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GARY BARTLETT, *et al.*,
Petitioners,
v.
DWIGHT STRICKLAND, *et al.*,
Respondents.

On Writ of Certiorari to the Supreme Court of North Carolina

BRIEF OF AMICI CURIAE,
SANFORD D. BISHOP JR., CORRINE BROWN,
G.K. BUTTERFIELD, ANDRÉ CARSON, DONNA
M. CHRISTENSEN, YVETTE D. CLARKE,
WILLIAM LACY CLAY JR., EMANUEL
CLEAVER, JAMES E. CLYBURN, JOHN
CONYERS JR., ELIJAH E. CUMMINGS, ARTUR
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WATERS, DIANE E. WATSON, AND MELVIN L.
WATT.

IN SUPPORT OF PETITIONERS

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INTEREST OF THE *AMICI CURIAE*¹

The *amici curiae* are all African American members of the U.S. House of Representatives, who are also members of the Congressional Black Caucus ("CBC").² Of these forty-two CBC members, twenty (or 48%) were elected to the 110th Congress from congressional districts in which African Americans constitute less than 50% of the voting-age population, based on the most recent 2000 census data. Appendix F. The African American communities in these twenty districts were able to elect their preferred candidates to the 110th Congress, despite constituting a numerical minority in the district, because of support from white

¹ A letter of consent by the parties to the filing of this brief has been lodged with the Clerk of Court pursuant to Rule of the Supreme Court of the United States 37.3. In accordance with Rule of the Supreme Court of the United States 37.6, *amici curiae* certify that no counsel for a party authored this brief in whole or in part and that no person or entity, other than *amici curiae* and their counsel, made a monetary contribution to the preparation or submission of this brief.

² Among the forty-two counted here is Representative Albert Wynn (D-MD), who resigned from Congress on May 31, 2008. See 154 CONG. REC. H2495 (daily ed. Apr. 22, 2008) (letter from Rep. Wynn). The Democrat running to succeed Wynn in the special election on June 17, Donna Edwards, is also African American. See Rosalind S. Helderman, *Wynn Wraps Up Tenure in House*, WASH. POST, May 31, 2008, at B2.

voters who crossed-over to vote with the African American community – so called “cross-over” districts – or because of support from non-African American minorities – so-called “coalition” districts.

The issue in this case is whether a racial minority group that constitutes less than 50% of a proposed district’s population can state a vote dilution claim under Section 2 of the Voting Rights Act, 42 U.S.C. § 1973. A finding that the minority group must constitute 50% or more of the proposed district’s voting-age population in order to seek Section 2’s protections would render all existing cross-over and coalition U.S. congressional districts vulnerable to dissolution.³ This would directly affect the twenty House CBC members elected to the 110th Congress from cross-over and coalition districts.⁴ Appendix F. Such a finding would also affect CBC members who currently represent

³ The exception would be districts covered by Section 5 of the Voting Rights Act. Section 5 requires jurisdictions with a history of racially discriminatory voting practices to preclear redistricting plans with the Department of Justice so as to avoid retrogression in minority enfranchisement. See 42 U.S.C. § 1973c.

⁴ If, instead of considering *voting-age* population, there were to be a finding that the minority group must constitute 50% or more of the proposed districts’ *total* population, then seventeen, rather than twenty, congressional districts would be affected. Appendix F.

majority-minority districts, but whose districts, following the 2010 census or future redistricting, would be shown to have dipped below the 50% baseline.

The withdrawal of Section 2 protections for cross-over and coalition congressional districts would be detrimental to CBC members and the millions of African Americans and other minorities who are presently able to elect their preferred candidates while residing in such districts. The number of African Americans in the Congress (both House and Senate) this term is at an all-time high of forty-three. Appendix B. However, this number is still only 8% of the entire Congress, while African Americans represent 12.3% of the U.S. population.

SUMMARY OF ARGUMENT

Section 2 of the Voting Rights Act prohibits a districting plan that gives minority voters "less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." 42 U.S.C. § 1973(b).

A bright-line, inflexible, one-size-fits-all requirement that a racial minority group must constitute 50% of a proposed district in order for Section 2 to apply is based on an unfounded assumption that only majority-minority districts merit vote dilution protection. Such a 50% rule would overlook the

emergence of cross-over or coalition districts in this country. While the population of African Americans in such districts may not reach a magic threshold of 50%, today's reality is that they often can and do push the election of their preferred candidates to Congress and state and local legislatures. In such districts, African Americans are no less in need of the vote dilution protections of Section 2 than are African Americans in districts where they happen to constitute 50% or more of the population. Indeed, an African American community's ability to put forward a preferred candidate with cross-over or coalition appeal is no less a reflection of that community's "opportunity . . . to elect" its preferred candidate than is the existence of a 50% African American voting majority.

Today's Congressional Black Caucus demonstrates this reality. For much of the 20th century, only two congressional districts in this country elected African Americans to Congress – Chicago's heavily African American and segregated south side and Harlem in New York City. Today, there are forty-two African Americans in the House of Representatives. Appendix A. Of those forty-two, twenty were elected to the 110th Congress from congressional districts that have a voting-age population that is *less than* 50% African American. Appendix F. Like North Carolina's District 18 at issue in this case, many of these congressional districts have a functionally significant

percentage of African Americans and include a limited number of whites willing to cross-over to support the African American-preferred candidate. *Id.* In addition, in some districts a number of racial minorities constitute, together, a numerical majority of the population, and in many such districts, African American voters are politically cohesive with other non-white voters and are collectively able to elect African American-preferred candidates. The Voting Rights Act has helped contribute to the rise in such coalition or cross-over districts, but the imposition of any 50% rule would likely reverse these trends.

The law should protect, not penalize, these harbingers of progress toward race-neutral voting patterns.

Also, this progress is fragile, and the current election of many African Americans to Congress from cross-over and coalition districts should *not* suggest that the protections of Section 2 are unnecessary in such districts. Rather, the *reelection* of CBC members to the 110th Congress demonstrates that, once given the "opportunity . . . to elect" their preferred candidate, African Americans choose effective lawmakers that other groups come to support as well. In addition, current CBC members, like all current members of Congress, enjoy the benefit of incumbency. This benefit does not attach to a non-incumbent minority seeking to compete in a cross-over or coalition district. Non-

incumbents may well be elected from such districts in some parts of the country, but non-incumbents simply cannot count on the accrued good will that incumbents earn.

Finally, echoing petitioners, we note that nothing in the language or structure of the Voting Rights Act itself mandates a 50% rule. *See* Br. for the Petitioners at 22. To the contrary, the Voting Rights Act references the “opportunity . . . to elect” and the “totality of the circumstances” as a basis for determining whether vote dilution has occurred under Section 2; there is no mention of a bright-line numeric standard. *See* 42 U.S.C. § 1973(b). Nor is there anything in *Thornburg v. Gingles*, 478 U.S. 30 (1986), that requires a 50% rule. If anything, the law rejects such inflexible numerical standards in the complex task of enforcing civil and constitutional rights.

ARGUMENT

I.

THE ADOPTION OF A FLAT 50% RULE WOULD FREEZE AND EVEN REVERSE PROGRESS THAT HAS BEEN MADE IN VOTING RIGHTS IN THIS COUNTRY

- A. **CBC membership reflects progress in the election of African Americans from congressional districts that are less than 50% African American.**

Today's CBC reflects the nation's great progress in promoting the ability of African Americans to elect their preferred candidates and the corresponding willingness of voters of other racial groups to elect these preferred candidates to Congress.

