will tend to favor, for example, less populous districts over their more highly populated neighbors.” *Abate v. Mundt*, 403 U.S. 182, 185-86 (1971) (citing *Hadley v. Junior College District*, 397 U.S. 50, 57-58

(1970)). Later, in *Brown v. Thomson*, 462 U.S. 835 (1983), the Court upheld Wyoming's legislative redistricting plan with a maximum deviation well above 10% because the deviation was caused by the state's consistent and nondiscriminatory application of a long-held policy of keeping counties whole and there was no evidence that large cities or towns were being discriminated against. *Brown*, 462 U.S. at 844. After *Vieth*, the Court's focus on requiring neutral, non-discriminatory rationales for population deviations in redistricting plans has not altered. See *Tennant v. Jefferson County Comm'n*, 133 S. Ct. 3 (2012).

Other courts have relied on the *Larios* holding. For example, in ruling that the Tennessee legislature was justified in dividing counties in its state senate redistricting plan, the Tennessee Court of Appeals cited *Larios* for the proposition that under the federal equal protection clause's one-person, one-vote requirement, "[t]here is no safe harbor." *Moore v. State of Tennessee*, No. M2013-811, 2014 Tenn. App. LEXIS 8, \*24.

Similarly, an Arizona district court denied defendants' motion to dismiss claims that the state legislative districts violated the equal protection clause with a maximum population deviation of 8.8%. *Harris v. Ariz. Indep. Redistricting Comm'n*, No. 12-894, 2012 U.S. Dist. LEXIS 164882, \*6 (D. Ariz. Nov. 16, 2012). Plaintiffs there alleged that the redistricting commission had "systematically overpopulated Republican districts and under-populated Democratic districts for

the sole purpose of maximizing Democratic Party strength in the state legislature.” *Id.* Finding that is “unclear whether pure partisanship is an arbitrary or discriminatory purpose,” the court allowed the claims to proceed to trial. *Id.* at \*12-13. *See also, Harris v. Ariz. Indep. Redistricting Comm’n*, No. 12-894, 2014 U.S. Dist. LEXIS 59227 (D. Ariz. Apr. 29, 2014) (judgment after trial). Claims that population deviations in redistricting plans that are not justified by neutral and legitimate redistricting principles are unconstitutional are cognizable and justiciable and should be allowed to proceed to trial.

The lower court in this case is wrong to conclude that *Larios* “is different from this case” and that “[i]t cannot be said that *Larios* squarely address [sic] the question the Court is faced with here.” J.A. 89. The court distinguished *Larios* on the ground that *Larios* dealt with state-wide elections and this case involves a county-wide election. *Id.* However, the Supreme Court rejected that argument in *Avery v. Midland County* when it ruled that the one-person, one-vote requirement applies to local governments with equal force. *Avery*, 390 U.S. at 481. *See also, Bd. of Estimate v. Morris*, 489 U.S. 688 (1989) (applying one-person, one-vote principles to local board); *Abate v. Mundt*, 403 U.S. at 186 (same).

Because the exercise of state power through legislatures is no different from its exercise through cities, towns and counties, “[g]overnment --- National, State, and local --- must grant to each citizen the equal protection of its laws, which



includes an equal opportunity to influence the election of lawmakers, no matter how large the majority wishing to deprive other citizens of equal treatment or how small the minority who object to their mistreatment.” *Avery*, 390 U.S. at 481 n.6 (citing *Lucas v. Colorado Gen. Assembly*, 377 U.S. 713 (1964)). The dissenting opinion in *Avery* argued at length that local governments are different from state governments, and that urban and suburban differences might justify election districts that are unequal in size. *See Avery*, 390 U.S. at 491-494 (Harlan, J., dissenting). That argument was rejected by the majority and the application of one-person, one-vote principles is the same whether the jurisdiction is a state of nine million people, or a county of nine hundred thousand people.

The court below similarly distinguished the facts in *Larios* as involving a difference in scale. J.A. 89. The court found it significant that 47 of 49 paired incumbents in *Larios* were Republicans while in this case three of the five paired incumbents are Democrats, concluding that “[i]t was plainly apparent in *Larios* that republican incumbents were being targeted, whereas here the targets are less clear.” *Id.* First, as noted above, this misses the Plaintiffs’ point that it is not simply the pairing of incumbents but the fact that Democrats were placed in Republican-leaning districts. However, more importantly, this is an argument about whether the Plaintiffs’ proof ultimately will demonstrate that there is an improper purpose causing the population imbalances in the districts, not a reason to

dismiss the complaint for failure to state a claim for relief. And it certainly is not a reason to disregard the Supreme Court's ruling in *Larios* by concluding that *Larios* does not apply to this case.

Other courts have found that population deviations among districts for local governing bodies that are under 10% may be subject to challenge under the equal protection clause. In *Hulme v. Madison County*, 188 F. Supp. 2d 1041, 1051 (S.D. Ill. 2001), a district court found that a county board, with a population deviation of 9.3% violated the equal protection clause. The court found the deviations to be arbitrary and discriminatory because the main cause of the deviations was the intent to "create districts that would not simply disadvantage Republican members of the Board, but 'cannibalize' their districts to the greatest extent possible." *Id.* See also, *Moore v. Itawamba Cnty.*, 431 F.3d 257 (2005) (affirming lower court's holding that plaintiffs failed to prove at trial that an overall population deviation of 9.38% for County Board of Supervisors districts was tainted by arbitrariness or discrimination.); *Rodriguez v. Pataki*, 308 F. Supp. 2d 346 (S.D. N.Y. 2004) (three-judge court) *aff'd*. 543 U.S. 997 (rejecting 10% safe harbor rule and allowing trial on claim that 9.78% deviation in state senate districts violates the one-person, one-vote requirement). Similarly, the complaint in this case states such a claim and should not be dismissed.

#### D. Plaintiffs Have Not Alleged a Partisan Gerrymandering Claim

The lower court's fundamental reason for dismissing Plaintiffs' claims is that, in the court's view, "[t]o claim impermissible political bias is to claim political gerrymandering," and political gerrymandering claims are nonjusticiable. J.A. 89. This is an improper conflating of one-person, one-vote claims with political gerrymandering claims. The Plaintiffs in this case assert that partisanship, along with a desire to favor rural and suburban voters, and to promote conservative school assignment policies, was one impermissible cause of the population deviations among election districts established by S.L. 2013-110, and that it is an arbitrary and discriminatory taint that cannot justify those deviations. Following *Larios* and similar one-person, one-vote decisions from other jurisdictions, the Plaintiffs have adequately stated a claim for relief.

The fact that Plaintiffs point to partisan motivations as part of the cause of the population imbalances in the challenged redistricting plan does not convert this to a partisan gerrymandering claim. Courts have been clear that the two are distinct causes of action. As the District Court for the Eastern District of New York recently explained:

*Larios* is a one person, one vote case, not a political gerrymandering case. See *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 422-23 (2006) ("The *Larios* holding and its examination of the legislature's motivations were relevant only in response to an equal-population violation."); *Cox v. Larios*, 542 U.S. at 949-50 (Stevens, J., concurring) (distinguishing political gerrymander claims from one

person, one vote claims). The *Larios* court discussed incumbency protection only to the extent that it found that incumbency was not a valid excuse for malapportioning Georgia's state legislative districts. *Larios*, 300 F. Supp. 2d at 1338 (“[T]he protection of incumbents is a permissible cause of population deviations only when it is limited to the avoidance of contests between incumbents and is applied in a consistent and nondiscriminatory manner.”)

*Favors v. Cuomo*, 881 F. Supp. 2d 356, 369 (E.D.N.Y. 2012). The court below erred by mischaracterizing Plaintiffs allegations as a partisan gerrymandering claim.

The Supreme Court's recent decision in a one-person, one-vote challenge to West Virginia's congressional districts illustrates, post-*Larios*, factors that are legitimate and neutral justifications for population deviations. In *Tennant v. Jefferson County Comm'n*, 133 S. Ct. 3 (2012), the Court examined whether the population deviation of .79% in West Virginia's congressional districts, a difference of 4,871 people, was necessary to achieve some legitimate state objective. The Court concluded that “[c]onsidering, as *Karcher* instructs, ‘the size of the deviations, the importance of the State's interests, the consistency with which the plan as a whole reflects those interests, and the availability of alternatives that might substantially vindicate those interests,’ it is clear that West Virginia has carried its burden.” (quoting *Karcher v. Daggett*, 462 U.S. 725, 741 (1983)). *Tennant*, 133 S. Ct. at 7. In that case, the state's goals of respecting county boundaries, preserving the core of existing districts by moving as few

voters as possible, and preventing contests between incumbents, all applied consistently, were “valid, neutral state districting policies” that justified the .79% population variance. *Id.*, 133 S. Ct. at 8. The Plaintiffs’ claim in this case is that favoring some incumbents over others, and privileging rural voters over urban voters, are precisely the kind of arbitrary and discriminatory goals that do not justify population variances under the one-person, one-vote requirement.

