Testimony of Melissa L. Williams
On Behalf of the NAACP Illinois State Conference
Illinois Senate Redistricting Committee
March 28, 2011

My name is Melissa L. Williams. I am here to today to represent the NAACP Illinois State Conference, with its 37 branches throughout the State of Illinois, including the Westside, Southside, South Suburban, and Evanston branches in the Chicagoland area. We also rise in support of the African Americans for Legislative Redistricting ("AALR") and the testimony they have provided.

Our objective today is to outline The NAACP's vision of the Federal 1965 Voting Right Act (VRA), Illinois Rights Act of 2011 (IVRA); as well as the Fourteenth (14th) and Fifteenth (15th) Amendments of the United States Constitution. In so doing, I will address three areas of primary concern: 1) the Illinois Voting Rights Act of 2011; 2) attempts at cracking, packing and/or stacking of black voters; and 3) several other Points of Enlightenment.

The Illinois Voting Rights Act of 2011

We believe that the Illinois Voting Rights Act of 2011 (IVRA) is a momentous and salutary law that promises a fairer redistricting process for all racial minorities, if it is properly implemented. This act fills a void left by the Federal Voting Rights Act of 1965 (VRA). In *Bartlett v. Strickland*, the United States Supreme Court held that the VRA's prohibition against minority vote dilution applies only where a minority group could constitute a voting-age majority in a putative district.[1] The Court, however, expressly left to the states whether other protections in addition to majority-minority districts would be available.[2] Illinois has elected to exercise the discretion left to it by the United States Supreme Court.

We have read the IVRA to require the legislature to create a "crossover," "coalition" or "influence" district where it is not feasible to create a majority-minority district, and where doing so is otherwise consistent with other redistricting edicts and the United States Constitution. The NAACP's position is the IVRA serves as a protection against gratuitously cracking, packing, or stacking the black vote.

[1] 129 S.Ct. 1231, 1246 (2009).
[2] *Id.* at 1248.

Cracking is the drawing of district lines so that an area of concentrated minority population, which is large enough for separate representation, in that it could constitute one or more majority-minority or majority-black districts, is divided and spread among several districts that are predominantly white. **Packing** is the drawing of district lines so that the minority population is over-concentrated or packed into election districts. **Stacking** is the drawing district lines so that a large minority population concentration is included with a larger white population with the purpose or effect of depriving minority voters of a voting majority.

In addition, the IVRA protects a district where blacks do not constitute a voting-age majority; thus it would appear to be fair game to redistribute that population. However, assuming the other prerequisites of a vote dilution claim are satisfied,[3] if a black plurality can demonstrate the existence of white crossover votes sufficient to elect the black-preferred candidate, or can show sufficient support from other minority groups to elect the black-preferred candidate, then the IVRA mandates that this black population not be fractured. Our first minimum prerequisite for a fair redistricting process is that the Illinois Voting Rights Act of 2011 be followed.

We feel that we do not have to remind this committee of One person, One vote doctrine which mandates that each election district for a particular legislative body contain an equal number of citizens, to ensure that each individual's vote is given equal weight in the electoral process. Further understanding Section 2 of the Voting Rights Act (VRA) which: (1) prohibits any voting practice/procedure that results in denial and/or abridgement of the right to vote on account of race, national origin or color; 2) prohibits vote dilutions; and (3) does not require proof of discriminatory intent;
in addition, bringing light to Section 5 of the Voting Rights Act (VRA), which could cause freezing of election practices/procedures until new procedures are reviewed by the United States Department of Justice or the United States District Court; as well as to ensure that no voting procedural changes are made that would lead to retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise; we understand the IVRA and its additional minority-options to be in harmony with the Equal Protection Clause of the Fourteenth Amendment.

With these thoughts in mind, we would like to highlight, as Justice Kennedy wrote in *Bartlett*, "[C]rossover districts may serve to diminish the significance and influence of race by encouraging minority and majority voters to work together toward a common goal."[1]

In addition to promoting these cross-racial coalitions, it is our position that the IVRA helps to discredit the assumption of the black vote as merely being race-based, in that the IVRA also permits concentration on traditional districting factors, such as partisanship and incumbency, to the benefit of black voters.

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[3] Those prerequisites are the existence of racially polarized voting and sufficient geographic compactness. Thornburg v. Gingles, 478 U.S. 30, 50-51 (1986).

Again, we reiterate that the United States Supreme Court has held: "where racial identification correlates highly with political affiliation, districts that concentrate blacks as strong Democrats do not abridge the Constitution."[2]

Additional Points of Enlightenment

I would like to conclude this testimony by remarking on two other concerns. First, we understand that it is the practice in Illinois to count prison inmates as residents of the localities in which they are imprisoned. Because blacks and Latinos constitute a disproportionately high share of the state and federal prison population in Illinois, we believe this practice is harmful to minority interests in the redistricting process. Therefore, a third minimum prerequisite for fair redistricting is to count inmates as residents of the locality from which they have come. This is the current practice in other large, racially diverse states such as Maryland and New York.[4]

Finally, although we too are aware that the Illinois Voting Rights Act of 2011 does not expressly apply to Congressional redistricting, we assert that the same discretion afforded to the states in *Bartlett* does apply to Congressional redistricting as well. We believe, as a final minimum prerequisite for fair redistricting, that the legislature should apply the basic framework of the IVRA to its Congressional redistricting.

The NAACP Illinois State Conference is looking forward to participating in future hearings. We thank you for your time.

[4] See, e.g., http://www.washingtonpost.com/maryland-completes-prison-inmate-count-needed-for-legislative-redistricting/2011/03/22/ABx11lEB_story.html?wpisrc=emailtoafriend