The first African Americans were elected to Congress during Reconstruction, following the passage of the Fourteenth and Fifteenth Amendments. Appendix A. With the end of Reconstruction, the few African Americans who had been elected to Congress disappeared. *Id.* Then, between 1901 and 1929, there were no African Americans serving in Congress at all. *Id.* In the years 1929 to 1944, only one African American served in Congress, elected from Chicago's segregated and heavily African American south-side:

Republican Oscar De Priest (1929–1935), Democrat Arthur Mitchell (1935–1943), and then Democrat William Dawson (1943–1970), in succession. *Id.* In 1944, a second African American, Adam Clayton Powell, Jr., was elected to represent Harlem in New York City. *Id.* Thus, by the close of World War II in 1945, there were only two African Americans in Congress. This remained the case all the way through 1954, when the Supreme Court decided *Brown v. Board of Education*, 347 U.S. 483 (1954). Appendix A. By 1958, at the early stages of the civil rights movement, there were only four African Americans in Congress. *Id.*

With the passage of the Voting Rights Act in 1965, African Americans were enfranchised in increasing numbers. By 1971, when the CBC was founded, there were thirteen African Americans in the House. *Id.* By the 1980s, the number had climbed into the twenties. *Id.*

Throughout the 1970s and 1980s, in order for African Americans and other minority voters to have a realistic opportunity to elect their preferred candidate in jurisdictions with extreme racial polarization, the minority's representation often needed to comprise 65% of the population. See *United Jewish Organizations of Williamsburgh, Inc. v. Carey*, 430 U.S. 144, 164 (1977) ("We think it was reasonable for the Attorney General to conclude in this case that a substantial nonwhite

population majority – in the vicinity of 65% – would be required to achieve a nonwhite majority of eligible voters.”); *Latino Political Action Comm. v. Boston*, 784 F.2d 409, 414 (1st Cir. 1986); *Ketchum v. Byrne*, 740 F.2d 1398 at 1415 (7th Cir. 1984), *cert. denied*, 471 U.S. 1135 (1985); see also Luke P. McLoughlin, Note, *Gingles in Limbo: Coalitional Districts, Party Primaries and Manageable Vote Dilution Claims*, 80 N.Y.U. L. REV. 312, 324 (2005).

The 1992 elections raised the number of African Americans elected to Congress to forty,⁵ including the first members since Reconstruction from Alabama, Florida, and North Carolina. Appendices A, B. Moreover, by 1992 over three-quarters of African American House members were elected from districts in which African Americans constituted *less than 65%* of the population. See THE ALMANAC OF AMERICAN POLITICS (Michael Barone & Grant Ujifusa eds. 1994); Appendix A. In fact, in 1992, eight of thirty-nine (20.5%) African American members of the House were elected from districts where less than 50% of the population was African American. Appendix C; cf. Bernard Grofman *et al.*, *Drawing Effective Minority Districts: A Conceptual Framework and Some Empirical Evidence*, 79 N.C. L. REV. 1383, 1397–98

⁵ This figure includes not just members of the House but also Senator Carol Moseley Braun (D-IL). Appendix A.

(2001) (noting that, during 1990s, African American candidates for U.S. House in Florida, Georgia, North Carolina, Texas, and Virginia prevailed in districts that were not majority African American); J. Morgan Kousser, *Beyond Gingles: Influence Districts & the Pragmatic Tradition in Voting Rights Law*, 27 U.S.F. L. REV. 551, 566–68 (1993) (concluding that in 1990, African Americans and Hispanics elected to state and national office from California were all elected from districts that were not majority-minority, with all four African Americans elected from Congressional districts with African American populations less than 34%); Lisa Handley & Bernard Grofman, *The Impact of the Voting Rights Act on Minority Representation: Black Officeholding in Southern State Legislatures and Congressional Delegations*, in *QUIET REVOLUTION IN THE SOUTH: THE IMPACT OF THE VOTING RIGHTS ACT, 1965 – 1990*, at 301, 338 (Chandler Davidson & Bernard Grofman eds. 1994).

In the late 1990s, court-ordered redistricting across the South diminished the number of minority voters in many of what had formerly been majority-minority districts. For example, in Florida's 3rd district, the Georgia 2nd and 11th, the Louisiana 4th, the North Carolina 1st and 12th, and the Texas 18th and 30th, African American population was diminished to under 50%. See Grofman *et al.*, at 1397–98 nn.48 & 49. Nevertheless, African Americans continued to elect

their preferred candidates from those districts. See Charles E. Bullock, III & Richard E. Dunn, *The Demise of Racial Districting and the Future of Black Representation*, 48 EMORY L.J. 1209, 1222-25, 1243 (1999) ("Across the two most recent elections [1996 and 1998], thirteen Southern black candidates have won election in districts after the black percentage had been reduced such that whites constituted a majority of the registered voters.").

Today, there are forty-two African Americans in the House. Appendices A, B. When *first* elected, twenty-nine of these forty-two members came from districts that were majority-minority. Appendix E; see also Appendix D. Today, *no* African American represents a congressional district whose voting-age population is more than 65% African American. Appendix F. And, today, in twenty of these forty-two districts, African Americans constitute less than 50% of the voting-age population. Appendix F; see also Appendix C (same calculation using total population, rather than voting-age population).

The plain reality is that an increasing number of congressional districts that elect African Americans are minority-African American. Appendices C, D. This success is due to the limited but significant number of white cross-over voters and other non-African Americans now willing to support an African American candidate. But, with some notable exceptions, to elect

an African American to Congress, the percentage of African Americans in these cross-over or coalition districts must be functionally significant. See Grofman *et al.*, at 1392. The percentage that is functionally significant is heavily dependent on local history and conditions, including the past performance of the relevant African American community in electing its preferred candidate. In this particular case, the North Carolina Supreme Court found that “[p]ast election results in North Carolina demonstrate that a legislative voting district with a total African-American population of at least 41.45 percent, or an African-American voting-age population of at least 38.37 percent, creates an opportunity to elect African-American candidates.” *Pender County v. Bartlett*, 649 S.E.2d 364, 367 (N.C. 2007).

In sum, in cross-over or coalition legislative districts where African Americans do not constitute 50% of the population, those communities can and do push the election of their preferred candidates to Congress, state, and local legislatures. In such districts, African Americans are no less in need of the vote dilution protections of Section 2 than are African Americans in districts where they happen to constitute 50% of the population. A minority community’s ability to put forward a preferred candidate with cross-over or coalition appeal is no less a reflection of that

community's "opportunity . . . to elect" than is the existence of a 50% majority.

B. CBC members' reelections in cross-over or coalition districts do not mean that Section 2 protections are outdated.

The discernible progress toward cross-over and coalition voting in this country is fragile. The ability of many current CBC members to be reelected from cross-over or coalition districts should *not* suggest that the protections of Section 2 are no longer necessary in those districts – many of which were previously majority-minority districts. Appendices C, D, E.

Rather, the reelection of current CBC members demonstrates that, once given the "opportunity . . . to elect" their preferred candidate, African Americans choose effective lawmakers that other groups come to support as well. In addition, one reason for the CBC members' success in cross-over and coalition districts is the benefit of incumbency – a benefit that does not attach to a non-incumbent minority seeking election in a cross-over or coalition district.

The CBC includes quite a number of veteran legislators. At present, only five are freshman; in fact, over half of the forty-two House CBC members have served in the House for more than a decade. Appendix A.

Incumbents of all races and both political parties running for reelection enjoy an advantage over those seeking their first term in Congress. Overall, members of the U.S. House win reelection 96% of the time. See John H. Aldrich, U.S. Dep't of State, *Congressional Elections*, <http://info.state.gov/products/pubs/election04/congress.html> (last visited June 2, 2008). Political scientists calculate the value of this "incumbency advantage" using varied formulas, but agree that some numerical advantage is conferred. See, e.g., Steven D. Levitt & Catherine D. Wolfram, *Decomposing the Sources of Incumbency Advantage in the U.S. House*, 22 LEGIS. STUD. Q. 45 – 60, 46, 49 (1997).