It is also clear from a comparison with partisan gerrymandering cases that the Plaintiffs here are not asserting a political gerrymandering claim. *See, e.g., Cox v. Larios*, 542 U.S. at 949-950 (distinguishing one-person, one-vote claim from partisan gerrymandering claim in *Vieth v. Jubelirer*, 541 U.S. 267 (2004)). For example, in *Republican Party v. Martin*, 980 F.2d 943, 955 (4th Cir. N.C. 1992), this Court set out the elements of a political gerrymandering claim, based on prior law. “In order to state such a claim, a plaintiff must allege ‘intentional discrimination against an identifiable political group and an actual discriminatory effect on that group.’” *Republican Party*, 980 F.2d at 955 (citing *Davis v. Bandemer*, 478 U.S. 109, 127 (1986)). Further, a plaintiff must allege a history of disproportionate results and that the entire electoral system operates to consistently degrade a voter’s influence on the political process as a whole. *Id.* These are not the allegations in the complaint in this case.

Finally, it is significant to examine the relief Plaintiffs seek. They are not asking the court to remedy a partisan imbalance or enact districts with any particular partisan composition. They seek what the one-person, one-vote principle guarantees to them, a redistricting plan that does not unfairly dilute their voting strength compared to other voters in the county. They ask that any districts used for electing members to the Wake Cnty. Bd. of Ed. comply with the one-person, one-vote requirement. J.A. 31. Because they have stated a claim for relief under the equal protection clause of the Fourteenth Amendment, the judgment of the court below dismissing their claims must be reversed.

## **II. THE COMPLAINT STATES A CLAIM FOR RELIEF UNDER THE EQUAL PROTECTION CLAUSE OF ARTICLE I, § 19 OF THE NORTH CAROLINA CONSTITUTION**

### A. Standard of Review

The lower court dismissed this claim under Rule 12(b)(6) and therefore the standard of review is de novo, taking all facts alleged in the light most favorable to the non-moving party. *Kendall v. Balcerzak*, 650 F.3d 515, 522 (4th Cir. Md. 2011). *See supra* 17-19.

### B. The North Carolina Constitution Embodies a Requirement That All Voters Enjoy Substantially Equal Voting Power

Article I, Section 19, of the state constitution provides that “no person shall be denied the equal protection of the laws.” It is well settled in this state that “the right to vote on equal terms is a fundamental right.” *Northampton Cty. Drainage*

*Dist. No. One v. Bailey*, 326 N.C. 742, 746, 392 S.E.2d 352, 355 (1990); *James v. Bartlett*, 359 N.C. 260, 269-270, 607 S.E.2d 638, 644 (2005); *State ex rel. Martin v. Preston*, 325 N.C. 438, 454, 385 S.E.2d 473, 481 (1989); *Texfi Indus., Inc. v. City of Fayetteville*, 301 N.C. 1, 12, 269 S.E.2d 142, 149 (1980). Similar to the federal equal protection clause, the equal protection clause of the North Carolina Constitution has been interpreted to embody a fundamental right to vote on equal terms in representative elections—a one-person, one-vote guarantee. *Northampton Cty.*, 326 N.C. at 747, 392 S.E.2d at 356.

The North Carolina Supreme Court has twice held that the state constitution's one-person, one-vote guarantees prevent the use of single-member and multi-member districts in the same plan, once with regard to state legislative districts, *Stephenson v. Bartlett*, 355 N.C. 354, 562 S.E.2d 377 (2002), and once with regard to judicial districts, *Blankenship v. Bartlett*, 363 N.C. 518, 681 S.E.2d 759 (2009). The significance here is that although “federal courts have articulated that the ‘one-person, one-vote’ standard is inapplicable to state judicial elections,” the North Carolina Constitution calls for the election of superior court judges and thus guarantees the right of voters in those elections to cast their votes on equal terms. *Id.*, 363 N.C. at 525, 681 S.E.2d at 763. The Court thus found stronger one-person, one-vote protections in the state constitution than federal courts have found in the federal equal protection clause.

The lower court correctly held that under *Stephenson*, population deviations that enhance the vote of one citizen at the expense of another must be justified by neutral, legitimate state and federal redistricting principles. J.A. 90. Moreover, the state constitutional equal protection guarantees are a check on partisan considerations in drawing districts. The *Stephenson* court held that:

The General Assembly may consider partisan advantage and incumbency protection in the application of its discretionary redistricting decisions, but it must do so in conformity with the State Constitution. To hold otherwise would abrogate the constitutional limitations or ‘objective constraints’ that the people of North Carolina have imposed on legislative redistricting and reapportionment in the State Constitution.

*Stephenson*, 355 N.C. at 371-72, 562 S.E.2d at 390 (citing *Gaffney v. Cummings*, 412 U.S. 735 (1972)). In explaining why the state constitution’s whole county provision (WCP) must be read consistently with the one-person, one-vote equal protection requirement, the court emphasized the fundamental importance of equal voting power in the state constitution: “an application of the WCP that abrogates the equal right to vote, a *fundamental* right under the State Constitution, must be avoided in order to uphold the principles of substantially equal voting power and substantially equal legislative representation arising from that same Constitution.” *Stephenson*, 355 N.C. at 382, 562 S.E.2d at 396 (emphasis in original). The North Carolina Supreme Court has interpreted the state constitution to embody a robust



guarantee of an equal right to vote that in some applications goes further than the federal one-person, one-vote guarantee and that trumps partisan considerations.

It follows that the state constitutional guarantee of substantially equal voting power extends to local governing bodies, *cf. Blankenship*, 363 N.C. at 525, 681 S.E.2d at 765 (“once the legal right to vote has been established, equal protection requires that the right be administered equally”), and that it is subject to heightened scrutiny. *Id.* Under the state constitution, geographic favoritism, partisan bias and the goal of giving certain voters more weight in the process because of their policy preferences are not neutral redistricting principles that justify population deviations of nearly 10% among election districts for a school board. The state constitution guarantees the equal right to vote of all citizens, and Plaintiffs have stated a claim for relief for violation of that right.

### C. The State Constitutional Claim is Not a Partisan Gerrymandering Claim

The court below erred in holding that under this claim, “plaintiffs’ factual allegations amount to a claim of impermissible political bias which is a claim of political gerrymandering.” J.A. 91. As with Plaintiffs’ federal claim, the facts asserted in this case demonstrate why the state was not justified in imposing new, imbalanced election districts for the Wake Cnty. Bd. of Ed. *See supra* 35-38.

The North Carolina Supreme Court’s one-person, one-vote decision in *Blankenship* regarding election districts for superior court judges identified the

elements of a prima facie case, and set out illustrative neutral governmental principles that might justify deviations from equal population in that context. *Blankenship*, 363 N.C. at 527, 681 S.E.2d at 766. While declining to specify an exhaustive list, the court held that “legitimate factors for the legislature’s consideration include geography, population density, convenience, number of citizens in the district eligible to be judges, and number and types of legal proceedings in a given area.” *Id.* Plaintiffs’ complaint in this case asserts that for school board districts, partisan advantage and privileging rural voters over urban voters are not neutral governmental interests that justify deviations from the constitution’s guarantee of substantially equal voting power. Plaintiffs have stated a one-person, one-vote claim under Article I, § 19 of the North Carolina Constitution and the lower court’s dismissal of that claim must be reversed.

### **III. STATE ACTORS ARE NECESSARY AND PROPER PARTIES IN THIS CASE**

#### **A. Standard of Review**

Judgments dismissing claims under Rule 12(b)(1) for lack of subject matter jurisdiction may turn on both factual findings and legal conclusions. This Court reviews “the district court’s factual findings with respect to jurisdiction for clear error and the legal conclusion that flows therefrom de novo.” *Velasco v. Gov’t of Indon.*, 370 F.3d 392, 398 (4th Cir. 2004) (citations omitted). In this case, the district court’s decision denying jurisdiction over individual state actors was based

on its analysis of their duties as defined by state statute. J.A. 83-84. Thus, there were no factual findings relating to jurisdiction and the standard of review is de novo.

**B. Proposed Defendants McCrory, Tillis and Berger are Proper Parties**

The lower court held that none of the individual parties named in the amended complaint have been charged with any special duty with regard to the enforcement of S.L. 2013-110 and therefore, relying solely on *Fitts v. McGhee*, 172 U.S. 516, 529 (1899), they are not proper parties in this suit. This is a misreading and misapplication of *Ex Parte Young*, 209 U.S. 123 (1908) and a fundamentally flawed analysis of the role of the State of North Carolina in enacting and enforcing S.L. 2013-110.

First, it is important to recognize that the holding of the *Fitts* case was limited and modified in *Ex Parte Young* for the reason that it limited the doctrine of *Smyth v. Ames*, 169 U.S. 466 (1898), the subject of comment by the court in *Fitts*. In *Ex Parte Young* the sentence quoted by the court below, J.A. 83, is followed by the explanation that:

It has not, however, been held that it was necessary that such duty should be declared in the same act which is to be enforced. In some cases, it is true, the duty of enforcement has been so imposed but that may possibly make the duty more clear; if it otherwise exists it is equally efficacious. The fact that the state officer, by virtue of his office, has some connection with the enforcement of the act, is the important and material fact, and whether it arises out of general law,

or is specially created by the act itself, is not material so long as it exists.

