

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA

Charles Walen, an individual; and Paul  
Henderson, an individual,

Plaintiffs

vs.

Doug Burgum, in his official capacity as  
Governor of the State of North Dakota;  
Alvin Jaeger, in his official capacity as  
Secretary of the State of North Dakota,

Defendants

and

The Mandan, Hidatsa and Arikara Nation;  
Lisa DeVille, an individual; and  
Cesareo Alvarez, Jr., an individual.

Defendants-Intervenors

Civil No: 1:22-cv-00031

**AFFIDAVIT OF EMILY THOMPSON**

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STATE OF NORTH DAKOTA )  
 ) ss.  
COUNTY OF BURLEIGH )

Emily Thompson, states as follows:

1. I declare under penalty of perjury that the statements made in this affidavit are true and correct to the best of my knowledge and belief.

2. I am currently employed as the Legal Division Director of the North Dakota Legislative Council, and have held the position since November 1, 2021. Immediately prior to my current position, I was employed as a Code Revisor with the North Dakota Legislative Council, starting October 1, 2018. In my current position, I have access to and can confirm the accuracy of legislative records relating to the redistricting done by the North Dakota Legislative Assembly in 2021.

3. Attached as ***Exhibit A*** is a true and correct copy of the Meeting Minutes for the July 29, 2021 meeting of the Interim Redistricting Committee.

4. Attached as ***Exhibit B*** is a true and correct copy of the Revised Meeting Notice for the August 17, 2021 meeting of the Interim Tribal and State Relations Committee.

5. Attached as ***Exhibit C*** is a true and correct copy of the written testimony of Nicole Donaghy, Executive Director of North Dakota Native Vote, given at the August 17, 2021 meeting of the Interim Tribal and State Relations Committee.

6. Attached as ***Exhibit D*** is a true and correct copy of the Meeting Notice for the August 26, 2021 meeting of the Interim Redistricting Committee.

7. Attached as ***Exhibit E*** is a true and correct copy of the written testimony of Collette Brown, the Gaming Commission Executive Director at the Spirit Lake Casino and Resort, given at the August 26, 2021 meeting of the Interim Redistricting Committee.

8. Attached as ***Exhibit F*** is a true and correct copy of the written testimony of Karen Ehrens, Secretary of the League of Women Voters of North Dakota, given at the August 26, 2021 meeting of the Interim Redistricting Committee.

9. Attached as ***Exhibit G*** is a true and correct copy of the written testimony of Matt Perdue, testifying on behalf of North Dakota Farmers Union, given at the August 26, 2021 meeting of the Interim Redistricting Committee.

10. Attached as ***Exhibit H*** is a true and correct copy of the written testimony of Rick Gion, director of North Dakota Voters First, given at the August 26, 2021 meeting of the Interim Redistricting Committee.

11. Attached as ***Exhibit I*** is a true and correct copy of the Meeting Notice for the August 31, 2021 meeting of the Interim Tribal and State Relations Committee.

12. Attached as ***Exhibit J*** is a true and correct copy of the Revised Meeting Notice for the September 1, 2021 meeting of the Interim Tribal and State Relations Committee.

13. Attached as ***Exhibit K*** is a true and correct copy of the Meeting Notice for the September 8, 2021 meeting of the Interim Redistricting Committee.



14. Attached as ***Exhibit L*** is a true and correct copy of the Meeting Notice for the September 15-16, 2021 meeting of the Interim Redistricting Committee.

15. Attached as ***Exhibit M*** is a true and correct copy of the written testimony of Nicole Donaghy, Executive Director North Dakota Native Vote, given at the September 15-16, 2021 meeting of the Interim Redistricting Committee.

16. Attached as ***Exhibit N*** is a true and correct copy of the written testimony of Collette Brown, the Gaming Commission Executive Director at the Spirit Lake Casino and Resort, given at the September 15-16, 2021 meeting of the Interim Redistricting Committee.

17. Attached as ***Exhibit O*** is a true and correct copy of the written testimony of Mike Faith, Chairman for the Standing Rock Sioux Tribe, given at the September 15-16, 2021 meeting of the Interim Redistricting Committee.

18. Attached as ***Exhibit P*** is a true and correct copy of the written testimony of Charles Walker, Councilman for the Standing Rock Sioux Tribe, given at the September 15-16, 2021 meeting of the Interim Redistricting Committee.

19. Attached as ***Exhibit Q*** is a true and correct copy of the Meeting Notice for the September 22-23, 2021 meeting of the Interim Redistricting Committee.

20. Attached as ***Exhibit R*** is a true and correct copy of the written testimony of Mark Fox, Chairman of the Tribal Business Council of the Mandan, Hidatsa and Arikara Nation (“MHA Nation”), given at the September 22-23, 2021 meeting of the Interim Redistricting Committee.

21. Attached as ***Exhibit S*** is a true and correct copy of the Revised Meeting Notice for the September 28-29, 2021 meeting of the Interim Redistricting Committee.

22. Attached as ***Exhibit T*** is a true and correct copy of the written testimony of Mike Faith, Chairman for the Standing Rock Sioux Tribe, given at the September 28-29, 2021 meeting of the Interim Redistricting Committee.

23. Attached as ***Exhibit U*** is a true and correct copy of the written testimony of Mark Fox, Chairman of the Tribal Business Council of the MHA Nation, given at the September 28-29, 2021 meeting of the Interim Redistricting Committee.

24. Attached as **Exhibit V** is a true and correct copy of the written testimony of Douglas Yankton, Sr., Chairman of the Spirit Lake Nation, given at the September 28-29, 2021 meeting of the Interim Redistricting Committee.

25. Attached as **Exhibit W** is a true and correct copy of the written testimony of Lisa DeVille, a member of the MHA Nation, given at the September 28-29, 2021 meeting of the Interim Redistricting Committee.

26. Attached as **Exhibit X** is a true and correct copy of the written testimony of Douglas Yankton, Sr., Chairman of the Spirit Lake Nation, given at the November 8, 2021 meeting of the Joint Redistricting Committee.

27. Attached as **Exhibit Y** is a true and correct copy of the written testimony of Jamie Azure, Chairman of the Turtle Mountain Band of Chippewa Indians, given at the November 8, 2021 meeting of the Joint Redistricting Committee.

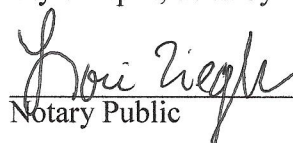
28. Attached as **Exhibit Z** is a true and correct copy of the written testimony of Rick Gion, testifying on behalf of North Dakota Voters First, given at the November 8, 2021 meeting of the Joint Redistricting Committee.

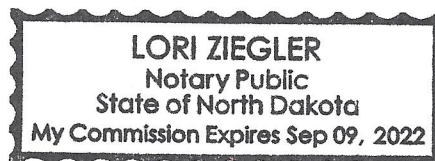
Dated this 6<sup>th</sup> day of April, 2022.

  
Emily Thompson

State of North Dakota  
Burleigh County

Signed and sworn to before me on this 6<sup>th</sup>  
day of April, 2022 by

  
Notary Public



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **AFFIDAVIT OF EMILY THOMPSON** was on the 7<sup>th</sup> day of April, 2022, filed electronically with the Clerk of Court through ECF:

Paul Sanderson (#05830)  
Ryan Joyce (#09549)  
Evenson Sanderson PC  
1100 College Drive, Suite 5  
Bismarck, ND 58501  
[psanderson@esattorneys.com](mailto:psanderson@esattorneys.com)  
[rjoyce@esattorneys.com](mailto:rjoyce@esattorneys.com)

Robert Harms (#03666)  
815 N. Mandan St.  
Bismarck, ND 58501  
[robert@harmsgroup.net](mailto:robert@harmsgroup.net)

Mark P. Gaber  
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NATIVE AMERICAN RIGHTS FUND  
1506 Broadway  
Boulder, CO 80301  
[carter@narf.org](mailto:carter@narf.org)

By: /s/ David R. Phillips  
DAVID R. PHILLIPS

**Meeting Minutes**

23.5040.03000

**REDISTRICTING COMMITTEE**

Thursday, July 29, 2021  
Prairie Room, State Capitol  
Bismarck, North Dakota

Representative Bill Devlin, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Bill Devlin, Larry Bellew, Joshua A. Boschee, Craig Headland, Mike Lefor, David Monson, Mike Nathe, Austen Schauer; Senators Brad Bekkedahl, Robert Erbele, Ray Holmberg, Jerry Klein, Erin Oban, Nicole Poolman, Ronald Sorvaag

**Member absent:** Senator Randy A. Burckhard

**Others present:** Representative Sebastian Ertelt, Lisbon

Chairman Devlin called the meeting to order and noted the meeting will consist of mapping training. Substantive discussion regarding redistricting and future scheduling of meeting dates and locations will take place at the committee's meeting on Thursday, August 26, 2021.

**MAPPING TRAINING**

Chairman Devlin called on Mr. Stewart Berry, Vice President of Product Management, Caliper Corporation, to conduct a legislator training session on Maptitude software. Mr. Berry appeared remotely and provided interactive training on the features of Maptitude software, including how to create a new plan from an existing plan and how to create a new plan from a blank map.

No further business appearing, Chairman Devlin adjourned the meeting at 1:30 p.m.

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Emily L. Thompson  
Code Revisor

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Samantha E. Kramer  
Senior Counsel

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Claire Ness  
Counsel

**Exhibit A**





# North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

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August 16, 2021

## REVISED MEETING NOTICE

Senator Rich Wardner, Chairman, has called a meeting of the **TRIBAL AND STATE RELATIONS COMMITTEE**.

**Date,** Tuesday, August 17, 2021, 10:00 a.m., **Training Room, Second Floor, Turtle Mountain**  
**Time,** **Community College, 10145 BIA Road 7, Belcourt**  
**and Place:** **Day 2 has been canceled**

**Video:** This meeting can be viewed online at <https://video.legis.nd.gov/>

**Agenda:** Presentation of background information, testimony, and committee discussion regarding the committee's directive to study tribal-state issues, including government-to-government relations, human services, education, corrections, issues related to the promotion of economic development, legislative redistricting, and issues identified by the Turtle Mountain Band of Chippewa Indians and the Spirit Lake Tribe

**Special Note:** Anyone who plans to attend the meeting and needs assistance because of a disability should contact the Legislative Council staff as soon as possible.