To be sure, incumbents must earn this "incumbency advantage" through their performance in office. See Stephen Ansolabehere & James M. Snyder, Jr., *The Incumbency Advantage in U.S. Elections: An Analysis of State and Federal Offices, 1942 – 2000*, 1 ELECTION L. J. 315-38, 315 (2002); see also Gary W. Cox & Jonathan Katz, *Why Did the Incumbency Advantage in U.S. House Elections Grow?*, 40 AM. J. POL. SCI. 478, 479 (1996). One dramatic example of this is Congressman Charles Rangel (D-NY), who was first elected to Congress in 1970. Appendix A. At the time, Congressman Rangel's Harlem-based district was 59% African American and 17% Hispanic. Appendix E; THE ALMANAC OF AMERICAN POLITICS 694 (Michael Barone,

Grant Ujifusa & Douglas Mathews, eds. 1972). By 2006, when Rangel was last reelected, the demographics of his district, for a variety of reasons, had nearly reversed: today his district is 30.5% African American and 47.9% Hispanic. Appendices E, F; THE ALMANAC OF AMERICAN POLITICS 1169 (Michael Barone & Grant Ujifusa, eds. 2008). Nevertheless, in 2006 Rangel won reelection with 94% of the vote. *Id.* at 1169. Meanwhile, in the 38 years since Rangel was first elected, he has become one of the most powerful members of Congress and is a well-known and influential institution in New York politics.

Congressman Melvin Watt (D-NC) is another case in point. Congressman Watt was first elected in 1992. At the time, his district was 57% African American. Appendix E. By 1998, after multiple rounds of redistricting, Watt's district was 36% African American. See THE ALMANAC OF AMERICAN POLITICS 1226 (Michael Barone & Grant Ujifusa, eds. 2000). Despite this dramatic shift in African American population, Watt continues to be reelected with margins that exceed 55% of the vote. See THE ALMANAC OF AMERICAN POLITICS 1247 (Michael Barone & Grant Ujifusa, eds. 2008). Were a non-incumbent African American to run in Watt's district today, that candidate could by no means assume similar success in this cross-over district.

Just like Congressman Watt's 12th District in North Carolina and many other Southern congressional districts, the North Carolina state house district at issue in this case was created as a majority-minority jurisdiction in the early 1990s. *See* App. 61a (*Pender County v. Bartlett*, Wake County Superior Ct., 04 CVS 0696 (Dec. 2, 2005) (describing 1992 Plan in which N.C. House District 98, which included an area of Pender County that is now in District 18, with total African American population of 59.26% and African American voting-age population of 55.72%)). Like Congressional District 12, this state house district has undergone court-ordered redistricting that has greatly diminished the percentage of voting-age African Americans in the jurisdiction (in this case to only 39.36%). *Id.* at 69a. During that entire time, the district continued to elect the same minority-preferred representative. *Id.* This trend is a microcosm of what has occurred across the South. *See* Bullock & Dunn, at 1222–25, 1243 (reciting examples of a number of Southern congressional districts).

An African American non-incumbent may well be elected even if African Americans do not form a majority of the population in the jurisdiction,⁶ but such

⁶ For example, when current CBC members Al Green, Barbara Lee, Gwen Moore, and David Scott were first elected from the districts that they continue to represent today, the African American communities in those districts did not constitute a

a candidate cannot count on receiving the same level of cross-over or coalition support as might an incumbent. See Bullock & Dunn, at 1242-46. For example, from 1992 to 1998, African American incumbent members of South Carolina's House of Representatives won 34% of the white vote, while non-incumbent African American candidates only received 16%. See Grofman *et al.*, at 1420.

In sum, incumbent African American members of Congress have the benefit of their incumbency to build a cross-over voting coalition in previously majority-African American districts; non-incumbent African Americans running in a coalition or cross-over district do not necessarily have the same advantage. Thus, it would be a grave error to rely solely on the electoral success of the CBC members in these districts as evidence to support a national bright line rule that denies Section 2 protections to all coalition and cross-over districts.

numerical majority of the population. Appendix E. Nevertheless, those African American communities were able to elect their preferred candidate.

II.

**NOTHING IN THE VOTING RIGHTS ACT
OR IN THE COURT'S VOTING RIGHTS
JURISPRUDENCE REQUIRES A
50% THRESHOLD FOR SECTION 2 CLAIMS**

Not only is a 50% rule based on unfounded assumptions, it also has no basis in the Voting Rights Act or in this Court's interpretation of that statute.

As petitioners note, nothing in the wording of the Voting Rights Act itself mandates the mechanical, rigid 50% rule proposed here. In *Voinovich v. Quilter*, 507 U.S. 146 (1993), this Court stated that Section 2 “says nothing about majority-minority districts.” *Id.* at 155. To the contrary, the text of the Voting Rights Act simply references the “opportunity . . . to elect” and the “totality of the circumstances” as a basis for determining whether vote dilution has occurred under Section 2. *See* 42 U.S.C. § 1973(b); *see also* Br. for the Petitioners, at 27–28.

Further, in interpreting Section 2, this Court has repeatedly assumed, without deciding, that there *is no* requirement for a minority to constitute 50% of the population, so long as the minority group is demonstrably able to elect its own candidate with the support of other minorities or of whites. *See* Br. for the Petitioners, at 24–25; *Johnson v. DeGrandy*, 512 U.S.

997, 1008–09 (1994); *Voinovich*, 507 U.S. at 154; *Grove v. Emison*, 507 U.S. 25, 41 n.5 (1993); *Gingles*, 478 U.S. at 46 n.12; *id.* at 90 n.1 (O'Connor J., concurring) (expressly endorsing application of Section 2 to districts in which minority populations that do not constitute a numerical majority of the population still succeed in electing their preferred candidate). Recently, the Court noted: “As the Court has done several times before, we assume for purposes of this litigation that it is possible to state a § 2 claim for a racial group that makes up less than 50% of the population.” *League of United Latin American Citizens et al. v. Perry*, 126 S. Ct. 2594, 2624 (2006) (citing *DeGrandy*, 512 U.S. at 1009; *Voinovich*, 507 U.S. at 154; *Gingles*, 478 U.S. at 46 n.12) (Kennedy, J., plurality).

The state and federal courts are split on this question. Some courts have concluded that the 50% rule is the threshold for a Section 2 claim.⁷ Meanwhile, a number of state and federal courts have

⁷ *Hall v. Virginia*, 385 F.3d 421, 429–31 (4th Cir. 2004), *cert. denied*, 125 S. Ct. 725 (2005); *Valdespino v. Alamo Heights Indep. Sch. Dist.*, 168 F.3d 848, 852–53 (5th Cir. 1999), *cert. denied*, 528 U.S. 1114 (2000); *Cousin v. Sundquist*, 145 F.3d 818, 828–29 (6th Cir. 1998), *cert. denied*, 525 U.S. 1138 (1999); *McNeil v. Springfield Park Dist.*, 851 F.2d 937, 944 (7th Cir. 1988), *cert. denied*, 490 U.S. 1031 (1989).

acknowledged the possibility that the 50% rule is unnecessary for invoking the protection of Section 2.⁸

The U.S. Department of Justice has also taken the position that a “flat 50% rule” is *not* required by Section 2. See, e.g., Brief for United States as *Amicus Curiae*, *Valdespino v. Alamo Heights Ind. Sch. Dist.*, 538 U.S. 114 (1999) (No. 98-1987), 1999 WL 33640750, at *6.