*Ex Parte Young*, 209 U.S. at 157. Thus, the issue is which state official is responsible for enforcing S.L. 2013-110, and not whether the law itself charges any official with any special duty.

The *Ex Parte Young* doctrine has “existed alongside our sovereign-immunity jurisprudence for more than a century, accepted as necessary to ‘permit the federal courts to vindicate federal rights.’” *Va. Office for Prot. & Advocacy v. Stewart*, 131 S. Ct. 1632, 1638 (2011) (citations omitted) (holding that under *Ex Parte Young*, a federal court can hear a lawsuit for prospective relief against state officials brought by a state agency). To determine if *Ex Parte Young* applies, a court “need only conduct a ‘straightforward inquiry into whether [the] complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.’” *Verizon Md. Inc. v. PSC*, 535 U.S. 635, 645 (2002) (citation omitted). The lower court found that *Ex Parte Young* applies to this case but held that the individual state officials Plaintiffs seek to sue are not proper parties because they do not enforce S.L. 2013-110.

While the Wake County Board of Elections administers elections and therefore implements S.L. 2013-110, the North Carolina General Assembly enacted the law, decided the boundaries of the districts, and is responsible for the decisions that result in the dilution of the Plaintiffs’ votes. The Wake County

Board of Elections has no authority to change the districts under state law, and cannot remedy the violation asserted here. The lower court found it significant that state law provides that the State Board of Elections in these circumstances can make reasonable interim rules with respect to pending elections that become null and void 60 days after the convening of the next regular session of the General Assembly. N.C. Gen. Stat. § 163-22.2. This hardly means that the State Board of Elections, not a party in this case, can provide a remedy for the violation of Plaintiffs' rights.

Under federal law it is well established that if a redistricting plan is found to be unconstitutional, the court must first allow the entity that passed the law an opportunity to remedy the violation, thereby giving as much force to legitimate, non-discriminatory governmental interests as possible. *See Perry v. Perez*, 132 S. Ct. 934 (2012), *Chapman v. Meier*, 420 U.S. 1, 27 (1975), *Whitcomb v. Chavis*, 403 U.S. 124, 161 (1971). Moreover, under Plaintiffs' state constitutional claim, if a violation is found, before the court implements a remedy, the General Assembly should be afforded an opportunity to redraw the districts. In *Blankenship* the court held that “[i]n the event the trial court finds a violation of state equal protection law, it should defer initially to the General Assembly for resolution.” *Blankenship*, 363 N.C. at 528, 681 S.E.2d at 766 (citing *Hoke Cty. Bd. of Educ. v. State*, 358 N.C. 605, 599 S.E.2d 365, 395 (2004) (recognizing “our limitations in providing

specific remedies for [constitutional] violations committed by other government branches in service to a subject matter . . . that is within their primary domain)). While the local board of elections administers elections, it is the General Assembly that has the enforcement power with regard to the election scheme established by S.L. 2013-110 and the individual officials, particularly proposed defendants Tillis and Berger, are the proper parties under *Ex Parte Young*.

In *Daly v. Hunt*, a one-person, one vote challenge to the Mecklenburg County Board of Education and the Board of Commissioners, plaintiffs sued the Governor, the Lieutenant Governor, the Speaker of the House and the Mecklenburg County Board of Elections. *Daly*, 93 F.3d at 1212. *See also*, *Bandemer v. Davis*, 603 F. Supp. 1479 (S.D. Ind. 1984) (sued Election Board and Secretary of State, consolidated with case that sued Governor and legislators for equal protection violations in state redistricting plans); *Brown v. Thomson*, 462 U.S. 835 (1983) (sued Election Board, Governor, Secretary of State under 28 U.S.C.S. § 1343 for one person, one vote claims); *Rodriguez v. Pataki*, 308 F. Supp. 2d 346, 365 (S.D.N.Y. 2004) (One person one vote, racial gerrymander, and Section 2 claims brought against the Governor); *Kalson v. Paterson*, 542 F.3d 281 (2d Cir. 2008) (Plaintiff sued a governor and state election officials, asserting that the difference in voting-age population between congressional districts violated U.S. Const. art. I, § 2.); *Wesberry v. Sanders*, 376 U.S. 1 (1964) (Plaintiffs sued

Governor and Secretary of State under 1983 for one person, one vote violations in Congressional plans). Plaintiffs here sought to amend their complaint to add the appropriate state officials and that amendment should be allowed.

In addition to needing state officials as defendants in this case in order to obtain a remedy, the Plaintiffs would be seriously and unfairly disadvantaged in pursuing their claims in several other ways if the Wake County Board of Elections is the only defendant. Without the entity that has the power to change the method of election as a party, there can be no meaningful discussion of any possible negotiated settlement to the case that might protect Plaintiffs' rights without the need for lengthy and costly litigation. Plaintiffs are entitled to discovery regarding the legislative process that produced the imbalanced districts. The rules governing third-party discovery are more limited, and could subject Plaintiffs to liability for attorneys' fees and costs that would not be assessed against them if discovery is obtained from a party in the case. *See, e.g., Angell v. Kelly*, 234 F.R.D. 135 (M.D. N.C. 2006) (awarding costs to non-party for compliance with third-party subpoena of relevant documents). Finally, if they are prevailing parties, the Plaintiffs would be entitled to attorneys' fees, and the entity that should be responsible for those fees is the entity that violated Plaintiffs rights in the first place.

All of these considerations illustrate why, in redistricting cases, the governmental body with the power to draw the lines is a proper party in litigation

over the constitutionality of those lines. The court below erred in concluding otherwise.

### **CONCLUSION**

For the foregoing reasons, the district court's judgment granting Defendants' motions to dismiss and in denying Plaintiffs' motion for leave to amend their complaint should be reversed and the case should be remanded for further proceedings on Plaintiffs' claims.

### **REQUEST FOR ORAL ARGUMENT**

Appellants respectfully request that the court grant them the opportunity for oral argument.

This the 23rd day of May, 2014.

Respectfully submitted,

/s/ Anita S. Earls

N.C. State Bar No. 15597

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# **ADDENDUM**

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NORTH CAROLINA GENERAL ASSEMBLY  
1975 SESSION

CHAPTER 717  
HOUSE BILL 1199

AN ACT TO PROVIDE ENABLING LEGISLATION FOR THE CREATION OF AN INTERIM BOARD OF EDUCATION FOR WAKE COUNTY AND SUBSEQUENT CONSOLIDATION OF THE RALEIGH CITY SCHOOL ADMINISTRATIVE UNIT AND THE WAKE COUNTY SCHOOL ADMINISTRATIVE UNIT AFTER APPROVAL OF A PLAN OF MERGER PURSUANT TO G.S. 115-74.1.

The General Assembly of North Carolina enacts:

**Section 1.** As used in this act certain terms are defined as follows:

(a) The term "City Board" shall mean the existing Raleigh City Board of Education.

(b) The term "County Board" shall mean the existing Wake County Board of Education.

(c) The term "Interim Board" shall mean a separate Board of Education established by this act for the purpose of supervising, coordinating, contracting for and acquiring all new schools and plant sites to be built in the administrative unit affected by this act.

(d) The term "City Administrative Unit" shall mean the geographical territory over which the Raleigh City Board of Education exercises authority in administering and operating the public schools of said unit.

(e) The term "County Administrative Unit" shall mean the geographical territory over which the Wake County Board of Education exercises authority in administering and operating the public schools of said unit.

(f) The term "County Commissioners" shall mean the Board of County Commissioners of Wake County.

(g) The term "Wake County Board of Education" shall mean the single board hereinafter established by this act for the purpose of operating and administering all of the public schools of Wake County, including those schools now operated and administered by the city board and now operated and administered by the county board.

**Sec. 2.** The city board and the county board by majority vote of each may mutually agree on a Plan of Consolidation and Merger and shall petition for approval of the same by the county commissioners, all pursuant to the provisions of G.S. 115-74.1 of the General Statutes of North Carolina.

**Sec. 3.** Upon approval of the county commissioners as provided for in said Plan of Consolidation and Merger and as provided for herein and as provided for in G.S. 115-74.1 of the General Statutes of North Carolina, said Plan of Consolidation and

Merger of the City Administrative Unit and the County Administrative Unit shall be effective as of July 1, 1976, and within 30 days after said approval of said Plan of Consolidation and Merger by the State Board of Education as provided in G.S. 115-74.1, the interim board as hereinafter provided for shall be established as a body politic and as such shall assume the authority and responsibility for the supervision, coordinating, acquisition, contracting and construction as to all new school buildings to be built within the territorial limits of the resulting Wake County Board of Education and the said interim board shall meet within 30 days after its establishment for the purpose of organizing. The interim board shall elect a chairman to preside over its meetings and all members of the interim board shall be equally entitled to hold any office of the board. The interim board shall exercise all powers and authorities and duties that are now exercised and performed by the city and county boards of education as set forth in the General Statutes as they relate to the selection and acquisition of school sites, entering into contracts for the purpose of obtaining equipment and supplies required for such building facilities.

All powers and authority not specifically given to the interim board under this act are specifically retained by the two existing boards of education.