**Committee Members:** Senators Rich Wardner, Jessica Bell, Joan Heckaman, Dave Oehlke;  
Representatives Joshua A. Boschke, Terry B. Jones, Chet Pollert

**Staff Contact:** Jill Grossman, Counsel

Any member unable to attend this meeting is asked to notify this office as soon as possible.

Sincerely,

/S/  
John Bjornson  
Director

JB/RWT

## Exhibit B



North Dakota Native Vote  
PO Box 226  
Bismarck, North Dakota  
58502  
[info@ndnativevote.org](mailto:info@ndnativevote.org)

Boozhoo Mr. Chairman Azure, members of the Turtle Mountain Band of Chippewa Tribal Council, Chairman Wardner and members of the State and Tribal Relations Committee, my name is Nicole Donaghy, I am an enrolled citizen of Standing Rock Sioux Tribe and a descendant of the Turtle Mountain Band of Chippewa as well as the MHA people in Fort Berthold. I am also the Executive Director of North Dakota Native Vote. Thank you for the opportunity to discuss legislative redistricting in the homelands of the Anishinabek people.

North Dakota Native Vote is a non-profit, non-partisan grassroots organization that initially formed in response to the 2018 US Supreme Court decision to uphold the voter identification law that had the potential to disenfranchise over 5,000 Native American voters in North Dakota. Our mission is to create and affect policy to promote equitable representation for the Native people of North Dakota. We do this by fostering sustainable positive social change in our communities through community organizing, mobilization, leadership development, and policy advocacy.

According to 2010 Census information, the population of Turtle Mountain Band Reservation was approximately 8,612, the land base is six mile by twelve-mile land base and is considered one of the most densely populated Reservations, per square mile, in the United States. If the Turtle Mountain Reservation was listed as a city, it would be the 5th largest city in North Dakota.

As the state of North Dakota undertakes its redistricting process, the Legislature should take several steps.

First, the Legislature should comply with the Voting Rights Act.

This may include moving away from at-large districts for the State House of Representatives. Where there are tribal communities, there should be single member House districts to ensure tribal communities have equitable representation. Failure to draw single-member House districts dilutes the Native vote and may violate the Voting Rights Act.

Second, a "Community of Interest" standard should be utilized in redistricting, which will take into consideration groups of similar language, culture and identity, to keep them together within legislative districts.



North Dakota Native Vote  
PO Box 226  
Bismarck, North Dakota  
58502  
[info@ndnativevote.org](mailto:info@ndnativevote.org)

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Turtle Mountain is its own community of interest and should remain in a single legislative district. Splitting the reservation into multiple districts would dilute the ability of tribal members to elect the representative of their choice.

Third, even though the redistricting schedule is abbreviated, it is of the utmost importance to consult with the tribal governments as well as their citizens to take the tribal perspective into account in the redistricting process. In as many ways as possible. Many other states have already begun holding redistricting hearings to get feedback directly from citizens and tribes. This process is far too important to ignore the perspective of tribal communities.

While we are thankful for your attendance here today, and your commitment to improving the state's relationship with the Tribe, we also expect the same courtesy from the redistricting committee. We thank you for your consideration of these important issues. We hope that this committee will be an ally and advocate for the tribes through the redistricting process and beyond. We are happy to address any questions or discuss these issues further.

Nicole Donaghy  
Executive Director  
North Dakota Native Vote  
[ndonaghy@ndnativevote.org](mailto:ndonaghy@ndnativevote.org)



# North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

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[lcouncil@nd.gov](mailto:lcouncil@nd.gov)

June 15, 2021

## MEETING NOTICE

Representative Bill Devlin, Chairman, has called a meeting of the **REDISTRICTING COMMITTEE**.

**Date:** Thursday, August 26, 2021

**Time:** 10:00 a.m.

**Place:** Roughrider Room, State Capitol, Bismarck

**Video:** This meeting can be viewed online at <https://video.legis.nd.gov/>

**Agenda:** Presentation by a representative of the National Conference of State Legislators and the Legislative Council staff of background information relating to legislative redistricting and committee discussion regarding the committee's directive to develop a legislative redistricting plan to be implemented in time for use in the 2022 primary election

**Special Note:** Anyone who plans to attend the meeting and needs assistance because of a disability should contact the Legislative Council staff as soon as possible.

**Committee Members:** Representatives Bill Devlin, Larry Bellew, Joshua A. Boschee, Craig Headland, Mike Lefor, David Monson, Mike Nathe, Austen Schauer; Senators Brad Bekkedahl, Randy A. Burckhard, Robert Erbele, Ray Holmberg, Jerry Klein, Erin Oban, Nicole Poolman, Ronald Sorvaag

**Staff Contacts:** Emily L. Thompson, Code Revisor  
Samantha E. Kramer, Senior Counsel  
Claire Ness, Counsel

Any member unable to attend this meeting is asked to notify this office as soon as possible.

Sincerely,

/S/  
John Bjornson  
Director

JB/JJB

# Exhibit D



**Testimony of the Spirit Lake Nation Regarding Legislative Redistricting  
North Dakota Legislative Council Redistricting Committee  
August 26, 2021**

Introduction

Chairman Devlin and members of the Redistricting Committee, thank you for having me here today. I am Collette Brown, the Gaming Commission Executive Director at the Spirit Lake Casino and Resort, and will be testifying today on behalf of the Spirit Lake Nation. The Spirit Lake Nation is a federally recognized tribe located in the state of North Dakota, with an enrolled membership of 7,559 members as of January, 2021. According to the American Community Survey, there are almost 4,000 Native Americans currently living on our reservation in North Dakota. Spirit Lake is sovereign nation governed by its Tribal Council. Tribal operations include schools from elementary through community college, a radio station, and a resort and casino to name a few. The Tribe and its operations are major economic drivers in the greater Devil's Lake area, providing jobs and opportunities for many North Dakotans and Tribal members. I am here to advocate on behalf of the Tribe and its members: (1) for fair and legal voting systems; (2) for the Tribe's communities to be considered a community of interest that should not be split into multiple legislative districts; (3) for the use of single member districts to elect representatives to the State House; and (4) to demand the North Dakota Redistricting Committee listen to tribal input and hold redistricting meetings and tribal consultations on reservations.

Recent History of the Tribe's Fight for Voting Rights

Tribes across the nation have had to fight for their right to vote, and the Spirit Lake Nation has been at the forefront of that fight. In 2000, the United States sued Benson County due to the county's at-large election system, which diluted the voting power of Spirit Lake's members in violation of the Voting Rights Act. To settle the case, the county entered into a

consent decree, agreeing to abolish the at-large system and adopt five (5) single member districts with at least two (2) Native American minority majority districts. Despite entering into the consent decree, Benson County has gone back to implementing an at-large election system. As the Native American population has increased in Benson County in every census since at least 1990, this election system must be reviewed to ensure that it complies with the Voting Rights Act.

In 2016, the Tribe, on behalf of its members, sued the North Dakota Secretary of State over the state's illegal voter identification requirements that would make it impossible for many tribal members to vote. In 2020, the parties entered into a mutually agreed upon consent decree that would allow for the recognition of tribal ID's and allow tribal voters to identify their residence on a map due to many tribal members lacking a physical street address. The right to vote is a fundamental right in our democracy, and Spirit Lake will vigorously defend that right of its members.

#### North Dakota Legislative Redistricting

As the state of North Dakota undertakes its redistricting process, the Legislature should take several steps. First, it is critical that the Legislature comply with the Voting Rights Act. This includes moving away from at-large districts for the State House of Representatives, which may have a dilutive effect on minority votes. Where there are tribal communities such as Spirit Lake, the Legislature should carefully analyze whether there should be single member House districts to ensure tribal communities have equitable representation. Failure to draw single-member House districts can dilute the Native vote and may violate the Voting Rights Act.

Second, a "Community of Interest" standard should be utilized in redistricting, which can take into consideration communities that have similar language, culture, economics, and identity, to keep those communities together within legislative districts. Spirit Lake and its communities

are a community of interest and should remain in a single legislative district. Splitting the reservation or our communities into multiple districts would dilute the ability of tribal members to elect the representative of their choice.

Third, even though the redistricting schedule is abbreviated, there is no excuse for failing to consult with the tribes and take tribal input into account in the redistricting process. Many other states have already begun holding redistricting hearings to get feedback directly from citizens and tribal governments. This process is far too important to ignore the perspective of tribal communities.

I thank the members of the Committee for your consideration of these important issues. I am happy to address any questions or discuss these issues further.

Testimony in Support of Fair Redistricting  
August 26, 2021

Chair Devlin and Members of the Redistricting Committee:

**Fair. Open. Accessible.**

Good day. I am Karen Ehrens, a resident of Bismarck and Secretary of the League of Women Voters of North Dakota. As we embark on the once-in-a-decade opportunity to redraw legislative districts, we encourage you to ensure the process takes place in a **fair, open and accessible** manner. Redistricting impacts our lives in every way; the committee has responsibilities to all of us represented by this body.

While there will be a short timeframe in which to take the data obtained in the U.S. Census and prepare the districts in time for elections, a short timeframe is no excuse to deny input by the people of the state who will be impacted by these decisions for the next 10 years. With the new meeting technology in place, with planning, and with determination, the members of a redistricting committee can set up a process that is **fair, open and accessible**.

There are tools available to guide a redistricting process. The League of Women Voters of the United States partnered with the Campaign Legal Center (CLC) to produce a redistricting transparency report: [Designing a Transparent and Ethical Redistricting Process: A Guide to Ensuring that the Redistricting Process is Fair, Open, and Accessible](#).

Key recommendations of this report are to hold a number of meetings or public hearings throughout the state, make the data used by the committee public in accessible formats, release all draft maps and reports on a publicly-accessible website, include a reasonable public comment period for proposed maps, and that all of you committee members act in an impartial way and follow ethical standards.

Please provide special consideration so that the members of the five tribal nations in the state of North Dakota have a role in the redistricting process, and that their communities are kept as intact as possible in the drawing of the districts.