In our view, the flat 50% rule . . . is inappropriate, for a variety of circumstances may give a minority voting population that is compact, politically cohesive, and substantial in size, yet just short of a majority the

⁸ See, e.g., *McNeil v. Legislative Apportionment Comm'n*, 828 A.2d 840, 853, 857 (N.J. 2003); *Dillard v. Baldwin County Comm'rs.*, 376 F.3d 1260, 1269 n.7 (11th Cir. 2004); *Metts v. Murphy*, 363 F.3d 8, 11–12 (1st Cir. 2004) (*en banc*); *Martinez v. Bush*, 234 F. Supp. 2d 1275, 1320 n.56, 1322 (S.D. Fla. 2002) (three-judge panel); *Puerto Rican Legal Defense & Educ. Fund v. Gantt*, 796 F. Supp. 681, 694–95 (E.D.N.Y. 1992) (three-judge panel); *West v. Clinton*, 786 F. Supp. 803, 807 (W.D. Ark. 1992) (three-judge panel); *Armour v. Ohio*, 775 F. Supp. 1044, 1059–60 (N.D. Ohio 1991) (three-judge panel); *Jordan v. Winter*, 604 F. Supp. 807, 814–15 (N.D. Miss. 1984) (three-judge panel), *aff'd sub nom. Mississippi Republican Exec. Comm. v. Brooks*, 469 U.S. 1002 (1984). Cf. *Martin v. Mabus*, 700 F. Supp. 327, 333 (S.D. Miss. 1988) (noting that 65% was not brightline and courts had to examine voting history and patterns of the district).

potential to elect a representative of choice. . . . Indeed, a rule invariably requiring that minority voters be able to make up the majority in a single-member district could only be justified on the assumption that a Section 2 claim also requires that voting be *totally* polarized by race, *i.e.*, that no white voter will ever vote for the candidate preferred by the minority. But in our experience, that is almost never the case; although racially polarized voting does in some places reach extreme degrees, it is rarely if ever total.

Id. at *11–12 (emphasis in original). *See also* Br. for the Petitioners, at 28–29.

Further, there is nothing in the language of *Gingles* itself that requires a 50% rule. The Court in *Gingles* stated only that that the minority group seeking protection had to be “sufficiently large and geographically compact to constitute a majority in a single-member district” so as “to possess the potential to elect representatives in the absence of the challenged structure or practice.” *Gingles*, 478 U.S. at 50 & n.17. *See also DeGrandy*, 512 U.S. at 1008 (interpreting the numerosity requirement in *Gingles* to mean “a sufficiently large minority population to elect candidates of its choice,” rather than absolute numerical majority).

A 50% bright-line is also at odds with this Court's statements in Section 2 cases that reflect a flexible, fact-sensitive approach. *See Gingles*, 478 U.S. at 45 (requiring a "searching practical evaluation of the past and present reality" and "functional view of the political process"); *DeGrandy*, 512 U.S. at 1007 (noting that Section 2 test "cannot be applied mechanically"). The prerequisites in *Gingles* other than numerosity – that the minority plaintiffs be politically cohesive and that the white voters usually vote as a bloc so as to defeat the minority's candidate – are similarly flexible and fact-sensitive factors. *See Gingles*, 478 U.S. at 50–51.

Finally, a 50% rule would be antithetical to the overall purpose of the Voting Rights Act. As this Court has repeatedly recognized, "[t]he purpose of the Voting Rights Act is . . . to foster our transformation to a society that is no longer fixated on race." *Georgia v. Ashcroft*, 539 U.S. 461, 490 (2003) (citing *DeGrandy*, 512 U.S. at 1020; *Shaw v. Reno*, 509 U.S. 630, 657 (1993)); *DeGrandy*, 512 U.S. at 1020 (describing the Voting Rights Act as "a statute meant to hasten the waning of racism in American politics"); *cf. Shaw*, 509 U.S. at 648 (warning against "exacerb[ing] the very patterns of racial bloc voting that majority-minority districting is sometimes said to counteract").

Setting a 50% one-size-fits-all rule for every federal, state, and local legislative district in this

country would not only be unnecessarily rigid, it would adopt into the law an outdated assumption that a racial minority's only "opportunity . . . to elect" is when that *one race* puts a candidate into office, on the "*strength of their own ballots.*" *Hall*, 385 F.3d at 429 (emphasis in original).

The reality of the CBC's progress to date, outlined above, demonstrates that the African American community's preferred candidate has been elected more and more frequently from districts that are not majority African American, in certain parts of the country, where the candidate is able to forge cross-over or coalition appeal. Such a candidate reflects the African American community's "opportunity . . . to elect," just like the African American representative elected by a majority of his own race. Consistent with the aims of the Voting Rights Act, Section 2 should protect voters for the former as well as the latter.

CONCLUSION

For the foregoing reasons, this Court should conclude that a racial minority group representing less than 50% of a district's population may state a vote dilution claim under Section 2 of the Voting Rights Act. The Court should reverse the decision of the North Carolina Supreme Court.

Dated: June 17, 2008
New York, New York

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APPENDIX A

African American Members Of The U.S. Congress***U.S. Senate**

Senator	Party	State	Term
Hiram Rhodes Revels	Republican	Mississippi	1870-1871
Blanche Bruce	Republican	Mississippi	1875-1881
Edward Brooke**	Republican	Massachusetts	1967-1979
Carol Moseley Braun	Democrat	Illinois	1993-1999
Barack Obama	Democrat	Illinois	2005-present

U.S. House of Representatives

Representative	Party	State	Term
Joseph H. Rainey	Republican	South Carolina	1870-1879
Jefferson F. Long	Republican	Georgia	1870-1871
Robert C. De Large	Republican	South Carolina	1871-1873
Robert B. Elliott	Republican	South Carolina	1871-1874
Benjamin S. Turner	Republican	Alabama	1871-1873
Josiah T. Walls	Republican	Florida	1871-1873, 1873-1875, 1875-1876
Richard H. Cain	Republican	South Carolina	1873-1875, 1877-1879

Representative	Party	State	Term
John R. Lynch	Republican	Mississippi	1873-1877, 1882-1883
James T. Rapier	Republican	Alabama	1873-1875
Alonzo J. Ransier	Republican	South Carolina	1873-1875
Jeremiah Haralson	Republican	Alabama	1875-1877
John A. Hyman	Republican	North Carolina	1875-1877
Charles E. Nash	Republican	Louisiana	1875-1877
Robert Smalls	Republican	South Carolina	1875-1879, 1882-1883, 1884-1887
James E. O'Hara	Republican	North Carolina	1883-1887

Representative	Party	State	Term
Henry P. Cheatham	Republican	North Carolina	1889-1893
John Mercer Langston	Republican	Virginia	1890-1891
Thomas E. Miller	Republican	South Carolina	1890-1891
George W. Murray	Republican	South Carolina	1893-1895, 1896-1897
George Henry White	Republican	North Carolina	1897-1901
Oscar De Priest	Republican	Illinois	1929-1935
Arthur W. Mitchell	Democrat	Illinois	1935-1943
William L. Dawson	Democrat	Illinois	1943-1970
Adam Clayton Powell, Jr.	Democrat	New York	1945-1967, 1969-1971

Representative	Party	State	Term
Charles Diggs	Democrat	Michigan	1955-1980
Robert N.C. Nix, Sr.	Democrat	Pennsylvania	1958-1979
Augustus F. Hawkins	Democrat	California	1963-1991
John Conyers, Jr.	Democrat	Michigan	1965-present
William L. Clay, Sr.	Democrat	Missouri	1969-2001
Louis Stokes	Democrat	Ohio	1969-1999
Shirley Chisholm	Democrat	New York	1969-1983
George W. Collins	Democrat	Illinois	1970-1972
Walter E. Fauntroy	Democrat	District of Columbia	1971-1991
Ronald V. Dellums	Democrat	California	1971-1998
Ralph Metcalfe	Democrat	Illinois	1971-1978

Representative	Party	State	Term
Parren Mitchell	Democrat	Maryland	1971-1987
Charles B. Rangel	Democrat	New York	1971-present
Yvonne Brathwaite Burke	Democrat	California	1973-1979
Cardiss Collins	Democrat	Illinois	1973-1997
Barbara Jordan	Democrat	Texas	1973-1979
Andrew Young	Democrat	Georgia	1973-1977
Harold Ford, Sr.	Democrat	Tennessee	1975-1997
Julian C. Dixon	Democrat	California	1979-2000
Melvin H. Evans	Republican	Virgin Islands	1979-1981
William H. Gray, III	Democrat	Pennsylvania	1979-1991