For the purpose for which the interim board is hereby established, the interim board shall have all statutory powers and authority to prepare and submit to the county commissioners all necessary budgets including supplemental budgets and at the time required by law shall prepare and submit to the county commissioners all necessary capital outlay, debt service and current expense budget. The interim board shall expend all funds in conformity with approved budgets.

In addition, from and after the first day of January, 1976, the interim board shall have all necessary powers and authority to make contracts, hire personnel and adopt policies and administrative procedures, all as the same may relate to all school matters for the school year 1976-77 and for subsequent years.

**Sec. 4.** In the event this Plan of Consolidation and Merger is approved as herein provided for, the interim board consisting of fifteen members shall be created in addition to the two existing boards and the said interim board shall remain in existence until such time as the Wake County Board of Education as herein established shall be fully constituted and the members of the interim board shall be elected or appointed as follows:

The interim board shall consist of the existing city board membership and the existing county board membership.

Such members of the interim board shall serve until July 1, 1976, the effective date of the consolidation and merger of the two administrative units herein provided for.

Any vacancy occurring on the interim board by reason of death, resignation, or for any cause whatsoever, shall be filled by the remaining members of the interim board.

As of July 1, 1976, the interim board shall be and become the Wake County Board of Education, at which time the Wake County Board of Education shall consist of

fifteen members and the members thereof shall serve a term expiring on the first Monday in December, 1977.

**Sec. 5.** On or before January 1, 1977, the county commissioners shall establish nine voting districts numbered one through nine for the purpose of nominating and electing a school board member from each voting district. These districts shall be established by combining contiguous voting precincts in such a manner as to divide the county into nine school board voting districts having as nearly as may be possible an equal number of registered voters in each district. The office of Wake County Board of Elections shall provide administrative staff and assistance to the county commissioners in establishing the aforesaid school board voting districts.

**Sec. 6.** In the year 1977, the nine members of the Wake County Board of Education shall be elected as hereinafter provided:

(a) Seat 1 shall be filled by that person elected from District 1; Seat 2 shall be filled by that person elected from District 2; Seat 3 shall be filled by that person elected from District 3; Seat 4 shall be filled by that person elected from District 4; Seat 5 shall be filled by that person elected from District 5; Seat 6 shall be filled by that person elected from District 6; Seat 7 shall be filled by that person elected from District 7; Seat 8 shall be filled by that person elected from District 8; Seat 9 shall be filled by that person elected from District 9.

(b) All terms of office for each member of the Wake County Board of Education nominated and elected in 1977 shall begin on the first Monday in December following the 1977 election and expire as follows:

The term of office for Seats 1, 2, and 3 shall expire on the first Monday in December of 1983.

The term of office for Seats 4, 5, and 6 shall expire on the first Monday in December of 1981.

The term of office for Seats 7, 8 and 9 shall expire on the first Monday in December of 1979.

**Sec. 7.** In the year 1977, and each two years thereafter, the election of members of the Wake County Board of Education shall be elected by the nonpartisan primary method of election as hereinafter provided:

(a) The election shall be held on Tuesday after the first Monday in November and the nonpartisan primary shall be held on the fourth Tuesday before the election.

(b) A candidate seeking nomination for election to the Wake County Board of Education shall file notice of candidacy with the Wake County Board of Elections not later than 12:00 noon on the Friday preceding the fourth Saturday and not earlier than 12:00 noon on the Friday preceding the eighth Saturday before the primary election in which he seeks to run.

(c) In the nonpartisan primary election to be held prior to the election, a nonpartisan primary shall be held to narrow the field of candidates to two candidates from each voting district. Candidates for the Wake County Board of Education shall file according to the voting district in which they reside and shall be voted on by the electors

in that district. If only one or two candidates file for a single position, no primary shall be held for the position and the candidates shall be declared nominated.

(d) Candidates nominated by district shall be placed on the ballot in the election by district and shall be voted on by the electors of that district, and the candidate from each district receiving the highest total vote shall be elected to the Wake County Board of Education from that district.

(e) Except as is specifically provided in this section, nomination and election of members to the Wake County Board of Education shall be governed by the provisions applicable to the nomination and election of officers in municipal elections where the nonpartisan election and the nonpartisan primary method is used.

**Sec. 8.** Each two years after the 1977 election, the vacancies occurring in the membership of the Wake County Board of Education shall be filled by nomination and election as the said terms of the members expire, and all such members so elected shall hold office for terms of six years. The members of the Wake County Board of Education nominated and elected shall take office on the first Monday in December following their election, and the terms of their office shall date and extend from that time.

**Sec. 9.** The Wake County Board of Education, acting jointly and by a majority vote of all members present, shall elect a chairman to preside at meetings and a vice-chairman to preside at meetings in the absence of the chairman; and the chairman and vice-chairman shall have a vote on all matters considered by the Wake County Board of Education, but the presiding officer shall have no authority to vote except to break a tie. All vacancies occurring in the membership of the Wake County Board of Education by reason of death, resignation, removal of residence from the district from which elected, or for any cause whatsoever, shall be filled by the remaining members of said board by appointing a member from the voting district creating the vacancy for the unexpired term. The Wake County Board of Education shall have all power and authority as a Board of Education as herein conferred and as are conferred by the General Statutes of North Carolina on boards of education in general.

**Sec. 10.** The interim board of education shall cease as a body politic on July 1, 1976, when the Wake County Board of Education shall assume authority and its members shall take office as herein provided.

**Sec. 11.** Upon the creation of the interim board and until July 1, 1976, the city board and the county board shall continue to exercise all powers and authority with respect to the administration and operation of all existing schools in the administrative unit of each respective board of education, together with all other powers conferred by law except those which are specifically given to the interim board for the purpose of supervising, coordinating, contracting for and acquiring all new school plants and sites to be built in Wake County.

The financial administration of the existing city board and the county board until otherwise terminated herein shall be governed by the provisions of the General Statutes of North Carolina except that the interim board shall have specific authority between January 1, 1976, and July 1, 1976, to prepare and submit to the county commissioners all necessary budgets, including supplemental budgets and at the time

required by law to prepare and submit to the county commissioners all the necessary capital outlay, debt service and current expense budgets for school purposes, all for and in behalf of the Wake County Board of Education notwithstanding the creation of the Wake County Board of Education until July 1, 1976.

**Sec. 12.** When any vacancy occurs on the city board and the county board prior to July 1, 1976, such vacancy shall be filled in the manner now provided by law.

**Sec. 13.** As of July 1, 1976, when the Wake County Board of Education shall assume all of the authority of administering and operating all schools in the existing city administrative unit and county administrative unit, all authority and power of the interim board, the city board and the county board shall cease and terminate and the same shall be vested in the Wake County Board of Education which shall control, administer, and operate all of the public schools located in Wake County.

**Sec. 14.** Upon approval of the plan of consolidation and merger as herein provided for as of July 1, 1976, the title to all property of the city board and the county board and the interim board, both real and personal of every kind and description shall be vested in the Wake County Board of Education; and the city board and the county board and the interim board shall have full and ample authority between June 15, 1976, and July 1, 1976, to execute all deeds and other instruments of conveyance as may be deemed necessary to vest record title to any such property heretofore held by them in and to the Wake County Board of Education as of July 1, 1976. All claims and demands of every kind which the city board and the county board and the interim board may have as of such date, to wit July 1, 1976, shall pass and be transferred to the Wake County Board of Education, and said board of education shall have the same powers and authority to enforce said claims and demands as the existing county board and the city board and the interim board would have had in the event of their continued existence. Any obligations and liabilities of the city board and county board and interim board existing as of July 1, 1976, shall be and become the obligations and liabilities of the Wake County Board of Education as of July 1, 1976, and such obligations and liabilities may be enforced against the said Wake County Board of education thereafter to the same extent that they might have been enforced against the existing boards had they continued in existence.

**Sec. 15.** Upon approval of a plan of consolidation and merger as herein provided for and upon the establishment of the interim board as herein provided for, then and in that event, all existing laws providing for the election and reelection of members to the city board and the county board shall be suspended, the same as if repealed, and the terms of office of members of the existing boards of education shall continue until the termination of each respective board of education hereunder and the selection procedures for membership to the interim board and the resulting Wake County Board of Education to be established as of July 1, 1976, hereunder shall control.

**Sec. 16.** The purpose of this act is to provide an enabling statute in addition to the other statutes which may be available for such purposes for the consolidation and merger of the city board and the county board.