We are watching and counting on you to make the redistricting process **fair, open and accessible**.

Karen Ehrens  
233 West Ave C  
Bismarck, ND 58501

**Exhibit F**





Contact:  
**Matt Perdue, Lobbyist**  
[mperdue@ndfu.org](mailto:mperdue@ndfu.org) | 701.641.3303

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**Testimony of  
Matt Perdue  
North Dakota Farmers Union  
Before the  
Redistricting Committee  
August 26, 2021**

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Chairman Devlin and members of the committee,

Thank you for the opportunity to testify on the decennial redistricting process. My name is Matt Perdue, and I am testifying on behalf of North Dakota Farmers Union (NDFU). NDFU recognizes the challenging task before the committee and appreciates this and future opportunities to provide input.

NDFU's member-driven Policy and Action highlights three basic principles to guide reapportionment of legislative districts. Those principles state that districts should:

- Cross as few county lines as possible;
- Seek to retain communities of common interest within district boundaries; and
- Give geographical balance to our legislature.

NDFU is particularly concerned by the potential loss of rural representation in the legislature. As you are aware, North Dakota's population has grown by 15.8% or 106,503 residents. Most of that growth occurred in urban areas and oil-producing counties. At the same time, 30 counties lost population from 2010 to 2020.

As the legislative map gravitates toward urban areas, some rural districts are expected to become much larger geographically. NDFU members are concerned that the sheer size of some districts may limit opportunities for them to have direct access to their legislators. In addition, some North Dakotans who currently live in primarily rural districts may find themselves in districts that are majority urban. This is also concerning to our members, who worry their interests may be overshadowed by their urban counterparts.

Where districts may increase in size or include mixed urban and rural representation, NDFU encourages the committee to explore the possibility of subdividing those districts into separate house districts. North Dakota is one of only 10 states that elects house members from multi-member districts. Single-member house districts may provide more geographical balance to our legislature and better retain communities of common interest within those boundaries.



Thank you for the opportunity to testify today. Our members appreciate the committee's commitment to holding regional meetings. They look forward to providing specific feedback and sharing local and regional concerns at those meetings.





## **Redistricting Committee Testimony - Thursday, August 26, 2021**

To: Chairman Devlin and members of the Redistricting Committee:

My name is Rick Gion, and I live in Fargo, ND. I'm the director of North Dakota Voters First. We are a non-partisan, grassroots organization dedicated to strengthening democracy. Our organization focuses on educating and engaging North Dakota citizens to make elections and public policy more accountable, ethical, and transparent.

Thank you for the opportunity to submit testimony regarding the 2021 North Dakota legislative districting process. Our organization is urging fairness and transparency with this process. We are hopeful that you will be posting draft legislative maps on the legislative website as is alluded to in House Bill 1397 of the 2021 legislative session.

Re-drawing boundaries of legislative districts is one of the most important tasks required to maintain a well-functioning and representative government in our state. It only happens every 10 years. I believe that the goal of districting should be to work as much as we can to ensure that everyone's vote matters. That means districts are compact and contiguous, the number of people in each district is almost identical, existing boundaries are respected, and communities of interest are represented. I'd also suggest taking a look at splitting districts for the state House of Representatives. This would help give better representation in rural areas and with the state's Native American reservations.

One of the major problems to avoid is gerrymandered districts that are designed to produce electoral advantages for incumbents or the political party in power. Biased legislative districts favor powerful special interests instead of voters. Every vote no longer counts, because the system is rigged.

As a proud North Dakotan, I'm urging fairness in the 2021 districting process. Let's avoid gerrymandering and make sure that we have the best and most representational state government in the nation. Thank you for your time.

Sincerely,

Rick Gion (lobbyist #  
Director, North Dakota Voters First  
[rick@northdakotavotersfirst.org](mailto:rick@northdakotavotersfirst.org)

# **Exhibit H**



# North Dakota Legislative Council

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August 20, 2021

## MEETING NOTICE

Senator Rich Wardner, Chairman, has called a meeting of the **TRIBAL AND STATE RELATIONS COMMITTEE**.

**Date:** Tuesday, August 31, 2021

**Time:** 9:00 a.m.

**Place:** Room 210, MHA Nation Interpretive Center, 9386 Lake Sakakawea Road, New Town

**Video:** This meeting can be viewed online at <https://video.legis.nd.gov/>

**Agenda:** Presentation of information and discussion regarding the committee's directive to study tribal-state issues, including state-tribal alcohol and sales and use tax agreements, overview of straddle wells taxation process, bulk fuels, state-tribal relations policy, legislative redistricting, and issues identified by the Three Affiliated Tribes of the Fort Berthold Reservation

**Special Note:** Anyone who plans to attend the meeting and needs assistance because of a disability should contact the Legislative Council staff as soon as possible.

**Committee Members:** Senators Rich Wardner, Jessica Bell, Joan Heckaman, Dave Oehlke; Representatives Joshua A. Boschke, Terry B. Jones, Chet Pollert

**Staff Contact:** Jill Grossman, Counsel

Any member unable to attend this meeting is asked to notify this office as soon as possible.

Sincerely,

/S/  
John Bjornson  
Director

JB/RWT

# Exhibit I





# North Dakota Legislative Council

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August 30, 2021

## REVISED MEETING NOTICE

Senator Rich Wardner, Chairman, has called a meeting of the **TRIBAL AND STATE RELATIONS COMMITTEE**.

**Date:** Wednesday, September 1, 2021

**Time:** 9:00 a.m.

**Place:** **Walking Eagle Ballroom**, Spirit Lake Casino and Resort, 7889 Highway 57, St. Michael

**Video:** This meeting can be viewed online at <https://video.legis.nd.gov/>

**Agenda:** Presentation of information and discussion regarding tribal-state issues, including state-tribal tax agreements, state school lands, gaming, medical marijuana dispensary, legislative redistricting, and issues identified by the Spirit Lake Tribe

**Special Note:** Anyone who plans to attend the meeting and needs assistance because of a disability should contact the Legislative Council staff as soon as possible.

**Committee Members:** Senators Rich Wardner, Jessica Bell, Joan Heckaman, Dave Oehlke; Representatives Joshua A. Boschee, Terry B. Jones, Chet Pollert

**Staff Contact:** Jill Grossman, Counsel

Any member unable to attend this meeting is asked to notify this office as soon as possible.

Sincerely,

/S/  
John Bjornson  
Director

JB/JJB

# Exhibit J



# North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

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lcouncil@nd.gov

August 31, 2021

## MEETING NOTICE

Representative Bill Devlin, Chairman, has called a meeting of the **REDISTRICTING COMMITTEE**.

**Date:** Wednesday, September 8, 2021

**Time:** 10:00 a.m.

**Place:** Iris Room, Hilton Garden Inn, 4351 17<sup>th</sup> Avenue South, Fargo

**Video:** This meeting can be viewed online at <https://video.legis.nd.gov/>

**Agenda:** Testimony and committee discussion regarding the committee's directive to develop a legislative redistricting plan to be implemented in time for use in the 2022 primary election

**Special Note:** Anyone who plans to attend the meeting and needs assistance because of a disability should contact the Legislative Council staff as soon as possible.

**Committee Members:** Representatives Bill Devlin, Larry Bellew, Joshua A. Boschee, Craig Headland, Mike Lefor, David Monson, Mike Nathe, Austen Schauer; Senators Brad Bekkedahl, Randy A. Burckhard, Robert Erbele, Ray Holmberg, Jerry Klein, Erin Oban, Nicole Poolman, Ronald Sorvaag

**Staff Contacts:** Emily L. Thompson, Code Revisor  
Samantha E. Kramer, Senior Counsel  
Claire Ness, Senior Counsel

Any member unable to attend this meeting is asked to notify this office as soon as possible.

Sincerely,

/S/  
John Bjornson  
Director

JB/RWT

# Exhibit K



# North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

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lcouncil@nd.gov

August 27, 2021

## MEETING NOTICE

Representative Bill Devlin, Chairman, has called a meeting of the **REDISTRICTING COMMITTEE**.

**Date,** Wednesday, September 15, 2021, 10:00 a.m., Roughrider Room, State Capitol, Bismarck  
**Time,** Thursday, September 16, 2021, 9:00 a.m., Roughrider Room, State Capitol, Bismarck  
**and Place:**

**Video:** This meeting can be viewed online at <https://video.legis.nd.gov/>

**Agenda:** Testimony and committee discussion regarding the committee's directive to develop a legislative redistricting plan to be implemented in time for use in the 2022 primary election

**Special Note:** Anyone who plans to attend the meeting and needs assistance because of a disability should contact the Legislative Council staff as soon as possible.

**Committee Members:** Representatives Bill Devlin, Larry Bellew, Joshua A. Boschee, Craig Headland, Mike Lefor, David Monson, Mike Nathe, Austen Schauer; Senators Brad Bekkedahl, Randy A. Burckhard, Robert Erbele, Ray Holmberg, Jerry Klein, Erin Oban, Nicole Poolman, Ronald Sorvaag

**Staff Contacts:** Emily L. Thompson, Code Revisor  
Samantha E. Kramer, Senior Counsel  
Claire Ness, Senior Counsel

Any member unable to attend this meeting is asked to notify this office as soon as possible.

Sincerely,

/S/  
John Bjornson  
Director

JB/JJB

# Exhibit L



North Dakota Native Vote  
PO Box 226  
Bismarck, North Dakota  
58502  
[info@ndnativevote.org](mailto:info@ndnativevote.org)

**9/15/2021**

**North Dakota Legislative Redistricting Committee**

**Testimony of Nicole Donaghy North Dakota Native Vote, Executive Director**

Chairman Devlin and members of the Redistricting Committee,

My name is Nicole Donaghy, I'm a citizen of the Standing Rock Nation and a descendant of the Turtle Mountain Band of Chippewa and the Mandan, Hidatsa, and Arikara people. I live in Lincoln, North Dakota and I'm the Executive Director of North Dakota Native Vote.

North Dakota Native Vote is a non-profit, non-partisan grassroots organization that initially formed in response to the 2018 US Supreme Court decision to uphold the voter identification law that had the potential to disproportionately adversely affect over 5,000 Native voters in North Dakota. Our mission is to create and affect policy to promote equitable representation for the Native people of North Dakota.