Representative	Party	State	Term
Mickey Leland	Democrat	Texas	1979-1989
Bennett M. Stewart	Democrat	Illinois	1979-1981
George W. Crockett	Democrat	Michigan	1980-1991
Mervyn M. Dymally	Democrat	California	1981-1993
Gus Savage	Democrat	Illinois	1981-1993
Harold Washington	Democrat	Illinois	1981-1983
Katie Hall	Democrat	Indiana	1982-1985
Major Owens	Democrat	New York	1983-2007
Edolphus Towns	Democrat	New York	1983-present
Alan Wheat	Democrat	Missouri	1983-1995
Charles Hayes	Democrat	Illinois	1983-1993

Representative	Party	State	Term
Alton R. Waldon, Jr.	Democrat	New York	1986-1987
Mike Espy	Democrat	Mississippi	1987-1993
Floyd Flake	Democrat	New York	1987-1998
John Lewis	Democrat	Georgia	1987-present
Kweisi Mfume	Democrat	Maryland	1987-1996
Donald M. Payne	Democrat	New Jersey	1989-present
Craig A. Washington	Democrat	Texas	1989-1995
Barbara Rose Collins	Democrat	Michigan	1991-1997
Gary Franks	Republican	Connecticut	1991-1997
Eleanor Holmes Norton	Democrat	District of Columbia	1991-present

Representative	Party	State	Term
William J. Jefferson	Democrat	Louisiana	1991-present
Maxine Waters	Democrat	California	1991-present
Lucien E. Blackwell	Democrat	Pennsylvania	1991-1995
Eva Clayton	Democrat	North Carolina	1992-2003
Sanford Bishop	Democrat	Georgia	1993-present
Corrine Brown	Democrat	Florida	1993-present
James E. Clyburn	Democrat	South Carolina	1993-present
Cleo Fields	Democrat	Louisiana	1993-1997
Alcee Hastings	Democrat	Florida	1993-present
Earl Hilliard	Democrat	Alabama	1993-2003
Eddie Bernice Johnson	Democrat	Texas	1993-present

Representative	Party	State	Term
Cynthia McKinney	Democrat	Georgia	1993-2003, 2005-2007
Carrie Meek	Democrat	Florida	1993-2003
Mel Reynolds	Democrat	Illinois	1993-1995
Bobby Rush	Democrat	Illinois	1993-present
Robert C. Scott	Democrat	Virginia	1993-present
Walter Tucker	Democrat	California	1993-1995
Melvin Watt	Democrat	North Carolina	1993-present
Albert Wynn	Democrat	Maryland	1993-2008
Bennie Thompson	Democrat	Mississippi	1993-present
Victor O. Frazer	Independent	Virgin Islands	1995-1997

Representative	Party	State	Term
Chaka Fattah	Democrat	Pennsylvania	1995-present
Sheila Jackson Lee	Democrat	Texas	1995-present
J. C. Watts, Jr.**	Republican	Oklahoma	1995-2003
Jesse Jackson, Jr.	Democrat	Illinois	1995-present
Juanita Millender-McDonald	Democrat	California	1996-2007
Elijah Cummings	Democrat	Maryland	1996-present
Julia Carson	Democrat	Indiana	1997-2007
Donna Christian-Christensen	Democrat	Virgin Islands	1997-present
Danny K. Davis	Democrat	Illinois	1997-present
Harold Ford, Jr.	Democrat	Tennessee	1997-2007

Representative	Party	State	Term
Carolyn Cheeks Kilpatrick	Democrat	Michigan	1997-present
Gregory W. Meeks	Democrat	New York	1998-present
Barbara Lee	Democrat	California	1998-present
Stephanie Tubbs Jones	Democrat	Ohio	1999-present
William Lacy Clay, Jr.	Democrat	Missouri	2001-present
Diane Watson	Democrat	California	2001-present
Frank Balance	Democrat	North Carolina	2003-2004
Artur Davis	Democrat	Alabama	2003-present
Denise Majette	Democrat	Georgia	2003-2005
Kendrick Meek	Democrat	Florida	2003-present

Representative	Party	State	Term
David Scott	Democrat	Georgia	2003-present
G.K. Butterfield	Democrat	North Carolina	2004-present
Emanuel Cleaver	Democrat	Missouri	2005-present
Al Green	Democrat	Texas	2005-present
Gwen Moore	Democrat	Wisconsin	2005-present
Yvette Clarke	Democrat	New York	2007-present
Keith Ellison	Democrat	Minnesota	2007-present
Hank Johnson	Democrat	Georgia	2007-present
Laura Richardson	Democrat	California	2007-present
André Carson	Democrat	Indiana	2008-present

*Sources: Mildred L. Amer, Congressional Research Serv., Order Code RL30378, Blacks in the United States Congress: 1870–2007, *passim* (2007) (updated as of September 27, 2007); 154 CONG. REC. H2495 (daily ed. Apr. 22, 2008) (letter from Rep. Wynn); 154 CONG. REC. H1660 (daily ed. Mar. 13, 2008) (statement welcoming Rep. Carson).