**Sec. 17.** All laws and clauses of laws in conflict with this act are repealed.

**Sec. 18.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.



NORTH CAROLINA GENERAL ASSEMBLY  
1981 SESSION

CHAPTER 742  
SENATE BILL 738

AN ACT TO REVISE THE MANNER OF ELECTION OF THE WAKE COUNTY  
BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

**Section 1.** Section 5 of Chapter 717, Session Laws of 1975 is rewritten to read:

"Sec. 5. (a) The following nine voting districts are established for the purpose of electing a school board member for each voting district:

- (1) District 1 shall consist of the following precincts: Little River - Mitchell's Mill, Little River - Zebulon, Mark's Creek - Eagle Rock, Mark's Creek - Wendell, Wake Forest - Rolesville, Wake Forest - Wake Forest, St. Matthews #4, New Light - Robertson's Store, New Light - Stoney Hill, and Barton's Creek.
- (2) District 2 shall consist of the following precincts: St. Matthews #1, #2, and #3, St. Mary's Auburn, St. Mary's Garner, St. Mary's #3, #4, #5, and #6.
- (3) District 3 shall consist of the following precincts: House Creek #3 and #4, Raleigh #37, #39, #42, #43, #44, and #45, and Neuse River.
- (4) District 4 shall consist of the following precincts: Raleigh #19, #20, #22, #28, #34, #38, and #40.
- (5) District 5 shall consist of the following precincts: Raleigh #7, #8, #9, #10, #13, #14, #21, #24, #25, #26, #27, and #35.
- (6) District 6 shall consist of the following precincts: Raleigh #1, #2, #3, #4, #5, #6, #11, #12, #15, #17, #18, #23, #30, and #36.
- (7) District 7 shall consist of the following precincts: House Creek #1 and #2, Raleigh #16, #29, #31, #32, #33, and #41, and Meredith.
- (8) District 8 shall consist of the following precincts: Buckhorn, Holly Springs, Middle Creek - Five Points, Middle Creek - Fuquay, Panther Branch, Swift Creek, and White Oak.
- (9) District 9 shall consist of the following precincts: Cary #1, #2, #3, #4, and #5, Cedar Fork, and Leesville.

(b) Whenever the Wake County Board of Elections divides a precinct into two or more precincts, they shall remain in the district specified in subsection (a) of this section. Whenever the Wake County Board of Elections combines two or more precincts which are in the same district, they shall remain in the district specified in subsection (a) of this section. Whenever the Wake County Board of Elections changes

the boundary between two or more precincts, all of which are in the same district, they shall remain in the district specified in subsection (a) of this section.

(c) Whenever the Wake County Board of Elections changes the boundaries of precincts or combines precincts in a manner not specified in subsection (b) of this section, the Board of Commissioners of Wake County may by resolution adjust the boundaries of an electoral district accordingly, but no such change shall affect the right of an incumbent to complete a term."

**Sec. 2.** Section 6 of Chapter 717, Session Laws of 1975, as amended by Section 1 of Chapter 321, Session Laws of 1977, is rewritten to read:

"Sec. 6. All terms of office of members of the Wake County Board of Education shall begin on the first Monday in December following their election. Districts 1, 2, 7, and 9 shall elect a member in 1981 and quadrennially thereafter for a four-year term. Districts 3, 4, 5, 6, and 8 shall elect a member in 1981 for a two-year term and in 1983 and quadrennially thereafter for a four-year term."

**Sec. 3.** Section 7 of Chapter 717, Session Laws of 1975, as amended by Sections 2 and 3 of Chapter 321, Session Laws of 1977, is rewritten to read:

"Sec. 7. (a) In 1981, and biennially thereafter, members of the Wake County Board of Education shall be elected by the nonpartisan election and runoff election method in accordance with G.S. 163-279(a)(4), G.S. 163-293, and G.S. 163-294.2, except that only persons who are registered to vote in the district shall be permitted to file a notice of candidacy for election in that district. Such election shall be governed by the provisions of Chapter 163 of the General Statutes.

(b) The qualified voters of each district shall elect a person who resides in that district for the seat apportioned to that district. Only the qualified voters of the district may vote in that election."

**Sec. 4.** The first sentence of Section 8 of Chapter 717, Session Laws of 1975, as amended by Section 4 of Chapter 321, Session Laws of 1977, is rewritten to read:

"Beginning with the 1981 election, members of the Wake County Board of Education shall hold office for terms as provided in Section 6 of this act."

**Sec. 5.** The terms of all members of the Wake County Board of Education shall terminate on the first Monday in December of 1981. All vacancies occurring prior to that date shall be filled in accordance with law by using the district boundaries in existence prior to ratification of this act.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013**

**SESSION LAW 2013-110  
SENATE BILL 325**

AN ACT TO PROVIDE THAT MEMBERS OF THE WAKE COUNTY BOARD OF  
EDUCATION SHALL BE ELECTED FROM DISTRICTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** An election shall be held in 2013 for the Wake County Board of Education for Districts 1, 2, 7, and 9, but those persons elected shall serve terms to expire on the first Monday in December of 2016. The districts for such election are those established in 2011 by the Wake County Board of Education under G.S. 115C-37(i). The terms of members of the Wake County Board of Education elected in 2011 are extended to expire on the first Monday in December of 2016. No election for members of the Wake County Board of Education shall take place in 2015.

**SECTION 2.** Effective January 1, 2016, Section 7 of Chapter 717, Session Laws of 1975, as amended by Sections 2 and 3 of Chapter 321, Session Laws of 1977, and as rewritten by Section 3 of Chapter 742 of the 1981 Session Laws, reads as rewritten:

"Sec. 7. (a) ~~In 1981, and biennially thereafter, Beginning in 2016, nine members of the Wake County Board of Education shall be elected by the nonpartisan election and runoff plurality election method in accordance with G.S. 163-279(a)(4), G.S. 163-293, G.S. 163-292 and G.S. 163-294.2. and G.S. 163-294.2, except that only~~ Only persons who are registered to vote in the district shall be permitted to file a notice of candidacy for election in that district. Notwithstanding G.S. 163-294.2(c) and G.S. 163-106, candidates seeking office shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the second Monday in June and no later than 12:00 noon on the first Friday in July (except if that is the 4th day of July then at 12:00 noon on the next business day) preceding the election. Such election shall be governed by the provisions of Chapter 163 of the General Statutes. Statutes and shall be held to coincide with the general election for county officers in even-numbered years.

(b) Beginning in 2016, and quadrennially thereafter, seven members of the board shall be elected from numbered single-member districts to serve a term of four years. The qualified voters of each district shall elect a person who resides in that district for the seat apportioned to that district. Only the qualified voters of the district may vote in that election.

(c) In 2016, two members shall be elected from lettered single-member districts to serve a term of two years. In 2018, and quadrennially thereafter, two members shall be elected from lettered single-member districts. The qualified voters of each district shall elect a person who resides in that district for the seat apportioned to that district. Only the qualified voters of the district may vote in that election."

**SECTION 3.** Effective January 1, 2014, Section 6 of Chapter 717, Session Laws of 1975, as amended by Section 1 of Chapter 321, Session Laws of 1977, and as rewritten by Section 2 of Chapter 742 of the 1981 Session Laws, reads as rewritten:

"Sec. 6. All terms of office of members of the Wake County Board of Education shall begin on the first Monday in December following their election. ~~Districts 1, 2, 7, and 9 shall elect a member in 1981 and quadrennially thereafter for a four year term. Districts 3, 4, 5, 6, and 8 shall elect a member in 1981 for a two year term and in 1983 and quadrennially thereafter for a four year term."~~

**SECTION 4.** Effective January 1, 2016, Section 5 of Chapter 717, Session Laws of 1975, as rewritten by Section 1 of Chapter 742 of the 1981 Session Laws, is repealed.

**SECTION 5.** Effective January 1, 2016, Chapter 717 of the 1975 Session Laws is amended by adding a new section to read:



"Sec. 5.1.(a) The General Assembly establishes the single-member districts for elections under this act beginning in 2016 as follows:

(1) Numbered districts:

**District 1:** Wake County: VTD: 02-02, VTD: 02-03, VTD: 02-05, VTD: 08-04, VTD: 08-08, VTD: 09-01, VTD: 09-02, VTD: 09-03, VTD: 10-01, VTD: 10-02, VTD: 10-03, VTD: 10-04, VTD: 14-01, VTD: 14-02, VTD: 15-01, VTD: 16-01: Block(s) 1830528071000, 1830528071001, 1830528071002, 1830528071003, 1830528071009, 1830528071010, 1830528071011, 1830528071012, 1830528071013, 1830528071014, 1830528071015, 1830528071016, 1830528071017, 1830528071018, 1830528071019, 1830528071020, 1830528071021, 1830528071022, 1830528071023, 1830528071024, 1830528071025, 1830528071026, 1830528071027, 1830528071028, 1830528071029, 1830528072087, 1830528072088, 1830528072089, 1830528072090, 1830528072091, 1830528072092, 1830528084000, 1830528084001, 1830528084002, 1830528084003, 1830528084004, 1830528084005, 1830528084006, 1830528084007, 1830528084008, 1830528084009, 1830528084010, 1830528084011, 1830528084012, 1830528084013, 1830528084014, 1830528084015, 1830528084016, 1830528084017, 1830528084018, 1830528084019, 1830528084020, 1830528084021, 1830528084022, 1830528084023, 1830528084024, 1830528084044, 1830528092000, 1830528092001, 1830528092002, 1830528092003, 1830528092004, 1830528092005, 1830528092006, 1830528092007, 1830528092008, 1830528092009, 1830528092010, 1830528092011, 1830528092012, 1830528092013, 1830528092014, 1830528092015, 1830528092016, 1830528092017, 1830528092018, 1830528092019, 1830528092020, 1830528092021, 1830528092022, 1830528092023, 1830528092024, 1830528092025, 1830528092026, 1830528092027, 1830528092028, 1830528092029, 1830528092030, 1830528092031, 1830528092032, 1830528092033, 1830528092034, 1830528092035, 1830528092036, 1830528092037, 1830528092038, 1830528092039, 1830528092040, 1830528092041, 1830528092042, 1830528092043, 1830528092044, 1830528092045, 1830528092046; VTD: 16-03: 1830528021020, 1830528022000, 1830528023000, 1830528023001, 1830528023002, 1830528023003, 1830528023004, 1830528023005, 1830528023022, 1830528023023, 1830528023024, 1830528023027, 1830528023028, 1830528023029, 1830528024000, 1830528024001, 1830528024002, 1830528024003, 1830528024004, 1830528024005, 1830528024006, 1830528024020, 1830545002074, 1830545002091, 1830545002092; VTD: 16-04: 1830528081017, 1830528081018, 1830528081019, 1830528081020, 1830528081021, 1830528081022, 1830528081026, 1830528081027, 1830528083002, 1830528083003, 1830528083004, 1830528083005, 1830528083006, 1830528083011, 1830528083012, 1830528083013, 1830528083014, 1830528083015, 1830528083016, 1830528083017, 1830528083018, 1830528083020, 1830528083021, 1830528083024, 1830528083028, 1830528083029, 1830528083033, 1830528083034, 1830528083035, 1830528083036, 1830528083037, 1830528083038, 1830528083039, 1830528083040, 1830528083041, 1830528083044, 1830528083045, 1830528083046, 1830528083047, 1830528083048, 1830528083049, 1830528084054; VTD: 16-06: 1830528014000, 1830528014001, 1830528014002, 1830528014003, 1830528014004, 1830528014005, 1830528014006, 1830528014007, 1830528014008, 1830528014009, 1830528014010, 1830528014011, 1830528014012, 1830528014013, 1830528014014, 1830528014015, 1830528014016, 1830528015004, 1830528081002, 1830528081003, 1830528081005, 1830528081006, 1830528081007, 1830528081008, 1830528081009, 1830528081010, 1830528081011, 1830528081012, 1830528081013, 1830528081014, 1830528081015, 1830528081016, 1830528081025; VTD: 16-07, VTD: 16-08: Block(s) 1830528064039, 1830528064040, 1830528064041, 1830528064042, 1830528064043, 1830528064044, 1830528071004, 1830528072093, 1830528072094; VTD: 16-09: 1830528082000, 1830528082019, 1830528082020, 1830528082021, 1830528082031, 1830528082032, 1830528082033, 1830528082035, 1830528082041, 1830528082042, 1830528082043, 1830528082044, 1830528082045, 1830528082046, 1830528082047, 1830528082048, 1830528082049, 1830528082050, 1830528082051, 1830528082052, 1830528082053, 1830528082054, 1830528082055, 1830528082056, 1830528082057, 1830528082058, 1830528082059, 1830528084025, 1830528084026, 1830528084027, 1830528084028, 1830528084029, 1830528084030, 1830528084031, 1830528084032, 1830528084033, 1830528084034, 1830528084035, 1830528084036, 1830528084037, 1830528084038, 1830528084039, 1830528084040, 1830528084041, 1830528084042, 1830528084043, 1830528084045,

1830528084046, 1830528084047, 1830528084048, 1830528084049, 1830528084050,  
 1830528084051, 1830528084052, 1830528084053, 1830528084055, 1830528084056,  
 1830528091000, 1830528091001, 1830528091002, 1830528091003, 1830528091004,  
 1830528091005, 1830528091006, 1830528091007, 1830528091008; VTD: 17-02:  
 1830541082003, 1830541083044, 1830541083048, 1830541083049, 1830541083050,  
 1830541154003, 1830541154004, 1830541154005, 1830541154006, 1830541154007,  
 1830541154008, 1830541154010, 1830541154016, 1830541154019; VTD: 17-03:  
 1830541053000, 1830541053001, 1830541053003, 1830541053004, 1830541055000,  
 1830541055001, 1830541055002, 1830541055003, 1830541055004, 1830541055005,  
 1830541055006, 1830541055007, 1830541055008, 1830541055009, 1830541055010,  
 1830541055011, 1830541055012, 1830541055013; VTD: 17-04: 1830541102041,  
 1830541102042, 1830541102043, 1830541102044, 1830541102045, 1830541102046,  
 1830541102047, 1830541102048, 1830541102049, 1830541102052, 1830541102053,  
 1830541103039, 1830541103040, 1830541103041, 1830541103042, 1830541111004,  
 1830541111005, 1830541111006, 1830541111007, 1830541111008, 1830541111009,  
 1830541111010, 1830541111012, 1830541111013, 1830541111015, 1830541111016,  
 1830541111017, 1830541111018, 1830541111019, 1830541131000, 1830541131001,  
 1830541131002, 1830541131003, 1830541131004, 1830541131005, 1830541131006,  
 1830541131007; VTD: 17-06, VTD: 17-08: Block(s) 1830541142011, 1830541153011,  
 1830541153012; VTD: 19-03, VTD: 19-04, VTD: 19-05, VTD: 19-07, VTD: 19-09, VTD:  
 19-11, VTD: 19-16.

**District 2:** Wake County: VTD: 01-03, VTD: 01-04, VTD: 01-05, VTD: 01-11, VTD: 01-15,  
 VTD: 01-17, VTD: 01-36, VTD: 01-37, VTD: 01-42, VTD: 01-45, VTD: 01-47, VTD:  
 01-51, VTD: 02-01, VTD: 02-04, VTD: 02-06, VTD: 05-05, VTD: 07-03, VTD: 07-05,  
 VTD: 07-06, VTD: 07-07, VTD: 07-11, VTD: 08-02, VTD: 08-03, VTD: 08-05, VTD:  
 08-07, VTD: 08-10, VTD: 13-02, VTD: 13-06, VTD: 13-10, VTD: 13-11, VTD: 19-06,  
 VTD: 19-10, VTD: 19-12.

**District 3:** Wake County: VTD: 01-01, VTD: 01-02, VTD: 01-06, VTD: 01-07, VTD: 01-09,  
 VTD: 01-10, VTD: 01-12, VTD: 01-13, VTD: 01-14, VTD: 01-18, VTD: 01-21, VTD:  
 01-23, VTD: 01-27, VTD: 01-28, VTD: 01-31, VTD: 01-32, VTD: 01-41, VTD: 01-43,  
 VTD: 01-44, VTD: 01-48, VTD: 13-01, VTD: 13-05, VTD: 13-07, VTD: 13-08, VTD:  
 13-09, VTD: 18-01, VTD: 18-06, VTD: 19-17.

**District 4:** Wake County: VTD: 01-19, VTD: 01-20, VTD: 01-22, VTD: 01-25, VTD: 01-26,  
 VTD: 01-34, VTD: 01-35, VTD: 01-38, VTD: 01-40, VTD: 01-46, VTD: 01-50, VTD:  
 16-01: Block(s) 1830528032014, 1830528032015, 1830528032020, 1830528032021,  
 1830528032052, 1830528072044, 1830528072048, 1830528072049, 1830528072050,  
 1830528072051, 1830528072052, 1830528072053, 1830528072084, 1830528072085,  
 1830528072086, 1830528072095, 1830528072096; VTD: 16-02, VTD: 16-03: Block(s)  
 1830528022001, 1830528022002, 1830528022003, 1830528022004, 1830528022005,  
 1830528022006, 1830528022007, 1830528022008, 1830528022009, 1830528022010,  
 1830528032029; VTD: 16-04: 1830528081023, 1830528081024, 1830528081028,  
 1830528081029, 1830528083000, 1830528083001, 1830528083007, 1830528083008,  
 1830528083009, 1830528083010; VTD: 16-06: 1830528015000, 1830528015001,  
 1830528015002, 1830528015003, 1830528081000, 1830528081001, 1830528081004,  
 1830528082003, 1830528082004, 1830528082005, 1830528082006, 1830528082007,  
 1830528082008, 1830528082009, 1830528082010, 1830528082011, 1830528082012,  
 1830528082013, 1830528082014, 1830528082015, 1830528082016, 1830528082030;  
 VTD: 16-08: 1830528032008, 1830528032009, 1830528032010, 1830528032011,  
 1830528032016, 1830528032051, 1830528032053, 1830528032054, 1830528032057,  
 1830528032058, 1830528032059, 1830528032060, 1830528061000, 1830528061001,  
 1830528061002, 1830528061003, 1830528061004, 1830528061005, 1830528061006,  
 1830528061007, 1830528061008, 1830528061009, 1830528061010, 1830528061011,  
 1830528061012, 1830528061013, 1830528061014, 1830528061015, 1830528061016,  
 1830528061017, 1830528061018, 1830528061030, 1830528061031, 1830528061032,  
 1830528061033, 1830528064000, 1830528064001, 1830528064002, 1830528064003,  
 1830528064004, 1830528064005, 1830528064006, 1830528064007, 1830528064008,  
 1830528064009, 1830528064010, 1830528064011, 1830528064012, 1830528064013,  
 1830528064014, 1830528064015, 1830528064016, 1830528064017, 1830528064018,  
 1830528064019, 1830528064020, 1830528064021, 1830528064022, 1830528064023,