I joined North Dakota Native Vote in 2018 because the imbalance of power in our state was very apparent to me after being a community organizer for years. I've worked on education issues, protection of land, air, and water, and now civic engagement. I soon realized that the issues that I was working on often stem from a lack of inclusion and representation in the decision making processes.

In North Dakota, the Native American population grew by 29.7% in the last decade, it is North Dakota Native Vote's ask that the Committee take into consideration the perspectives of each of the Tribes as well as tribal members in the redistricting process.

We are asking the Committee to adopt single-member House districts to prevent the dilution of Native American votes. Tribes and tribal members in North Dakota have had to fight for the right to vote, whether by defeating voter I.D. laws, opposing district lines that dilute the Native American vote, or by demanding on reservation polling locations. As we have seen in our early beginning as an organization, tribal citizens in North Dakota have been overburdened by policy that is created by decision makers with little input from their tribal constituents. At-large voting systems, like the current one used for the North Dakota State House, violate the Voting Rights Act when they dilute minority voting power by preventing tribal members from electing the candidate of their choice.

Our State Constitution in Article IV subsection 2, paragraph 2 states "The legislative assembly may... provide for the election of senators at large and representatives at large or from subdistricts from those districts." North Dakota Century Code 54-03-01.5 Legislative subsection 2 also provides that "Representatives may be elected at large or from subdistricts." North Dakota law



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allows for the creation of sub-districts and that is what should be done. Single-member House districts, or sub-districts, within districts containing reservations would allow tribal members to elect the candidate of their choice as required under the Voting Rights Act.

Candidates are able to run, but not get elected because of the dilution of their vote by being grouped in with adjacent communities that do not share similar interest.

One example is my home lands in Sioux County on the Standing Rock Reservation. Data from elections for legislative seats over the past decade indicate that Native American residents of District 31 are not currently able to elect representatives of their choice.

For example, in 2014 two Standing Rock Tribal members, Mike Faith and LaDonna Allard, ran for the State House but were out-voted in the at-large system. In 2010, another Standing Rock Tribal member ran for the State House, but was likewise outvoted in the at-large system. Chase Iron Eyes, another Standing Rock member and candidate for U.S. House, earned 78% of the vote in Sioux county, but was defeated in each of the other counties in District 31. This shows that the Native American voters have not been able to elect the candidate of their choice.

We recommend that a "Community of Interest" standard should be used by this Committee, which takes into consideration communities that have similar language, culture, and identity, to keep those communities together within a single legislative district. Splitting the reservation or our communities into multiple districts would dilute the ability of tribal members to elect the representative of their choice.

Lastly, this Committee should be holding hearings on or near reservations so that tribal members who are unable to travel to Bismarck, and who lack internet access, are able to participate in the redistricting process. There are high levels of poverty and a lack of access to transportation and broadband internet on our reservations. This Committee would be doing itself and this state a disservice by failing to provide an opportunity for all of this state's citizens to take part in this important discussion. All voices must be heard.

North Dakota Native Vote was founded to ensure the inclusion of Native voices in the political discourse of our State. We support and encourage our Native people to engage in the political process that is not always inclusive of our people for various reasons. I thank the Redistricting Committee for its time today and will stand for any questions the Committee may have. Thank you.

**Testimony of the Spirit Lake Nation Regarding Legislative Redistricting  
North Dakota Legislative Council Redistricting Committee  
September 15, 2021**

Chairman Devlin and members of the Redistricting Committee, thank you for having me here today. I am Collette Brown, the Gaming Commission Executive Director at the Spirit Lake Casino and Resort, and will be testifying today on behalf of the Spirit Lake Nation. I previously testified before this committee on August 26th and I appreciate the Committee allowing me this additional opportunity to speak on behalf of the Spirit Lake Nation. As I informed during my prior testimony, the Spirit Lake Nation is a federally recognized tribe located in the state of North Dakota, with an enrolled membership of 7,559 members as of January 2021. According to the American Community Survey, there are almost 4,000 Native Americans currently living on our reservation, and most of the reservation is located within Benson County.

I am here to advocate on behalf of the Tribe and its members: (1) for the use of single member districts to elect representatives to the State House; (2) for this Committee to account for all voters in spite of the Census undercount in tribal communities; and (3) to demand the North Dakota Redistricting Committee listen to tribal input and hold redistricting meetings and tribal consultations on reservations.

As I previously testified to, it is critical that the Legislature comply with the Voting Rights Act. This includes moving away from at-large districts for the State House of Representatives, which has a dilutive effect on minority votes. The Spirit Lake reservation is located in state Legislative District 23. The voters on the Spirit Lake reservation tend to support candidates who are outvoted and opposed by voters in other areas of the district. In order to provide the Native American voters residing in District 23 a better opportunity to elect the representative of their choice, the Spirit Lake Nation requests that the Legislature create two



single-member districts for the State House of Representatives. Failure to draw single-member House districts can dilute the Native vote and may violate the Voting Rights Act.

Second, the Spirit Lake Nation requests that the Legislature consider the historical Census undercount among the tribal communities in North Dakota. If this Committee only looks at the reported numbers from the 2020 Census, it will be blinding itself to the true population of these communities. In the 2010 Census, Native Americans living on reservations were undercounted by almost 5%, much higher than any other group. Given the Coronavirus pandemic, we can expect this undercount to be even higher for the 2020 Census. Only using the currently reported 2020 Census numbers in the redistricting process disproportionately impacts Native American voters. These undercounts should be accounted for by the Legislature, this Committee, and future redistricting committees. The American Community Survey may provide more accurate numbers.

Third, given the extremely short notice of invitation to this hearing, which was sent out on Monday night, Spirit Lake Nation Chairman, Douglas Yankton, Sr., was unable to attend this meeting. The Spirit Lake Nation considers this notice to be far from adequate and shows a lack of good faith on the part of the Committee to sincerely take the Tribe's perspective into account. Additionally, failing to hold hearings near tribal communities silences those tribal member voters who lack the resources to travel to Bismarck or to attend these hearings online. Tribes have continued to advocate for more inclusivity in the redistricting process, and that advocacy has largely been ignored by this Committee.

As I informed the Committee in my prior testimony, the Spirit Lake Nation and its members have fought hard for the right to vote, which has included successful voting rights cases

against the state and county. The Spirit Lake Nation will continue to do so when necessary to protect the rights of its members to vote.

I thank the members of the Committee for your time today. I am happy to address any questions or discuss these issues further.

**Testimony of Standing Rock Sioux Tribe Chairman Mike Faith  
Regarding Legislative Redistricting  
North Dakota Legislative Council Redistricting Committee  
September 15, 2021**

Introduction

Chairman Devlin and members of the Redistricting Committee, thank you for allowing me to testify today. I am Mike Faith, Chairman for the Standing Rock Sioux Tribe. Standing Rock is a federally recognized tribe located in the states of North Dakota and South Dakota. In North Dakota, the reservation makes up Sioux County and has 4,373 residents, 3,644 of whom are Native American. Sioux County has a Native American Voter Age Population of 86%. Standing Rock is a sovereign nation governed by its Tribal Council. Our tribal members are of the Dakota and Lakota nations. I am here to advocate on behalf of the Tribe and its members: (1) for the use of single member districts to elect representatives to the State House; (2) for Standing Rock to be kept together and not be split into multiple legislative districts; and (3) to request the North Dakota Redistricting Committee listen to tribal input and hold redistricting meetings and tribal consultations on reservations.

History of North Dakota Native American Voting Rights

Tribes across the nation and in North Dakota have had to fight for their right to vote. North Dakota has a long history of discrimination against Native Americans generally, and of denying Native Americans the right to vote in particular. Courts have recognized the history of discrimination in North Dakota against Native Americans with regard to voting. *See Spirit Lake Tribe v. Benson Cty., N.D.*, No. 2:10- cv-095, 2010 WL 4226614, at \*3 (D.N.D. 2010); Consent Judgment and Decree, *United States v. Benson Cty.*, Civ. A. No. A2-00-30 (D.N.D. Mar. 10, 2000); *State ex rel. Tompton v. Denoyer*, 72 N.W. 1014, 1019 (N.D. 1897). In the late 19th Century, an Amendment to North Dakota's initial Constitution, adopted and ratified in 1898,

provided that only “[c]ivilized persons of Indian descent” who “severed their tribal relations two years next preceding such election” were eligible to vote. N.D. Const., art. V, § 121 (1898).

Thus, in order to vote, Native Americans had to be “civilized” and had to have explicitly “severed their tribal relations.” *Id.* This insidious classification only applied to Native Americans and was not removed until 1922. people”

In 1920 in *Swift v. Leach*, 178 N.W. 437 (N.D. 1920), the North Dakota Supreme Court was asked to apply the “civilized persons” constitutional provision to Native American voters. While the Court found that the Native American plaintiffs were eligible voters in that case, it required the local Superintendent of the Bureau of Indian Affairs, as well as other witnesses, to testify that the Natives “live just the same as white people” to show that they were “civilized” and had “severed” their tribal relationship. *Id.* at 438-40. This was despite the Appellant’s argument that the Native Americans, by being dependent on the federal government, could not be “civilized persons.” *Id.* at 441.

In 2000, the United States successfully sued Benson County over its use of at-large elections, which had the effect of diluting the Native American vote. And Standing Rock has also been at the forefront in protecting the right to vote. In 2018, the Tribe, on behalf of its members, sued the North Dakota Secretary of State over the state’s illegal voter identification requirements that would make it impossible for many tribal members to vote. In 2020, the parties entered into a mutually agreed upon consent decree that would allow for the recognition of tribal ID’s and allow tribal voters to identify their residence on a map due to many tribal members lacking a physical street address. The right to vote is a fundamental right in our democracy, and Standing Rock will vigorously defend that right of its members.

#### North Dakota Legislative Redistricting

In North Dakota, the Native American population grew by 29.7% in the last decade. So as the state of North Dakota undertakes its redistricting process, the Legislature should take several steps. First, the Legislature should move away from at-large districts for the State House of Representatives, which has a dilutive effect on Standing Rock votes. For the Standing Rock Sioux Tribe, the Legislature should utilize single member House districts to ensure we have equitable representation.

