



Joint Testimony of Brenda Murphy, President, South Carolina State Conference of the NAACP; Leah C. Aden, Deputy Director of Litigation, the NAACP Legal Defense and Educational Fund, Inc.; Somil Trivedi, Senior Staff Attorney, American Civil Liberties Union; and Allen Chaney, Director of Legal Advocacy, ACLU of South Carolina

Before the South Carolina Senate Judiciary Committee's Redistricting Subcommittee

Testimony on Two Proposed Congressional Redistricting Maps

January 13, 2022

Dear Chair Rankin and Subcommittee Members:

On behalf of the South Carolina State Conference of the National Association for the Advancement of Colored People (“South Carolina NAACP”),ⁱ the NAACP Legal Defense and Educational Fund, Inc. (“LDF”),ⁱⁱ American Civil Liberties Union (“ACLU”), and ACLU of South Carolina, we write to provide comments on the two proposed redistricting plans for South Carolina’s Congressional delegation published by this Subcommittee on January 11, 2022.

First, we note the stark contrast between the two proposals, identified as “House Congressional Plan 2 Senate Amendment 1” and “House Congressional Plan 2 Senate Amendment 2.” The Senate plan designated as Amendment 2 comes much closer to accurately reflecting Black political power in South Carolina and being more responsive to comments and concerns repeatedly raised by members of the public during this redistricting cycle. Simply put, Amendment 2 is the best Congressional plan proposed to date by either the House or Senate during the current redistricting cycle. This does not mean Amendment 2 is perfect. However, the signatories—and the thousands of South Carolinians that their organizations collectively represent—urge the Legislature to focus its attention on Amendment 2 and pass a Congressional map closer to that proposal than any other.

By contrast, the Senate map designated as Amendment 1 continues a pattern of consistently flawed Congressional redistricting maps proposed by the Legislature this cycle, beginning with this Subcommittee’s first proposed Congressional map publicized on November 23. Unlike Amendment 2, Amendment 1 is yet another Congressional map that fails to reflect the voting strength of Black South Carolinian voters, particularly outside of Congressional district (“CD”) 6—despite months of written and oral testimony explaining why this would be disastrous for South Carolina’s marginalized, yet vitally significant and contributory, communities. Amendment 1 also ensures that there are *no* politically competitive Congressional districts in South Carolina by cracking Black communities to achieve this end.

In our coalition’s joint written testimony before the House last month, which we shared with this body, we recounted the flawed process by which Congressional maps had been proposed by this Legislature to date.ⁱⁱⁱ

Since then, the House has chosen to pursue its deeply concerning course of action, favorably reporting a map on January 10, 2022, that incorporates

many of the flaws that led this body's initial proposal to be heavily criticized by the public. In fast-tracking its consideration of that "alternative" map, the House Judiciary Committee ignored an objection from Rep. John King that the Committee's January 10 meeting "was held in clear violation of the rules of the committee" because Rep. Newton presided in Chair Murphy's absence, instead of Rep. King as the Committee's first vice-chairman.^{iv}

This week, on January 11, just two days ago, this body published two additional Senate maps, one of which—Senate Amendment 2—improves on any Congressional map yet proposed by this Legislature in the present redistricting cycle.

Senate Amendment 2 is in keeping with the spirit of traditional redistricting principles and fair electoral maps for all South Carolinians. Like the maps proposed by our coalition, Amendment 2 does not unnecessarily pack additional Black voters into CD 6. This will likely provide Black voters with the opportunity to have an impact and influence the outcome of elections outside of CD 6, as is only appropriate in a state where Black voters are at least 29% of the VAP. Under Amendment 2, CD 5 would have a BVAP of approximately 34%, and two other districts—CD 1 and CD 2—would have BVAPs of approximately 22% and 23%, respectively. This population distribution in Amendment 2 is more reflective of the state as a whole, ensures that representatives and candidates in CD 5 could not ignore Black voters and constituents, and makes it possible that Black voters could have some influence in CDs 1 and 2 under certain circumstances. Further, Amendment 2 draws CD 1 consistent with communities of interest and county lines, keeping Charleston and Beaufort Counties whole, as compared to the distorted iterations of CD 1 in either this body's initial map or the House Committee's "alternative" map. Thus, like our coalition's illustrative plans—but, more importantly, as the law, traditional redistricting principles, and fundamental fairness dictate—Amendment 2 demonstrates that this Subcommittee does not need to—and, indeed, should not—take any action with respect to CD 6 that diminishes the electoral opportunities of Black voters in other districts, or that inappropriately limits the likelihood of political competition in other districts. For these reasons, Senate Amendment 2 more appropriately reflects this state's population, including the voting power of Black South Carolinians, than any other proposed Congressional map this cycle.

Unfortunately, the Senate's other proposed map, **Senate Amendment 1**, is far inferior to Senate Amendment 2. It modestly improves on the Senate's initial proposal; however, the serious and fundamental flaws in that initial proposal present a very low bar. Amendment 1 does the bare minimum to attempt to correct the population deviations present between CDs 1 and 6 while harming Black voting power in those districts and others. It significantly drops the BVAP population in CD 6, and it simultaneously provides no meaningful opportunities for Black voters to elect candidates of choice in any other district, given the racially polarized voting patterns in the state. For example, it renders the BVAP in CD 1 the lowest of all seven districts, a concern decried by the public in the Senate's first hearing in December because of how out-of-step that is with the reality of where many Black people live and work in the state. It in turn develops three other districts (CDs 2, 5, and 7) in which Black voters are roughly 25%, a population level that, in light of our analysis of patterns of RPV, will likely leave them submerged among white voters and powerless to have a significant voice in elections. Black communities in key areas of the state like Charleston, Richland, and Sumter counties are cracked under Amendment 1, again, as in the Senate's flawed initial proposal. Indeed, Amendment 1 continues to separate portions of Charleston and North Charleston from each other, despite testimony that these neighboring cities form a single community of interest. Amendment 1 also somehow continues to protect the self-interest of an incumbent to keep Fort Jackson in his district by reaching into Richland County. And unlike Amendment 2, it would likely prevent competitive elections in *any* of the seven congressional districts, harming all voters.

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Thank you for the opportunity to provide this written testimony. As we continue to assess this Subcommittee's proposed maps and speak to community members, we may send you additional written comments to supplement this testimony.

i The South Carolina NAACP is state conference of 77 branches and over 13,000 NAACP members throughout South Carolina.

ii LDF has been fully separate from the National Association for the Advancement of Colored People (“NAACP”) since 1957, though LDF was originally founded by the NAACP and shares its commitment to equal rights.

iii See NAACP Legal Def. and Educ. Fund, Inc., *LDF Submits Testimony LDF Submits Testimony Opposing Proposed South Carolina Congressional Redistricting Maps* (Dec. 29, 2021), <https://www.naacpldf.org/press-release/ldf-submits-testimony-opposing-proposed-south-carolina-congressional-redistricting-maps/>. Subsequently, these groups forwarded by email that testimony to the Senate.

iv Letter from Rep. John King to Chair Chris Murphy (Jan. 10, 2022) (on file with authors).