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1830528064034, 1830528064035, 1830528064036, 1830528064037, 1830528064038,  
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1830528064050, 1830528064051, 1830528064052, 1830528064053, 1830528064054,  
1830528064055, 1830528064056, 1830528064057, 1830528064058, 1830528064059,  
1830528064060, 1830528064061, 1830528071005, 1830528071006, 1830528071007,  
1830528071008, 1830528072000, 1830528072001, 1830528072002, 1830528072003,  
1830528072004, 1830528072005, 1830528072006, 1830528072007, 1830528072008,  
1830528072009, 1830528072010, 1830528072011, 1830528072012, 1830528072013,  
1830528072014, 1830528072015, 1830528072016, 1830528072017, 1830528072018,  
1830528072019, 1830528072020, 1830528072021, 1830528072022, 1830528072023,  
1830528072024, 1830528072025, 1830528072026, 1830528072027, 1830528072028,  
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1830528072034, 1830528072035, 1830528072036, 1830528072037, 1830528072038,  
1830528072039, 1830528072040, 1830528072041, 1830528072042, 1830528072043,  
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1830528072056, 1830528072057, 1830528072058, 1830528072059, 1830528072060,  
1830528072061, 1830528072062, 1830528072063, 1830528072064, 1830528072065,  
1830528072066, 1830528072067, 1830528072068, 1830528072069, 1830528072070,  
1830528072071, 1830528072072, 1830528072073, 1830528072074, 1830528072075,  
1830528072076, 1830528072077, 1830528072078, 1830528072079, 1830528072080,  
1830528072081, 1830528072082, 1830528072083, 1830528072097; VTD: 16-09:  
1830528082001, 1830528082002, 1830528082017, 1830528082018, 1830528082022,  
1830528082023, 1830528082024, 1830528082025, 1830528082026, 1830528082027,  
1830528082028, 1830528082029, 1830528082034, 1830528082036, 1830528082037,  
1830528082038, 1830528082039, 1830528082040; VTD: 17-01, VTD: 17-02: Block(s)  
1830541082001, 1830541082002, 1830541082004, 1830541083000, 1830541083001,  
1830541083002, 1830541083003, 1830541083004, 1830541083005, 1830541083006,  
1830541083007, 1830541083008, 1830541083009, 1830541083010, 1830541083011,  
1830541083012, 1830541083013, 1830541083014, 1830541083015, 1830541083016,  
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1830541083040, 1830541083041, 1830541083042, 1830541083043, 1830541083045,  
1830541083046, 1830541083051, 1830541083052, 1830541121039, 1830541121040,  
1830541121046, 1830541121047, 1830541121048, 1830541154000, 1830541154001,  
1830541154002; VTD: 17-03: 1830541051000, 1830541051001, 1830541051002,  
1830541051003, 1830541051004, 1830541051005, 1830541051006, 1830541051007,  
1830541051008, 1830541051009, 1830541051010, 1830541051011, 1830541051012,  
1830541051013, 1830541051014, 1830541051015, 1830541051016, 1830541051017,  
1830541051018, 1830541051019, 1830541051020, 1830541051021, 1830541051022,  
1830541051023, 1830541051024, 1830541051025, 1830541051026, 1830541051027,  
1830541051028, 1830541051029, 1830541051030, 1830541051031, 1830541051032,  
1830541051033, 1830541051034, 1830541051035, 1830541051036, 1830541051037,  
1830541051039, 1830541051040, 1830541051041, 1830541051043, 1830541051046,  
1830541052000, 1830541052001, 1830541052002, 1830541052003, 1830541052004,  
1830541052005, 1830541052006, 1830541052007, 1830541052008, 1830541052009,  
1830541052010, 1830541052011, 1830541052012, 1830541052013, 1830541052014,  
1830541052016, 1830541052017, 1830541052018, 1830541052019, 1830541052020,  
1830541052021, 1830541052022, 1830541052023, 1830541052024, 1830541052025,  
1830541052026, 1830541052027, 1830541052028, 1830541052029, 1830541052030,  
1830541052031, 1830541052032, 1830541052034, 1830541052035, 1830541052036,  
1830541053002, 1830541053005, 1830541053006, 1830541053007, 1830541053008,  
1830541053009, 1830541053010, 1830541053011, 1830541053012, 1830541053013,  
1830541053014, 1830541053015, 1830541053016, 1830541053017, 1830541053018,  
1830541053019, 1830541053020, 1830541053021, 1830541053022, 1830541053023,  
1830541053024, 1830541053025, 1830541053026, 1830541053027; VTD: 17-04:

1830541111011, 1830541111014, 1830541121000, 1830541121001, 1830541121002,  
1830541121003, 1830541121004, 1830541121005, 1830541121006, 1830541121007,  
1830541121008, 1830541121009, 1830541121010, 1830541121011, 1830541121012,  
1830541121013, 1830541121014, 1830541121015, 1830541121016, 1830541121017,  
1830541121018, 1830541121019, 1830541121020, 1830541121021, 1830541121022,  
1830541121023, 1830541121024, 1830541121025, 1830541121026, 1830541121027,  
1830541121028, 1830541121029, 1830541121030, 1830541121031, 1830541121032,  
1830541121033, 1830541121034, 1830541121035, 1830541121036, 1830541121037,  
1830541121038, 1830541121041, 1830541121042, 1830541121043, 1830541121044,  
1830541121045, 1830541131008, 1830541131009, 1830541131010, 1830541131011,  
1830541131012, 1830541131013, 1830541131014, 1830541131015, 1830541131016,  
1830541131017, 1830541131018, 1830541131019, 1830541131020, 1830541131021,  
1830541132000, 1830541132001, 1830541132002, 1830541132003, 1830541132004,  
1830541132005, 1830541132006, 1830541132007, 1830541132008, 1830541132009,  
1830541132010, 1830541132011, 1830541132012, 1830541132013, 1830541132014,  
1830541132015, 1830541132016, 1830541132017, 1830541132018, 1830541132019,  
1830541132020, 1830541132021, 1830541132022, 1830541132023, 1830541132026,  
1830541132028, 1830541132029, 1830541132030, 1830541132031, 1830541132032,  
1830541132033, 1830541132036, 1830541132037, 1830541132038, 1830541132039,  
1830541132040, 1830541132041, 1830541132042, 1830541132043, 1830541132044;  
VTD: 17-05, VTD: 17-07, VTD: 17-08: Block(s) 1830541132024, 1830541132025,  
1830541132027, 1830541132034, 1830541132035, 1830541141000, 1830541141001,  
1830541141002, 1830541141003, 1830541141004, 1830541141005, 1830541141006,  
1830541141007, 1830541141008, 1830541141009, 1830541141010, 1830541141011,  
1830541141012, 1830541141013, 1830541141014, 1830541141015, 1830541141016,  
1830541141017, 1830541141018, 1830541141019, 1830541141020, 1830541141021,  
1830541141022, 1830541141023, 1830541141024, 1830541141025, 1830541141026,  
1830541141027, 1830541141028, 1830541141029, 1830541141030, 1830541141031,  
1830541141032, 1830541141033, 1830541141034, 1830541141035, 1830541141036,  
1830541141037, 1830541141038, 1830541141039, 1830541141040, 1830541141041,  
1830541141042, 1830541141043, 1830541141044, 1830541141045, 1830541141046,  
1830541141047, 1830541141048, 1830541141049, 1830541141050, 1830541141051,  
1830541141052, 1830541141053, 1830541141054, 1830541141055, 1830541141056,  
1830541142000, 1830541142001, 1830541142002, 1830541142003, 1830541142004,  
1830541142005, 1830541142006, 1830541142007, 1830541142008, 1830541142009,  
1830541142010, 1830541142015, 1830541142016, 1830541142017, 1830541142019,  
1830541142020, 1830541142021, 1830541142022, 1830541142023, 1830541142024,  
1830541142025, 1830541142026, 1830541142027, 1830541142028, 1830541142029,  
1830541142030, 1830541142046, 1830541151000, 1830541151001, 1830541151002,  
1830541151003, 1830541151004, 1830541151005, 1830541151006, 1830541151007,  
1830541151008, 1830541151009, 1830541151010, 1830541151011, 1830541151012,  
1830541151013, 1830541151014, 1830541152000, 1830541152001, 1830541152002,  
1830541152003, 1830541152004, 1830541152005, 1830541152006, 1830541152007,  
1830541152008, 1830541152009, 1830541152010, 1830541152011, 1830541152012,  
1830541152013, 1830541152014, 1830541152015, 1830541152016, 1830541152017,  
1830541152018, 1830541152019, 1830541152020, 1830541152021, 1830541152022,  
1830541152023, 1830541152024, 1830541152025, 1830541152026, 1830541152027,  
1830541152028, 1830541152029, 1830541152030, 1830541152031, 1830541152032,  
1830541153000, 1830541153001, 1830541153002, 1830541153003, 1830541153004,  
1830541153005, 1830541153006, 1830541153007, 1830541153008, 1830541153009,  
1830541153010, 1830541153013, 1830541153014, 1830541153015, 1830541153016,  
1830541153017, 1830541153018, 1830541153019, 1830541153020, 1830541153021,  
1830541153022, 1830541153023; VTD: 17-09, VTD: 17-10, VTD: 17-11.