Failure to draw single-member House districts can dilute the Native vote. For example, the North Dakota portion of Standing Rock is located entirely with District 31. Besides Sioux County, District 31 also includes Grant County and parts of Hettinger and Morton counties. The Native population in District 31 is concentrated on the reservation in Sioux County, which has a Native voting age population of 86.1%. Even though the voters in Sioux County tend to strongly favor Democratic candidates, District 31 has been represented by the same three Republicans since 2011.

Indeed, I ran for the State House in 2014, along with another Standing Rock member, LaDonna Allard. But, we were outvoted in the at-large election. In 2010, a different Standing Rock Tribal member ran for the State House, but was likewise outvoted in the at-large system. Chase Iron Eyes, another Standing Rock member and candidate for US House, earned 78% of the vote in Sioux county, but was defeated in each of the other counties in District 31. This shows that the Native American voters have not been able to elect the candidate of their choice. This was just like in 2000 when the United States was forced to sue Benson County for its use of

at-large elections that diluted the voting power of Spirit Lake tribal members.<sup>1</sup> Creating a House sub-district would give tribal members the opportunity to elect their preferred candidate.

Second, Standing Rock should not be cracked, but rather kept together in a district. We are a community has similar language, culture, economics, and identity, and our community deserves uniform representation. Splitting the reservation or our communities into multiple districts would dilute the ability of tribal members to elect the representative of their choice.

Third, even though the redistricting schedule is abbreviated, I am extremely disappointed that the Committee has failed to formally consult with the tribes to take Tribal input into account in the redistricting process. Sending an informal invite to tribal leaders to testify a day before a hearing is highly disrespectful. North Dakota Native Vote requested formal government-to-government consultation on redistricting months ago. Failing to reach out to Tribal leaders for months, and then waiting for the last minute to invite us to provide this important information is unacceptable. Many other states began holding redistricting hearings months ago to get feedback directly from citizens and tribal governments. Our tribal governments, just like other governments all across the country, are dealing with the rising impact of the Delta variant. The actions by the Committee send the message that the Committee is not interested in hearing what we have to say and that it is not important at all.

Native people have also been requesting hearings on the reservations. But this Committee has chosen to only hold hearings in Bismarck or Fargo. Holding hearings in far-away communities has a disproportionately negative impact on tribal communities. Having hearings only in Bismarck is disproportionately burdensome for Native Americans, just as the North

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<sup>1</sup> See Consent Decree, United States of America v. Benson County, CIVIL ACTION NO. A2-00-30 (March 10, 2000) available at <https://www.justice.gov/crt/case-document/file/1180491/download>.



Dakota District Court found that forcing Native Americans to travel to a driver's license site is disproportionately burdensome.<sup>2</sup> Additionally, as the North Dakota District Court recently recognized, there are high levels of poverty on our reservation.<sup>3</sup> Native people also disproportionately lack access to transportation and broadband internet.<sup>4</sup> The Committee should be holding hearings on reservations so that all tribal members have the opportunity to have their voices heard, and should hold tribal consultations after it has developed a draft plan. This process is far too important to ignore the perspective of tribal communities.

I thank the members of the Committee for your consideration of these important issues. I am happy to address any questions or discuss these issues further.

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<sup>2</sup> *Brakebill v. Jaeger*, No. 1:16-CV-008, 2016 WL 7118548 at \*6 (D.N.D. Aug. 1, 2016) (travel to a Driver's License Site to obtain a non-driver's ID card (or a driver's license) is substantially burdensome for Native Americans).

<sup>3</sup> *Id.* at \*8 (Native Americans living in North Dakota disproportionately live in severe poverty).

<sup>4</sup> *Id.* at \* 4 (Only 78.2% of Native Americans have a North Dakota driver's license, compared to 94.4% of non-Native Americans).

**Testimony of Standing Rock Sioux Tribe Councilman Charles Walker Regarding  
Legislative Redistricting  
North Dakota Legislative Council Redistricting Committee  
September 15, 2021**

Introduction

Chairman Devlin and members of the Redistricting Committee, thank you for allowing me to testify today. I am Charles Walker, Councilman for the Standing Rock Sioux Tribe. Standing Rock is a federally recognized tribe located in the states of North Dakota and South Dakota. In North Dakota, the reservation makes up Sioux County and has 4,373 residents, 3,644 of whom are Native American. Sioux County has a Native American Voter Age Population of 86%. Standing Rock is a sovereign nation governed by its Tribal Council. Our tribal members are of the Dakota and Lakota nations. I am here to advocate on behalf of the Tribe and its members: (1) for the use of single member districts to elect representatives to the State House; (2) for the Tribe's communities to be considered a community of interest that should not be split into multiple legislative districts; and (3) to request the North Dakota Redistricting Committee listen to tribal input and hold redistricting meetings and tribal consultations on reservations.

Recent History of the Tribe's Fight for Voting Rights

Tribes across the nation have had to fight for their right to vote, and Standing Rock has been at the forefront of that fight. In 2018, the Tribe, on behalf of its members, sued the North Dakota Secretary of State over the state's illegal voter identification requirements that would make it impossible for many tribal members to vote. In 2020, the parties entered into a mutually agreed upon consent decree that would allow for the recognition of tribal ID's and allow tribal voters to identify their residence on a map due to many tribal members lacking a physical street address. The right to vote is a fundamental right in our democracy, and Standing Rock will vigorously defend that right of its members.

North Dakota Legislative Redistricting

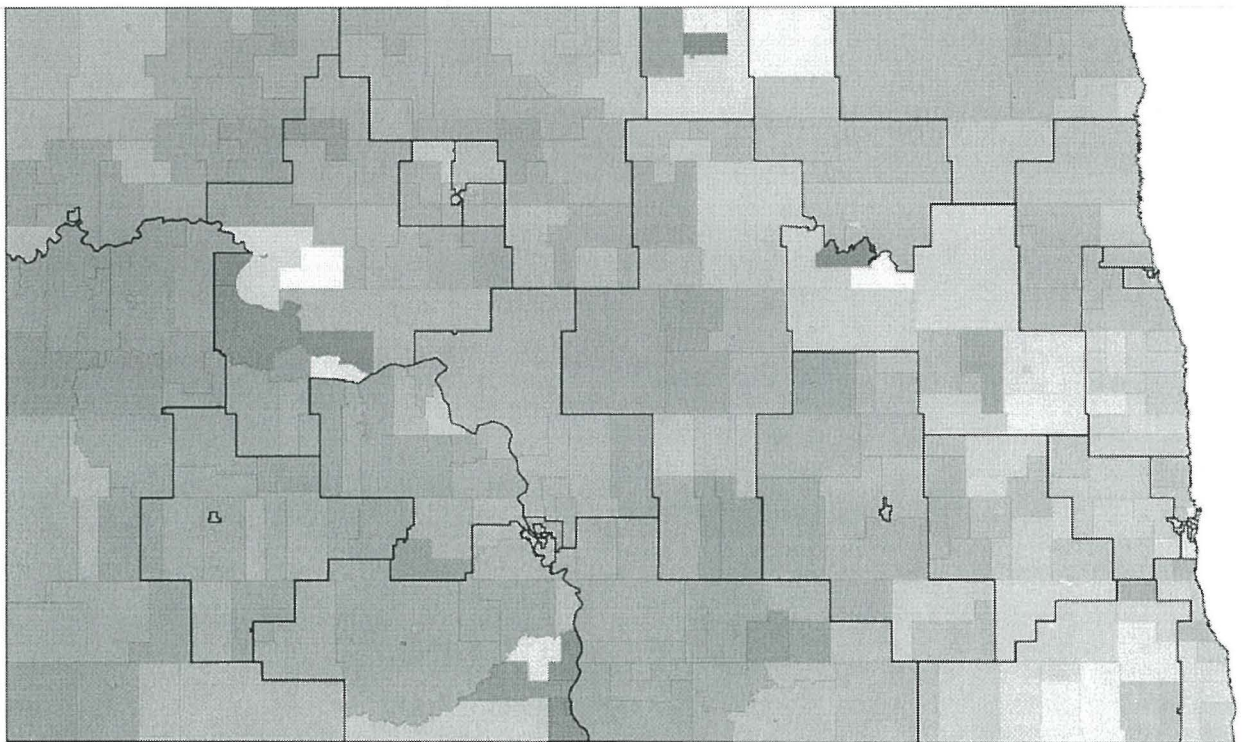
In North Dakota, the Native American population grew by 29.7% in the last decade. So as the state of North Dakota undertakes its redistricting process, the Legislature should take several steps. First, the Legislature should move away from at-large districts for the State House of Representatives, which has a dilutive effect on Standing Rock votes. For the Standing Rock Sioux Tribe, the Legislature should utilize single member House districts to ensure we have equitable representation.

Failure to draw single-member House districts can dilute the Native vote. For example, the North Dakota portion of Standing Rock is located entirely with District 31. Besides Sioux County, District 31 also includes Grant County and parts of Hettinger and Morton counties. The Native population in District 31 is concentrated on the reservation in Sioux County, which has a Native voting age population of 86.1%. Even though the voters in Sioux County tend to strongly favor Democratic candidates, District 31 has been represented by the same three Republicans since 2011.

Indeed, in 2014 two Standing Rock Tribal members, Mike Faith and LaDonna Allard, ran for the State House but were out-voted in the at-large system. In 2010, a different Standing Rock Tribal member ran for the State House, but was likewise outvoted in the at-large system. Chase Iron Eyes, another Standing Rock member and candidate for US House, earned 78% of the vote in Sioux county, but was defeated in each of the other counties in District 31. This shows that the Native American voters have not been able to elect the candidate of their choice. This was just

like in 2000 when the United States was forced to sue Benson County for its use of at-large elections to dilute the voting power of Spirit Lake tribal members.<sup>1</sup>

In the map below, you can see the voting patterns in the State of North Dakota. As you can see, in the reservation areas the voters lean democratic. Given this polarized voting, Standing Rock candidates are unable to win in an at-large system as they can always be out voted in every election.