**Not a member of Congressional Black Caucus.

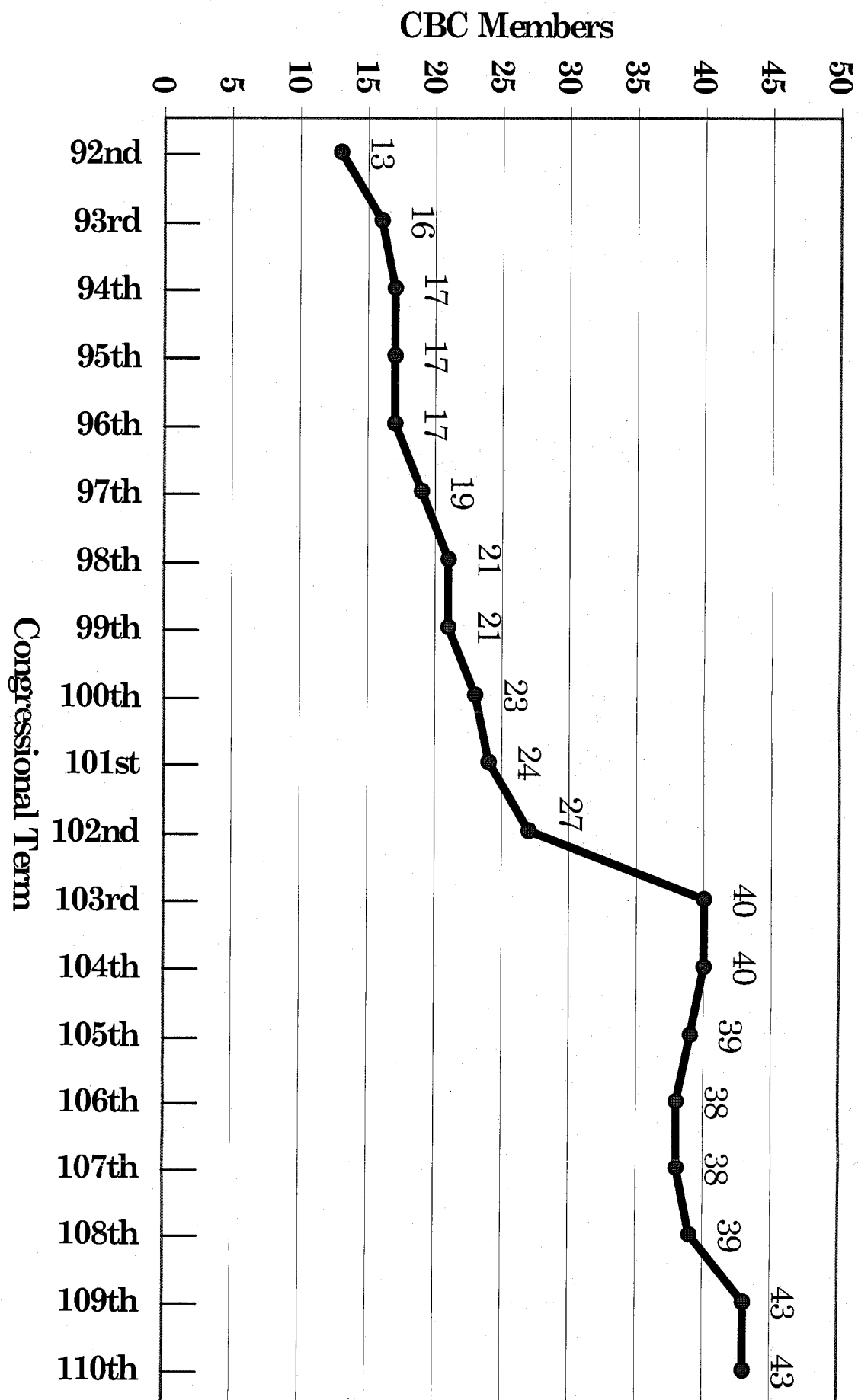
APPENDIX B

Number Of CBC Members By Congressional Term*

[Please see graph on following page]

* Sources: Mildred L. Amer, Congressional Research Serv., Order Code RL30378, Blacks in the United States Congress: 1870–2007, *passim* (2007) (updated as of September 27, 2007); 154 CONG. REC. H1660 (daily ed. Mar. 13, 2008) (statement welcoming Rep. Carson). Representative J.C. Watts and Senator Edward Brooke did not join the CBC and are not included in this data.

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Data Regarding Appendix B

110th Cong.: Although 45 CBC members were elected to serve in the 110th Congress, 43 was the largest number to serve at any one time. Rep. Juanita Millender-McDonald died on Apr. 22, 2007, and was replaced by Rep. Laura Richardson on Sept. 4, 2007. Julia Carson died Dec. 15, 2007 and was replaced by Rep. André Carson on March 13, 2008. Albert R. Wynn resigned on May 31, 2008. 108th Cong.: Although 40 CBC members were elected to serve in the 108th Congress, 39 was the highest number to serve at any one time. Rep. Frank Ballance resigned and was replaced by Rep. G. K. Butterfield. 107th Cong.: Although 39 CBC members were elected to serve in the 107th Congress, 38 was the highest number to serve at any one time. Rep. Julian Dixon, who was reelected to the 107th Congress, died before the commencement of the Congress and was later replaced by Rep. Diane Watson. 105th Cong.: Although 41 CBC members were elected to serve in the 105th Congress, 39 was the highest number to serve at any one time. Rep. Floyd Flake resigned and was replaced by Rep. Gregory Meeks, and Rep. Ron Dellums resigned and was replaced by Rep. Barbara Lee. 104th Cong.: Although 43 CBC members were elected to serve in the 104th Congress, 40 was the highest number to serve at any one time. Rep. Melvin J. Reynolds resigned and was replaced by Rep. Jesse L. Jackson Jr.; Rep. Walter Tucker resigned and was replaced by Rep.

Juanita Millender-McDonald; and Rep. Kweisi Mfume resigned and was replaced by Rep. Elijah Cummings. 103rd Cong.: Although 41 CBC members were elected to serve in the 103rd Congress, 40 was the largest number to serve at any one time. Rep. Mike Espy resigned and was replaced by Rep. Bennie Thompson. 102nd Cong.: Although 28 CBC members were elected to serve in the 102nd Congress, 27 was the largest number to serve at any one time. Rep. William H. Gray III resigned and was replaced by Rep. Lucien Blackwell. 101st Cong.: Although 25 CBC members were elected to serve in the 101st Congress, 24 was the largest number to serve at any one time. Rep. Mickey Leland, who was killed in an airplane crash, was replaced by Rep. Craig Washington. 98th Cong.: Although 22 CBC members were elected to serve in the 98th Congress, 21 was the largest number to serve at any one time. Rep. Harold Washington resigned and was replaced by Rep. Charles Hayes. 96th Cong.: Although 18 CBC members were elected to serve in the 96th Congress, 17 was the largest number to serve at any one time. Rep. Charles Diggs Jr. resigned and was replaced by Rep. George Crockett.

APPENDIX C

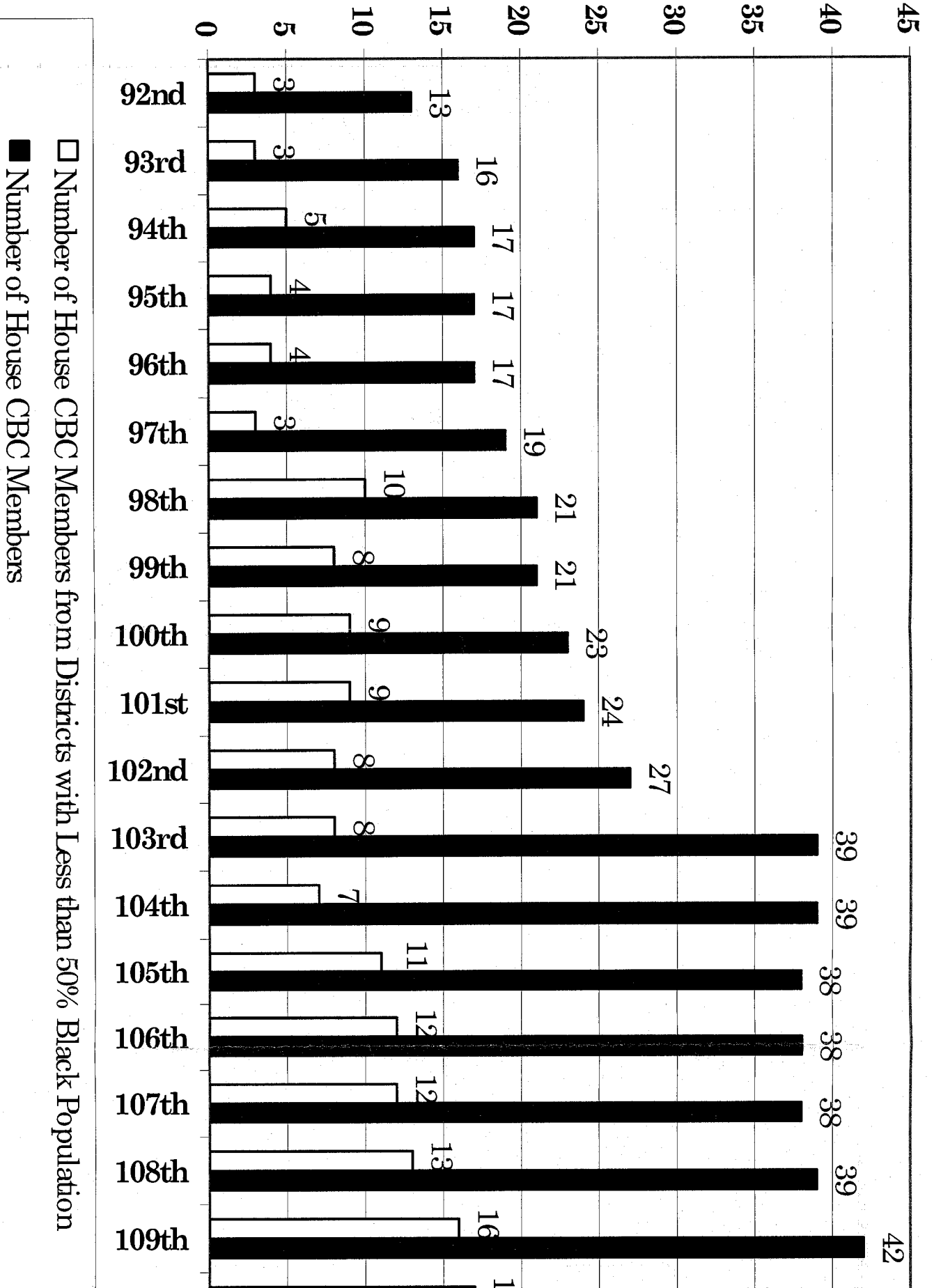
Number Of House CBC Members From Cross-Over Or Coalition Districts – Determined Based On *Total* Population In District, Not Voting-age Population – As Against Total Number Of CBC Members In House In A Given Term *