**District 5:** Wake County: VTD: 01-16, VTD: 01-29, VTD: 01-30, VTD: 01-33, VTD: 01-39,  
VTD: 01-49, VTD: 04-03, VTD: 04-05, VTD: 04-08, VTD: 04-09, VTD: 04-11, VTD:  
04-17, VTD: 04-18, VTD: 04-20, VTD: 04-21, VTD: 05-01, VTD: 05-03, VTD: 05-04,  
VTD: 07-01, VTD: 07-02, VTD: 07-04, VTD: 07-09, VTD: 07-10, VTD: 07-12, VTD:  
07-13, VTD: 08-06, VTD: 08-09, VTD: 08-11, VTD: 11-01, VTD: 11-02.

**District 6:** Wake County: VTD: 04-01, VTD: 04-02, VTD: 04-04, VTD: 04-06, VTD: 04-07, VTD: 04-10, VTD: 04-12, VTD: 04-13, VTD: 04-14, VTD: 04-15, VTD: 04-16, VTD: 04-19, VTD: 06-05, VTD: 06-06, VTD: 06-07, VTD: 12-01, VTD: 12-05, VTD: 12-09, VTD: 16-05, VTD: 18-02, VTD: 18-03, VTD: 18-04, VTD: 18-05, VTD: 18-07, VTD: 18-08, VTD: 20-01, VTD: 20-03, VTD: 20-05, VTD: 20-09.

**District 7:** Wake County: VTD: 03-00, VTD: 05-06, VTD: 06-01, VTD: 06-04, VTD: 12-02, VTD: 12-04, VTD: 12-06, VTD: 12-07, VTD: 12-08, VTD: 15-02, VTD: 15-03, VTD: 15-04, VTD: 20-02, VTD: 20-04, VTD: 20-06, VTD: 20-08, VTD: 20-10, VTD: 20-11, VTD: 20-12.

(2) Lettered districts:

**District A:** Wake County: VTD: 01-01, VTD: 01-02, VTD: 01-03, VTD: 01-04, VTD: 01-05, VTD: 01-06, VTD: 01-07, VTD: 01-09, VTD: 01-10, VTD: 01-12, VTD: 01-13, VTD: 01-14, VTD: 01-16, VTD: 01-18; Block(s) 1830527011020, 1830527011021, 1830527012009, 1830527012010, 1830527012012, 1830527012013, 1830527012014, 1830527012016, 1830527012017, 1830527012021, 1830527012025, 1830527012026, 1830527012027, 1830527012028, 1830527012029, 1830527012030, 1830527012031, 1830527012032, 1830527012033, 1830527012034, 1830527012035, 1830527012036, 1830527012037, 1830527012038, 1830527012039, 1830527013000, 1830527013005, 1830527013006, 1830527013007, 1830527013008; VTD: 01-19, VTD: 01-20, VTD: 01-21, VTD: 01-22, VTD: 01-23, VTD: 01-25, VTD: 01-26, VTD: 01-27, VTD: 01-28, VTD: 01-29, VTD: 01-31, VTD: 01-32, VTD: 01-33, VTD: 01-34, VTD: 01-35, VTD: 01-38, VTD: 01-40, VTD: 01-41, VTD: 01-43; Block(s) 1830540011000, 1830540011001, 1830540011002, 1830540011003, 1830540013000, 1830540013001, 1830540013002, 1830540013003, 1830540013004, 1830540013005, 1830540013006, 1830540013007; VTD: 01-44, VTD: 01-45, VTD: 01-46, VTD: 01-48, VTD: 01-49, VTD: 01-50, VTD: 04-01, VTD: 04-02, VTD: 04-03, VTD: 04-04, VTD: 04-05, VTD: 04-06, VTD: 04-08, VTD: 04-09, VTD: 04-10, VTD: 04-11, VTD: 04-12, VTD: 04-13, VTD: 04-14, VTD: 04-15, VTD: 04-16, VTD: 04-17, VTD: 04-18, VTD: 04-19, VTD: 04-20, VTD: 04-21, VTD: 05-01, VTD: 05-03, VTD: 06-06, VTD: 07-01, VTD: 07-02, VTD: 07-03, VTD: 07-05, VTD: 07-07, VTD: 07-09, VTD: 07-10, VTD: 07-11, VTD: 07-12, VTD: 08-02, VTD: 08-05, VTD: 08-06, VTD: 08-09, VTD: 08-10, VTD: 08-11, VTD: 09-01; Block(s) 1830543011005, 1830543011006, 1830543011007, 1830543011008, 1830543011010, 1830543011011, 1830543011012, 1830543011013, 1830543011014, 1830543011015, 1830543011016, 1830543011022; VTD: 10-02: 1830544031000, 1830544031001, 1830544031002, 1830544031003, 1830544031004, 1830544031005, 1830544031006, 1830544031007, 1830544031008, 1830544031009, 1830544031010, 1830544031015, 1830544042009, 1830544042010, 1830544042011, 1830544042012, 1830544042013, 1830544042014, 1830544042015, 1830544042016, 1830544042017, 1830544042018, 1830544042021, 1830544042022, 1830544042023, 1830544042024, 1830544042025, 1830544042026, 1830544043000, 1830544043001, 1830544043002, 1830544043003, 1830544043005, 1830544043006, 1830544043013, 1830544043014, 1830544043015, 1830544043016, 1830544043017, 1830544043018, 1830544043019, 1830544043020, 1830544043021, 1830544043022, 1830544043023, 1830544043024, 1830544043025, 1830544043026, 1830544043029, 1830544043031, 1830544043032, 1830544043033, 1830544043034, 1830544043035, 1830544043036, 1830544043075, 1830544043076, 1830544043077, 1830544043078, 1830544043079, 1830544043090; VTD: 10-03: 1830544022008, 1830544043004, 1830544043007, 1830544043008, 1830544043009, 1830544043010, 1830544043012, 1830544043030, 1830544043066, 1830544043071, 1830544043073, 1830544043074, 1830544043080, 1830544043081, 1830544043082, 1830544043087; VTD: 10-04: 1830541081000, 1830541081001, 1830541081002, 1830541081003, 1830541081004, 1830541081005, 1830541081006, 1830541081007, 1830541081008, 1830541081009, 1830541081010, 1830541081011, 1830541081012, 1830541081013, 1830541081014, 1830541081015, 1830541081016, 1830541081017, 1830541081018, 1830541081019, 1830541082000, 1830541082005, 1830541082006, 1830541082007, 1830541082008, 1830541082009, 1830541082010, 1830541082011, 1830541082012, 1830541082013, 1830541082014, 1830541082015, 1830541082016, 1830541082017, 1830541082018, 1830541082019, 1830541082020, 1830541082021, 1830541082022, 1830541082023, 1830541082024, 1830541082025, 1830541091001, 1830541091002, 1830541091003, 1830541091004, 1830541091005, 1830541091006.



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11-02, VTD: 13-01, VTD: 13-05: Block(s) 1830540171000, 1830540171001,  
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VTD: 18-06, VTD: 18-08, VTD: 19-04: Block(s) 1830542091038, 1830542091039,  
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VTD: 19-17: 1830541101000, 1830541101001, 1830541101010, 1830541101011,  
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**District B: Wake County: VTD: 01-11, VTD: 01-15, VTD: 01-17, VTD: 01-18: Block(s)**  
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VTD: 01-39, VTD: 01-42, VTD: 01-43: Block(s) 1830540012000, 1830540012001,  
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(b) The names and boundaries of voting tabulation districts, tracts, block groups, and blocks specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles. If any voting tabulation district boundary is changed, that change shall not change the boundary of a district, which shall remain the same as it is depicted by the 2010 Census Redistricting TIGER/Line Shapefiles.

(c) Thereafter, beginning in 2021, district boundaries may be changed by the Wake County Board of Education in accordance with G.S. 115C-37(i) to account for population imbalances after each federal census, but such revision shall not impair the ability of any persons to finish the term for which they are elected or affect the appointment of any person to fill a vacancy in such position for the remainder of that term."

**SECTION 6.** Effective January 1, 2016, Section 8 of Chapter 717, Session Laws of 1975, as amended by Section 4 of Chapter 321 of the 1977 Session Laws, is repealed.

**SECTION 7.** Except as provided herein, this act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 13<sup>th</sup> day of June,  
2013.

s/ Daniel J. Forest  
President of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives



## CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 28.1(e)(2) or 32(a)(7)(B) because:

[ X ] this brief contains [11,134] words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii), *or*

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Dated: May 23, 2014

/s/ Anita S. Earls  
*Counsel for Appellants*

## CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 23rd day of May, 2014, I caused this Brief of Appellants and Joint Appendix to be filed electronically with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to the following registered CM/ECF users:

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Post Office Box 550  
Raleigh, North Carolina 27602  
(919) 856-5500

*Counsel for Appellee Wake County Board of Elections*

I further certify that on this 23rd day of May, 2014, I caused the required copies of the Brief of Appellants and Joint Appendix to be hand filed with the Clerk of the Court.

/s/ Anita S. Earls  
*Counsel for Appellants*