Creating a House subdistrict would give tribal members the opportunity to elect their preferred candidate.

Second, a “Community of Interest” standard should be utilized in redistricting, which can take into consideration communities that have similar language, culture, economics, and identity,

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<sup>1</sup> See Consent Decree, *United States of America v. Benson County*, CIVIL ACTION NO. A2-00-30 (March 10, 2000) available at <https://www.justice.gov/crt/case-document/file/1180491/download>.

to keep those communities together within legislative districts. The Standing Rock Sioux Tribe and its communities are a community of interest and should remain in a single legislative district. Splitting the reservation or our communities into multiple districts would dilute the ability of tribal members to elect the representative of their choice.

Third, even though the redistricting schedule is abbreviated, there is no excuse for failing to consult with the tribes and taking tribal input into account in the redistricting process. Sending an informal invite to tribal leaders to testify a day before a hearing is highly disrespectful. North Dakota Native Vote requested formal government-to-government consultation on redistricting months ago. Failing to reach out to Tribal leaders for months, and then waiting for the last minute to invite us to provide this important information is unacceptable. Many other states began holding redistricting hearings months ago to get feedback directly from citizens and tribal governments. Our tribal governments, just like other governments all across the country, are dealing with the rising impact of the Delta variant. The actions by the Committee send the message that the Committee is not interested in hearing what we have to say and that it is not important at all.

Native people have also been requesting hearings on the reservations. But this Committee has chosen to only hold hearings in Bismarck or Fargo. Holding hearings in far-away communities has a disproportionately negative impact on tribal communities. Having hearings only in Bismarck is disproportionately burdensome for Native Americans, just as the North Dakota District Court found that forcing Native Americans to travel to a driver's license site is disproportionately burdensome.<sup>2</sup> Additionally, the North Dakota District Court recently

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<sup>2</sup> *Brakebill v. Jaeger*, No. 1:16-CV-008, 2016 WL 7118548 at \*6 (D.N.D. Aug. 1, 2016) (travel to a Driver's License Site to obtain a non-driver's ID card (or a driver's license) is substantially burdensome for Native Americans).

recognized, there are high levels of poverty on our reservation.<sup>3</sup> Native people also disproportionately lack access to transportation and broadband internet.<sup>4</sup> The Committee should be holding hearings on reservations so that all tribal members have the opportunity to have their voices heard, and should hold tribal consultations after it has developed a draft plan. This process is far too important to ignore the perspective of tribal communities.

I thank the members of the Committee for your consideration of these important issues. I am happy to address any questions or discuss these issues further.

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<sup>3</sup> *Id.* at \*8 (Native Americans living in North Dakota disproportionately live in severe poverty).

<sup>4</sup> *Id.* at \* 4 (Only 78.2% of Native Americans have a North Dakota driver's license, compared to 94.4% of non-Native Americans).



# North Dakota Legislative Council

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August 27, 2021

## MEETING NOTICE

Representative Bill Devlin, Chairman, has called a meeting of the **REDISTRICTING COMMITTEE**.

**Date,** Wednesday, September 22, 2021, 10:00 a.m., Roughrider Room, State Capitol, Bismarck  
**Time,** Thursday, September 23, 2021, 9:00 a.m., Roughrider Room, State Capitol, Bismarck  
**and Place:**

**Video:** This meeting can be viewed online at <https://video.legis.nd.gov/>

**Agenda:** Testimony and committee discussion regarding the committee's directive to develop a legislative redistricting plan to be implemented in time for use in the 2022 primary election

**Special Note:** Anyone who plans to attend the meeting and needs assistance because of a disability should contact the Legislative Council staff as soon as possible.

**Committee Members:** Representatives Bill Devlin, Larry Bellew, Joshua A. Boschee, Craig Headland, Mike Lefor, David Monson, Mike Nathe, Austen Schauer; Senators Brad Bekkedahl, Randy A. Burckhard, Robert Erbele, Ray Holmberg, Jerry Klein, Erin Oban, Nicole Poolman, Ronald Sorvaag

**Staff Contacts:** Emily L. Thompson, Code Revisor  
Samantha E. Kramer, Senior Counsel  
Claire Ness, Senior Counsel

Any member unable to attend this meeting is asked to notify this office as soon as possible.

Sincerely,

/S/  
John Bjornson  
Director

JB/JJB

# Exhibit Q





## **MANDAN, HIDATSA & ARIKARA NATION**

**Three Affiliated Tribes \* Fort Berthold Indian Reservation  
404 Frontage Road New Town, ND 58763  
Tribal Business Council**

**Office of the Chairman  
Mark N. Fox**

**67<sup>th</sup> Legislative Assembly  
Redistricting Committee  
September 23, 2021**

### **Testimony of Mark N. Fox, Chairman Tribal Business Council**

Chairman Devlin and members of the Redistricting Committee, my name is Mark Fox, I am the Chairman of the Tribal Business Council of the Mandan, Hidatsa and Arikara Nation (MHA Nation) also known as the Three Affiliated Tribes of the Fort Berthold Indian Reservation (FBIR). I appreciate the opportunity to submit testimony on behalf of the MHA Nation.

Currently, FBIR is located within North Dakota District 4. District 4 consists of portions of the following six counties: McKenzie, Dunn, Mountrail, McLean, Mercer, and Ward. District 4 elects two members to the State House (at-large), and one member to the State Senate. The 2020 Census shows that the District 4 population and FBIR population increased between 2010 and 2020 to 16,794 and 8,350, respectively.

As a result of the overall 15.8% increase in North Dakota population from 672,591 residents to 779,094 residents, the ideal population for two member districts in North Dakota in 2021 is 16,576 and about 8,288 for a single-member house district. The MHA Nation urges the legislature to split the one at-large State House district to two single-member State House districts in District 4.

If single-member house districts were implemented within District 4, then House districts would have an ideal population of about 8,288. All of District 4 is currently about 38.6% Native American. The 2020 Native Voting Age Population (18 and over) is 33.9%.

Block voting is a concern for us. It has historically occurred in the state and has negatively impacted native voting and diminished native opportunities to serve in the legislature and participate in state and local elections. The current district lends itself to block voting.

# **Exhibit R**

This can be remedied by splitting the district into two single districts, thereby leveling the playing field for candidates. We understand that a split district is no guarantee that a tribal member would be elected, we are confident however that it will increase the representation of our issues and concerns to the legislative body.

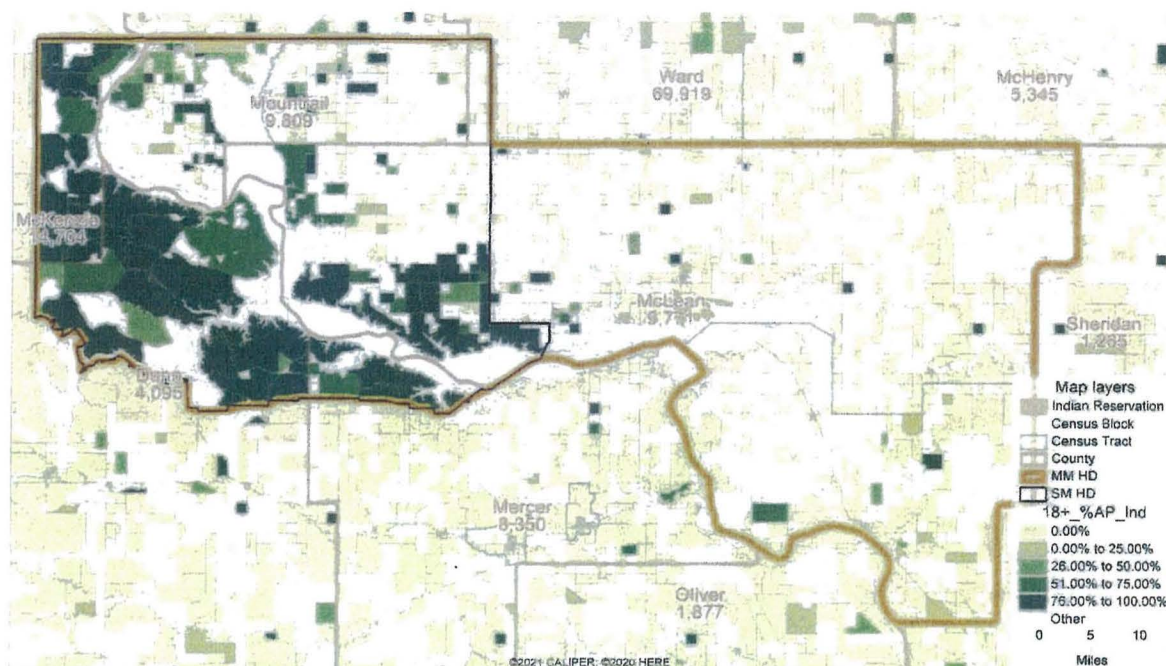
The legislature could easily draw a new single-member House district in our area that would have a Native Citizen Voting Age Population of 67% (*See Attached Proposed Map*). Using such a single-member district would give MHA a much better opportunity to elect a House representative of MHA's choice than under the current at-large system.

Second, the MHA Nation and its communities are a community of interest and should remain in a single legislative district. Splitting the reservation and our communities into multiple districts would dilute the ability of tribal members to elect the representative of their choice. I understand that certain legislators have stated that they will not split up, or crack, reservations into different districts. We can appreciate that position and respectfully request that our communities not be split as we have shared interests and deserve the same representation.

Third, tribal members who are also state citizens that are not only uniquely distinguished as minorities, but are part of a distinct political status that legally distinguishes them from other minority populations.

During the 1990s, the Parshall school district located on FBIR addressed similar concerns with block voting and addressed the issue by splitting the formerly at-large district. This allowed the election of two tribal members on the school board for the first time. The outcome has been beneficial for all of us. We were able to bridge the gap of communication and work together for the benefit of our children and families. I see the development of a single district for FBIR as another opportunity to enhance our communication and work together for a common goal of improving our communities and the lives of the people whom we represent. We ask for this Committee to support us in establishing a single district for the MHA Nation. We appreciate your support. Thank you.