[Please see graph on following page]

* Sources: Mildred L. Amer, Congressional Research Serv., Order Code RL30378, Blacks in the United States Congress: 1870–2007, *passim* (2007) (updated as of September 27, 2007); 154 CONG. REC. H1660 (daily ed. Mar. 13, 2008) (statement welcoming Rep. Carson); THE ALMANAC OF AMERICAN POLITICS (various eds. 1972–2008) (using census data reflecting percentage of all blacks in population). Representative J.C. Watts did not join the CBC and is not included in this data. For four members of the 105th Cong., 2000 Almanac data rather than 1998 data has been used, so as to capture redistricting that occurred at that time. Data on the percentage blacks in the district was unavailable for one member each of the 102nd Cong., the 99th Cong., the 97th Cong., and the 96th Cong., and is therefore not reflected in this graph.

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House CBC Members



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APPENDIX D

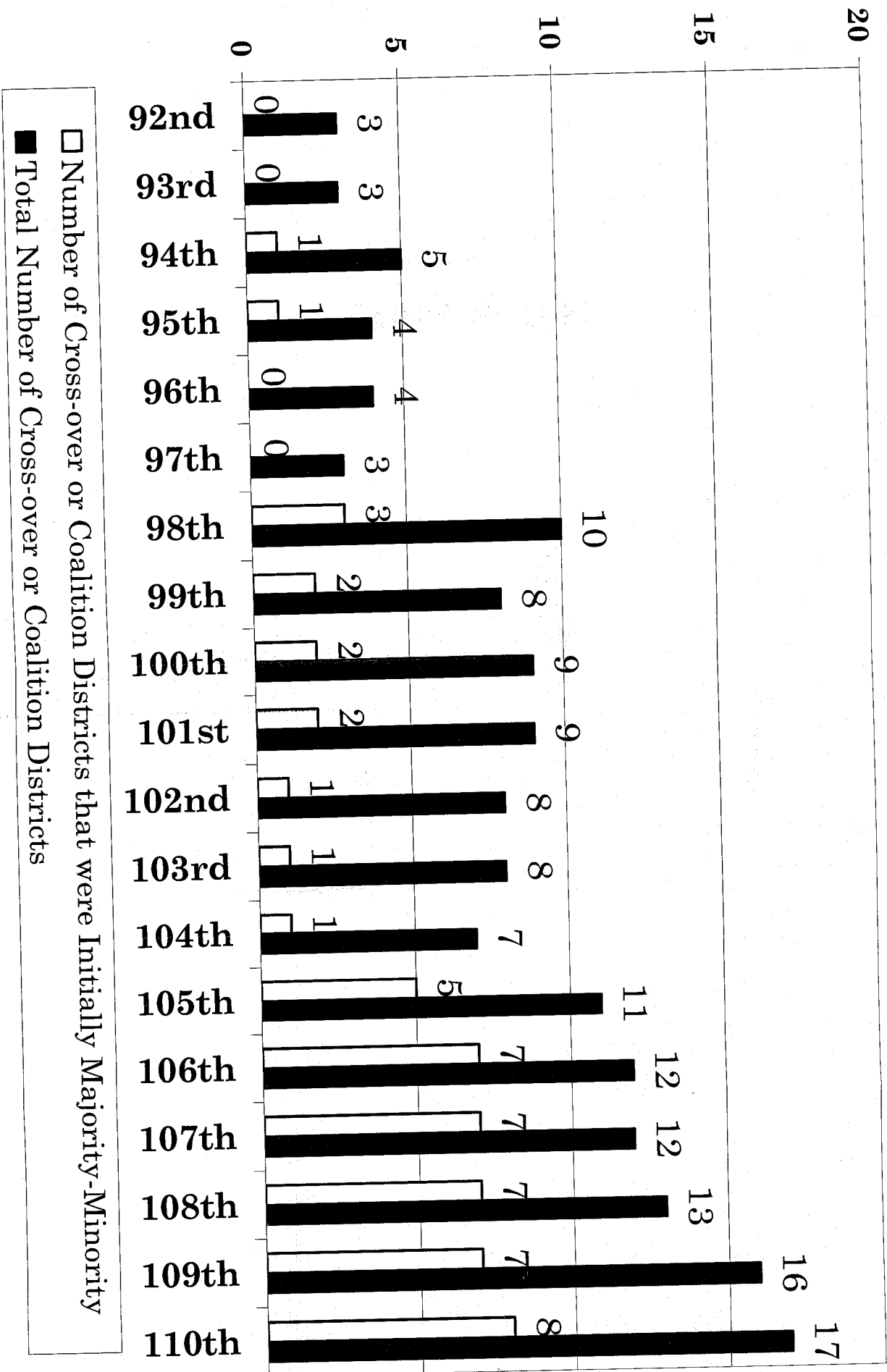
**Number Of House CBC Members Elected From
Cross-over or Coalition Districts In A Given
Term – Whose Districts When Initially Elected
Were Majority-Minority – Compared To Total
Number Of House CBC Members From Cross-
over Or Coalition Districts That Term ***

[Please see graph on following page]

* Sources: Mildred L. Amer, Congressional Research Serv., Order Code RL30378, Blacks in the United States Congress: 1870–2007, *passim* (2007) (updated as of September 27, 2007); 154 CONG. REC. H1660 (daily ed. Mar. 13, 2008) (statement welcoming Rep. Carson); THE ALMANAC OF AMERICAN POLITICS (various eds. 1972–2008) (using census data reflecting percentage of all blacks in population). Demographic data from the 1972 elections was used with respect to Representative John Conyers, due to difficulty in obtaining data from 1964; 1972 was the earliest year for which data was readily available.

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House CBC Members



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APPENDIX E

**Percentage of African Americans In The
Districts Of This Term's CBC Members – At The
Time They Were First Elected And In The Past
Election***

Member of Congress	Cong. Dist.	% African Americans in District's Population the Year Member Was First Elected	% African Ameri- cans in District's Popula- tion Today
Barack Obama	IL- Sen.	(first term)	14.9
Sanford D. Bishop Jr.	GA- 2nd	57	47.5
Corrine Brown	FL- 3rd	55	49.3
G.K. Butterfield	NC- 1st	50.5	50.5

Member of Congress	Cong. Dist.	% African Americans in District's Population the Year Member Was First Elected	% African Americans in District's Population Today
André Carson	IN-7th	(first term)	29.4
Donna M. Christensen	Virgin Is.-Del.	N/A	76.2
Yvette D. Clarke	NY-11th	(first term)	58.5
William Lacy Clay Jr.	MO-1st	59.6	49.7
Emanuel Cleaver	MO-5th	24.2	24.2
James E. Clyburn	SC-6th	62.3	56.7
John Conyers Jr.	MI-14th	76	61.1
Elijah E. Cummings	MD-7th	71	58.8