## Three Affiliated Tribes of the MHA Nation Proposed Sub-District



District	4 - Sub District	4A - Full District
Population	8353	17065
Deviation	65	489
% Deviation	0.007843	0.0295
18+_Pop	5712	12567
% 18+_Pop	0.683826	0.73642
NH18+_Wht	1462	7921
% NH18+_Wht	0.255952	0.630302
18+_AP_Ind	3838	4044
% 18+_AP_Ind	0.671919	0.321795



# North Dakota Legislative Council

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September 28, 2021

## REVISED MEETING NOTICE

Representative Bill Devlin, Chairman, has called a meeting of the **REDISTRICTING COMMITTEE**.

**Date,** Tuesday, September 28, 2021, **1:00 p.m.**, Room 327B, State Capitol, Bismarck  
**Time,** Wednesday, September 29, 2021, 9:00 a.m., **Roughrider Room**, State Capitol, Bismarck  
**and Place:**

**Video:** This meeting can be viewed online at <https://video.legis.nd.gov/>

**Agenda:** Testimony and committee discussion regarding the committee's directive to develop a legislative redistricting plan to be implemented in time for use in the 2022 primary election

**Special Note:** Anyone who plans to attend the meeting and needs assistance because of a disability should contact the Legislative Council staff as soon as possible.

**Committee Members:** Representatives Bill Devlin, Larry Bellew, Joshua A. Boschee, Craig Headland, Mike Lefor, David Monson, Mike Nathe, Austen Schauer; Senators Brad Bekkedahl, Randy A. Burckhard, Robert Erbele, Ray Holmberg, Jerry Klein, Erin Oban, Nicole Poolman, Ronald Sorvaag

**Staff Contacts:** Emily L. Thompson, Code Revisor  
Samantha E. Kramer, Senior Counsel  
Claire Ness, Senior Counsel

Any member unable to attend this meeting is asked to notify this office as soon as possible.

Sincerely,

/S/  
John Bjornson  
Director

JB/JJB

# Exhibit S



**Written Testimony of Standing Rock Sioux Tribe Chairman Mike Faith  
Regarding Legislative Redistricting  
North Dakota Legislative Council Redistricting Committee  
September 29, 2021**

Chairman Devlin and members of the Redistricting Committee, I am the Chairman of the Standing Rock Sioux Tribe (“Tribe”) and I am respectfully submitting this written testimony as a follow-up to the in-person testimony I provided to the Committee on September 15, 2021. During my testimony on September 15th, I advocated for the creation of a single-member (or sub-district) for the State House district that encompasses the Standing Rock Sioux Tribe reservation. There were several questions raised by members of the Committee that were addressed by myself and other witnesses; however, I felt it important to also address some of those questions in writing for the record. Additionally, as part of this testimony, I am submitting a proposed district map for the Tribe’s area, which includes a proposed sub-district line for a single-member House district that would provide the Tribe, its members, and the surrounding communities of interest with the best opportunity to elect the representative of their choice.

During my in-person testimony, Representative Schauer asked how a sub-district would provide better representation for the Tribe’s members. As I stated during the hearing, a House member who would represent the southern half of the district would be more responsive to the needs of farmers and ranchers, as well as tribal members (many of whom are also farmers and ranchers), who live in the more rural part of the district. A sub-district would enable our smaller, rural communities to send our own representatives to the larger legislative assembly. Currently, the House members for District 31 can generally rely on the Mandan area voters to win elections. That means that a District 31 representative does not need to visit the reservation, or try to win votes in Sioux County and the other surrounding counties south of Mandan in order to win. As a result, a representative has no need to be responsive to our communities in order to win. Further,

a sub-district would provide several advantages: 1) it would give our communities strong constituency representation because each voter would have a single, easily identifiable, district representative; 2) it would maximize accountability because a single representative can be held responsible and can be re-elected or defeated in the next election; and 3) it would ensure geographic representation. A sub-district system would provide the benefits of localized democracy, allowing legislators to be intimately aware of the issues of the local community. This allows the elected member to focus on the needs of their localized constituency rather than the interests of all.

Representative Nathe asked whether the current system gives tribal members a chance to elect the representative of their choice. I appreciate Senator Oban showing the Committee and hearing attendees the election data of how the reservation area tends to vote for candidates who are opposed by the northern portion of Legislative District 31. Our research has shown similar results across the majority of contested elections within the district.

In the 2018 general election for State Senator, District 31 favored Donald Schaible by over thirty (30) points, while Sioux County voted in favor of Rachelle Hall by over sixty (60) points. The race for State House Representative was uncontested in 2018, which would likely have not been the case if the district contained sub-districts. In 2014, the general election for State Senator in District 31 was won by Donald Schiabile by over thirty-five (35) points, but with Sioux County voting for Kristen Vesledahl by over thirty-seven (37) points. The 2014 general election for State Representative saw the candidates who were vastly preferred in Sioux County (each winning Sioux County by over twenty (20) points) lose District 31 by almost twenty (20) points each. I was one of the candidates in the 2014 election who won Sioux County but lost the District.



In 2010, another Standing Rock Sioux Tribe member, Chad Harrison, likewise ran for the State House in District 31, losing by about ten (10) points in the District, but winning Sioux County by over forty (40) points. This polarized voting is also evident in District 31 for state-wide elections. For example, in the 2016 Republican gubernatorial primary election, Doug Burgum won District 31 by almost ten (10) points; but Sioux County voted in favor Wayne Stenehjem by almost sixteen (16) points. Based on the election data, there is no doubt that creating a sub-district for Sioux County and surrounding area would provide our communities with a better opportunity to elect the candidate of our choice. The kind of opportunity that does not currently exist.

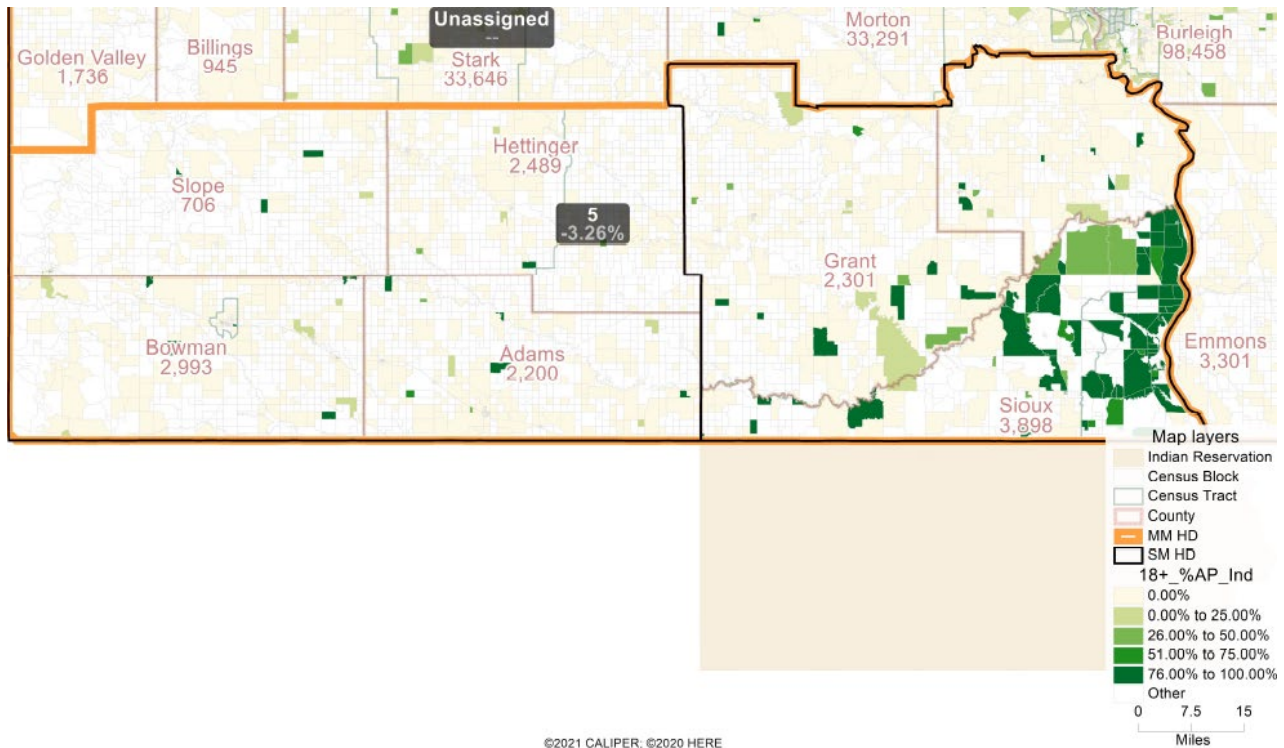
Below is a proposed district map, which also includes a proposed sub-district. The proposed district contains a Native American Voting Age Population (“VAP”) of 20%, and the proposed sub-district contains a Native American VAP of over 41%. The creation of such a district would improve the representation of Sioux County and our surrounding communities that have shared interests, and I strongly encourage the Committee to consider adopting this map.

Approval of the below proposed district and sub-district would be legally sound and well within the authority of the Committee and Legislature. Sub-districts are specifically contemplated and authorized under the North Dakota Constitution. Article 4, Section 2 of the North Dakota Constitution states: “A senator and at least two representatives must be apportioned to each senatorial district and be elected at large or from subdistricts from those districts.” (emphasis added).

The proposed sub-district would also fit within the standards established by the United States Supreme Court in *Shaw v. Reno*, 509 U.S. 620 (1993) and *Miller v. Johnson*, 515 U.S. 900 (1995). The *Shaw* and *Miller* cases, and their related cases, have generally held that districts are

constitutional if race is not the predominant factor in drawing its lines. The *Shaw* case focused on the fact that the proposed district in that case was bizarrely shaped and not compact. The proposed sub-district here would be established based on maintaining Sioux County and its surrounding areas as communities of interest, with similar economics, culture, language, political affiliation, and rural farming and ranching identity of the area. Moreover, the Standing Rock Sioux Tribe and its members represent a sovereign Indian nation, which maintains a political relationship with the state of North Dakota and the United States of American. The proposed sub-district would not be established predominately on race, and is sufficiently compact to withstand any potential legal scrutiny.