Member of Congress	Cong. Dist.	% African Americans in District's Population the Year Member Was First Elected	% African Americans in District's Population Today
Artur Davis	AL-7th	61.7	61.7
Danny K. Davis	IL-7th	65.6	61.6
Keith Ellison	MN-5th	(first term)	12.8
Chaka Fattah	PA-2nd	62.3	60.7
Al Green	TX-9th	37	37
Alcee L. Hastings	FL-23rd	51.7	51.2
Jesse L. Jackson Jr.	IL-2nd	68.4	62
Sheila Jackson Lee	TX-18th	51	40.1

Member of Congress	Cong. Dist.	% African Americans in District's Population the Year Member Was First Elected	% African Americans in District's Population Today
William J. Jefferson	LA-2nd	65.7	63.7
Eddie Bernice Johnson	TX-30th	50	41.4
Henry (Hank) Johnson	GA-4th	(first term)	52.6
Stephanie Tubbs Jones	OH-11th	58.5	55.5
Carolyn Cheeks Kilpatrick	MI-13th	70.1	60.5
Barbara Lee	CA-9th	31.8	26
John Lewis	GA-5th	60	55.7
Kendrick Meek	FL-17th	55.2	55.2

Member of Congress	Cong. Dist.	% African Americans in District's Population the Year Member Was First Elected	% African Americans in District's Population Today
Gregory W. Meeks	NY-6th	56.1	52.1
Gwen Moore	WI-4th	33	33
Eleanor Holmes Norton	DC-Del.	65.8	59.4
Donald M. Payne	NJ-10th	54	56.6
Charles B. Rangel	NY-15th	59	30.5
Laura Richardson	CA-37th	(first term)	24.8
Bobby L. Rush	IL-1st	69.6	65.2
David Scott	GA-13th	41	41
Robert C. Scott	VA-3rd	64	56

Member of Congress	Cong. Dist.	% African Americans in District's Population the Year Member Was First Elected	% African Americans in District's Population Today
Bennie G. Thompson	MS-2nd	63	63.2
Edolphus Towns	NY-10th	17	60.2
Maxine Waters	CA-35th	33.9	34.1
Diane E. Watson	CA-33rd	32.9	29.9
Melvin L. Watt	NC-12th	57	44.6
Albert R. Wynn	MD-4th	58.4	56.8

*Sources: Mildred L. Amer, Congressional Research Serv., Order Code RL30378, Blacks in the United States Congress: 1870-2007, *passim* (2007) (updated as of September 27, 2007); 154 CONG. REC. H1660 (daily ed. Mar. 13, 2008) (statement welcoming Rep. Carson); THE ALMANAC OF AMERICAN POLITICS (various eds. 1972-2008) (using census data reflecting percentage of all blacks in

population); U.S. CENSUS BUREAU, POPULATION AND HOUSING PROFILE; 2000 FOR THE U.S. VIRGIN ISLANDS 2 (2002), <http://www.census.gov/prod/cen2000/island/VIprofile.pdf>.

Demographic data from the 1972 elections was used with respect to Representative John Conyers, due to difficulty in obtaining data from 1964; 1972 was the earliest year for which data was readily available. Representative Albert Wynn (D-MD), resigned from Congress on May 31, 2008. *See* 154 CONG. REC. H2495 (daily ed. Apr. 22, 2008) (letter from Rep. Wynn). The Democrat running to succeed Wynn in the special election on June 17, Donna Edwards, is also African American. *See* Rosalind S. Helderman, *Wynn Wraps Up Tenure in House*, WASH. POST, May 31, 2008, at B2.

APPENDIX F

**Percentage Of African Americans (BPOP And
BVAP) In Districts Represented By Members Of
The CBC Elected To The 110th Congress***

Member of Congress	Cong. Dist.	% African Americans in District	% African Americans of Voting-age in District
Barack Obama	IL-Sen.	14.9	14
Sanford D. Bishop Jr.	GA-2nd	47.5	44.2
Corrine Brown	FL-3rd	49.3	45.1
G.K. Butterfield	NC-1st	50.5	47.6
André Carson	IN-7th	29.4	26.7
Donna M. Christensen	Virgin Is.-Del.	N/A	76.2
Yvette D. Clarke	NY-11th	58.5	56.8

Member of Congress	Cong. Dist.	% African Americans in District	% African Americans of Voting-age in District
William Lacy Clay Jr.	MO-1st	49.7	45.8
Emanuel Cleaver	MO-5th	24.2	21.8
James E. Clyburn	SC-6th	56.7	53.5
John Conyers Jr.	MI-14th	61.1	58.9
Elijah E. Cummings	MD-7th	58.8	57
Artur Davis	AL-7th	61.7	57.8
Danny K. Davis	IL-7th	61.6	55.9
Keith Ellison	MN-5th	12.8	10.2
Chaka Fattah	PA-2nd	60.7	56.5
Al Green	TX-9th	37	35.4
Alcee L. Hastings	FL-23rd	51.2	46.3

Member of Congress	Cong. Dist.	% African Americans in District	% African Americans of Voting-age in District
Jesse L. Jackson Jr.	IL-2nd	62	59.4
Sheila Jackson Lee	TX-18th	40.1	39.6
William J. Jefferson	LA-2nd	63.7	59.3
Eddie Bernice Johnson	TX-30th	41.4	40.4
Henry (Hank) Johnson	GA-4th	52.6	49
Stephanie Tubbs Jones	OH-11th	55.5	51.6
Carolyn Cheeks Kilpatrick	MI-13th	60.5	57.9
Barbara Lee	CA-9th	26	24.5
John Lewis	GA-5th	55.7	51.1
Kendrick Meek	FL-17th	55.2	51.3
Gregory W. Meeks	NY-6th	52.1	51.1

Member of Congress	Cong. Dist.	% African Americans in District	% African Americans of Voting-age in District
Gwen Moore	WI-4th	33	27.8
Eleanor Holmes Norton	DC-Del.	59.4	55.7
Donald M. Payne	NJ-10th	56.6	54.3
Charles B. Rangel	NY-15th	30.5	30.5
Laura Richardson	CA-37th	24.8	24.7
Bobby L. Rush	IL-1st	65.2	63.2
David Scott	GA-13th	41	37.4
Robert C. Scott	VA-3rd	56	52.7
Bennie G. Thompson	MS-2nd	63.2	58.9
Edolphus Towns	NY-10th	60.2	60
Maxine Waters	CA-35th	34.1	35

Member of Congress	Cong. Dist.	% African Americans in District	% African Americans of Voting-age in District
Diane E. Watson	CA-33rd	29.9	29.6
Melvin L. Watt	NC-12th	44.6	41.9
Albert R. Wynn**	MD-4th	56.8	55.3

* Sources: Mildred L. Amer, Congressional Research Serv., Order Code RL30378, Blacks in the United States Congress: 1870-2007, *passim* (2007) (updated as of September 27, 2007); 154 CONG. REC. H1660 (daily ed. Mar. 13, 2008) (statement welcoming Rep. Carson); THE ALMANAC OF AMERICAN POLITICS (Michael Barone ed. 2008) (using census data reflecting percentage of total blacks in population); Bureau of the Census, 110th Congressional District Summary File, Tbl. P5 available at http://factfinder.census.gov/servlet/DatasetTableListServlet?_ds_name=DEC_2000_110H&type=table&_program=DEC&_lang=en&_ts=230490388528 (last visited June 15, 2008); U.S. CENSUS BUREAU, POPULATION AND HOUSING PROFILE: 2000 FOR THE U.S. VIRGIN ISLANDS 2 (2002), <http://www.census.gov/prod/cen2000/island/VIprofile.pdf>.

** Representative Albert Wynn (D-MD), resigned from Congress on May 31, 2008. *See* 154 CONG. REC. H2495 (daily ed. Apr. 22, 2008) (letter from Rep. Wynn). The Democrat running to succeed Wynn in the special election on June 17, Donna Edwards, is also African American. *See* Rosalind S. Helderman, *Wynn Wraps Up Tenure in House*, WASH. POST, May 31, 2008, at B2.