I thank the members of the Committee for your consideration of this additional testimony and hope the Committee will strongly consider the creation of a sub-district encompassing the Standing Rock Sioux Tribe reservation. I continue to urge the Committee to work with the Tribe to hold a hearing on the reservation to allow tribal members a meaningful opportunity to participate in the redistricting process.

**Proposed District and Sub-District****Proposed District**

<b>District</b>	5
<b>Population</b>	16036
<b>Deviation</b>	-540
<b>% Deviation</b>	-0.03258
<b>18+_Pop</b>	12053
<b>% 18+_Pop</b>	0.751621
<b>NH18+_Wht</b>	9340
<b>% NH18+_Wht</b>	0.774911
<b>18+_AP_Ind</b>	2419
<b>% 18+_AP_Ind</b>	0.200697
<b>NH_Wht</b>	11707
<b>% NH_Wht</b>	0.730045
<b>AP_Ind</b>	3841
<b>% AP_Ind</b>	0.239524

**Proposed Sub-District Encompassing the Standing Rock Sioux Tribe Reservation**

<b>District</b>	5
<b>Population</b>	7648
<b>Deviation</b>	-640
<b>% Deviation</b>	-0.07722
<b>18+_Pop</b>	5497
<b>% 18+_Pop</b>	0.71875
<b>NH18+_Wht</b>	3155
<b>% NH18+_Wht</b>	0.573949
<b>18+_AP_Ind</b>	2272
<b>% 18+_AP_Ind</b>	0.413316
<b>NH_Wht</b>	3921
<b>% NH_Wht</b>	0.512683
<b>AP_Ind</b>	3611
<b>% AP_Ind</b>	0.47215



## MANDAN, HIDATSA & ARIKARA NATION

Three Affiliated Tribes \* Fort Berthold Indian Reservation  
404 Frontage Road New Town, ND 58763  
Tribal Business Council

Office of the Chairman  
Mark N. Fox

**67<sup>th</sup> Legislative Assembly**  
**Redistricting Committee**  
**September 29, 2021**

### **Testimony of Chairman Mark Fox**

Chairman Devlin and members of the Redistricting Committee, I am Mark Fox, Chairman of the Tribal Business Council of the Mandan, Hidatsa, and Arikara Nation. I am respectfully submitting this written testimony as follow-up to the in-person testimony I provided to the Committee on September 23, 2021. During my testimony on September 23rd, I advocated for the creation of a single-member (or sub-district) for the State House district that encompasses the Fort Berthold Reservation. I am resubmitting the proposed district map for District 4, which includes a proposed sub-district line for a single-member House district that would provide the MHA Nation, its members, and the surrounding communities of interest with the best opportunity to elect the representative of their choice.

The proposed sub-district follows the boundaries of the Fort Berthold Reservation; the creation of such a majority-minority sub-district is required under Section 2 of the Voting Rights Act. Section 2, as interpreted by the United States Supreme Court in *Thornburg v. Gingles*, 470 U.S. 30 (1986), requires the establishment of a majority-minority district when: 1) the minority group “is sufficiently numerous and compact to form a majority in a single-member district; 2)

the minority group is “politically cohesive; and 3) the “majority votes sufficiently as a bloc to . . . defeat the minority’s preferred candidate.”

Based on the Committee’s prior discussion, the Committee is aware already from the 2020 Census that the number of tribal members on the Fort Berthold Reservation is sufficiently numerous and compact to form a majority in a single-member district, and that a sub-district following the lines of the reservation would form a perfectly populated sub-district. There is also ample evidence of voting history in District 4 to show that tribal member candidates and tribal member candidates of choice are routinely outvoted by the majority vote in the district.

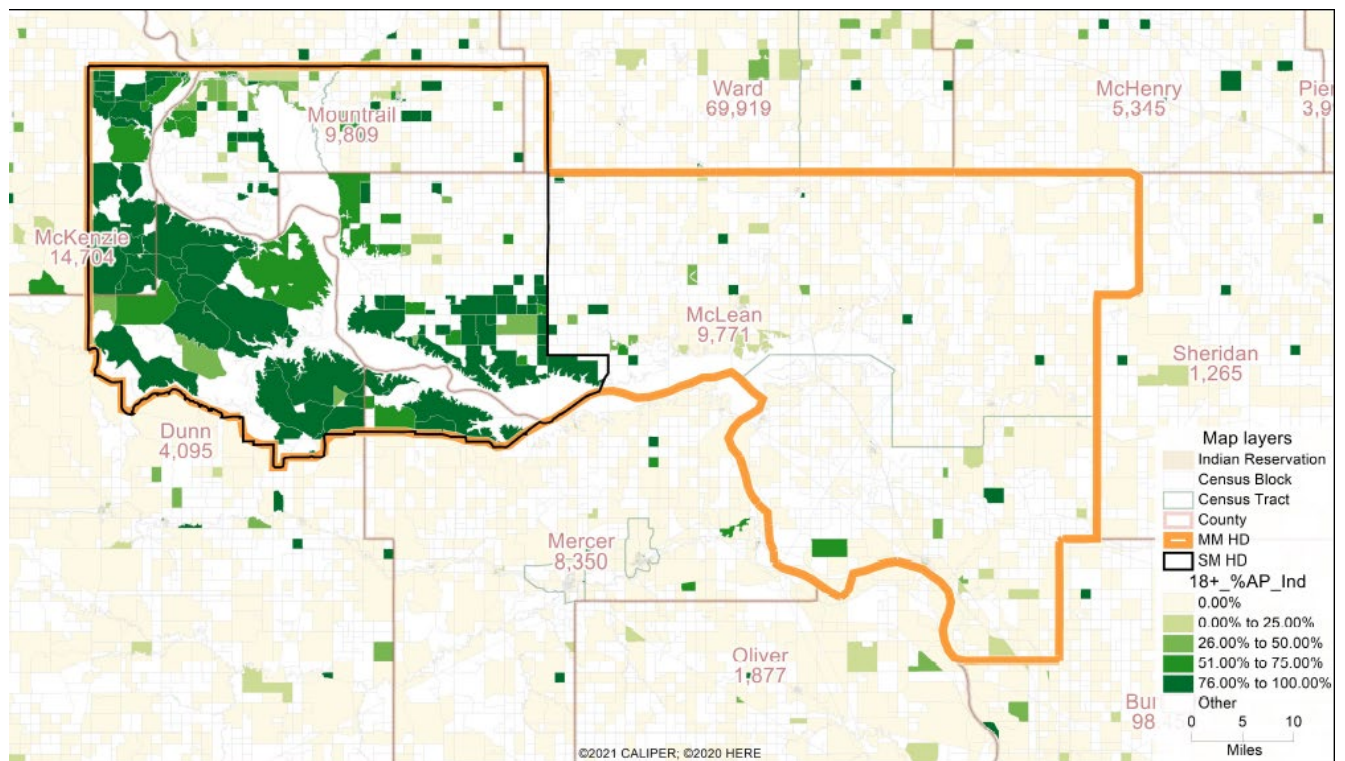
Proven history of bloc voting occurred on the Fort Berthold Reservation in the City of Parshall, e.g., Parshall School Board in 1990. I shared in prior testimony my personal experience when I sought election to the Parshall School Board that nearly five hundred votes were cast, in stark contrast to average voter turnout of less than one hundred when non-native candidates were on the ballot. Additional examples include two other tribal members running for the State House in 2020 and 2016, respectively. Both candidates, Thomasina Mandan and Cesar Alvarez easily won the precincts on the reservation but lost in the overall election. If single member districts were utilized, it is likely both of those candidates would have won. The MHA Nation seeks this Committee’s support of Section 2 of the Voting Rights Act in creating a sub-district for District 4 that includes the Fort Berthold Reservation.

Below is the proposed district and sub-district map. The proposed sub-district contains a Native American VAP of over 67%. The creation of such a district would improve the representation of the MHA Nation’s members within the state, and the adoption of this proposed sub-district would satisfy the Legislature’s requirements under the Voting Rights Act. I strongly

encourage the Committee and the Legislature to follow the law and adopt this proposed sub-district.

Thank you for your consideration of this additional testimony.



**MHA Proposed District and Sub-District Map**

District	4 - Sub District	4A - Full District
<b>Population</b>	8353	17065
<b>Deviation</b>	65	489
<b>% Deviation</b>	0.007843	0.0295
<b>18+_Pop</b>	5712	12567
<b>% 18+_Pop</b>	0.683826	0.73642
<b>NH18+_Wht</b>	1462	7921
<b>% NH18+_Wht</b>	0.255952	0.630302
<b>18+_AP_Ind</b>	3838	4044
<b>% 18+_AP_Ind</b>	0.671919	0.321795

**Testimony of the Spirit Lake Nation Regarding Legislative Redistricting  
North Dakota Legislative Council Redistricting Committee  
September 29, 2021**

Chairman Devlin and members of the Redistricting Committee, I am Douglas Yankton, Sr., Chairman of the Spirit Lake Nation (“Nation”), and I submit this testimony on behalf of the Nation. The Nation has taken part in the state’s redistricting process by providing testimony to the Committee at two prior hearings. At those hearings, the Nation advocated for the creation of a sub-district that would provide the Nation’s members with a better opportunity to elect the candidate of their choice. As the Committee is considering the issue of sub-districts, I am submitting this testimony to once again urge the Committee to approve the creation of a sub-district encompassing the Spirit Lake reservation.

The Spirit Lake reservation is located in state Legislative District 23 primarily in Benson County; and as the Committee has been previously informed, the voters on the Spirit Lake reservation tend to support candidates who are outvoted and opposed by voters in other areas of the district. According to the 2020 Census data, Benson County has a Native American population of 56.1%. Since 2010, in every election for the State House in District 23, the two candidates who were heavily supported in Benson County ended up losing their respective elections by being heavily outvoted by the rest of the district.

A sub-district would provide several advantages: 1) it would give our community a strong constituency representation because each voter would have a single, easily identifiable, district representative; 2) it would maximize accountability because a single representative can be held responsible and can be re-elected or defeated in the next election; and 3) it would ensure geographic representation. A sub-district system would provide the benefits of localized democracy, allowing legislators to be intimately aware of the issues of the local community. This

allows the elected member to focus on the needs of their localized constituency rather than the interests of all.

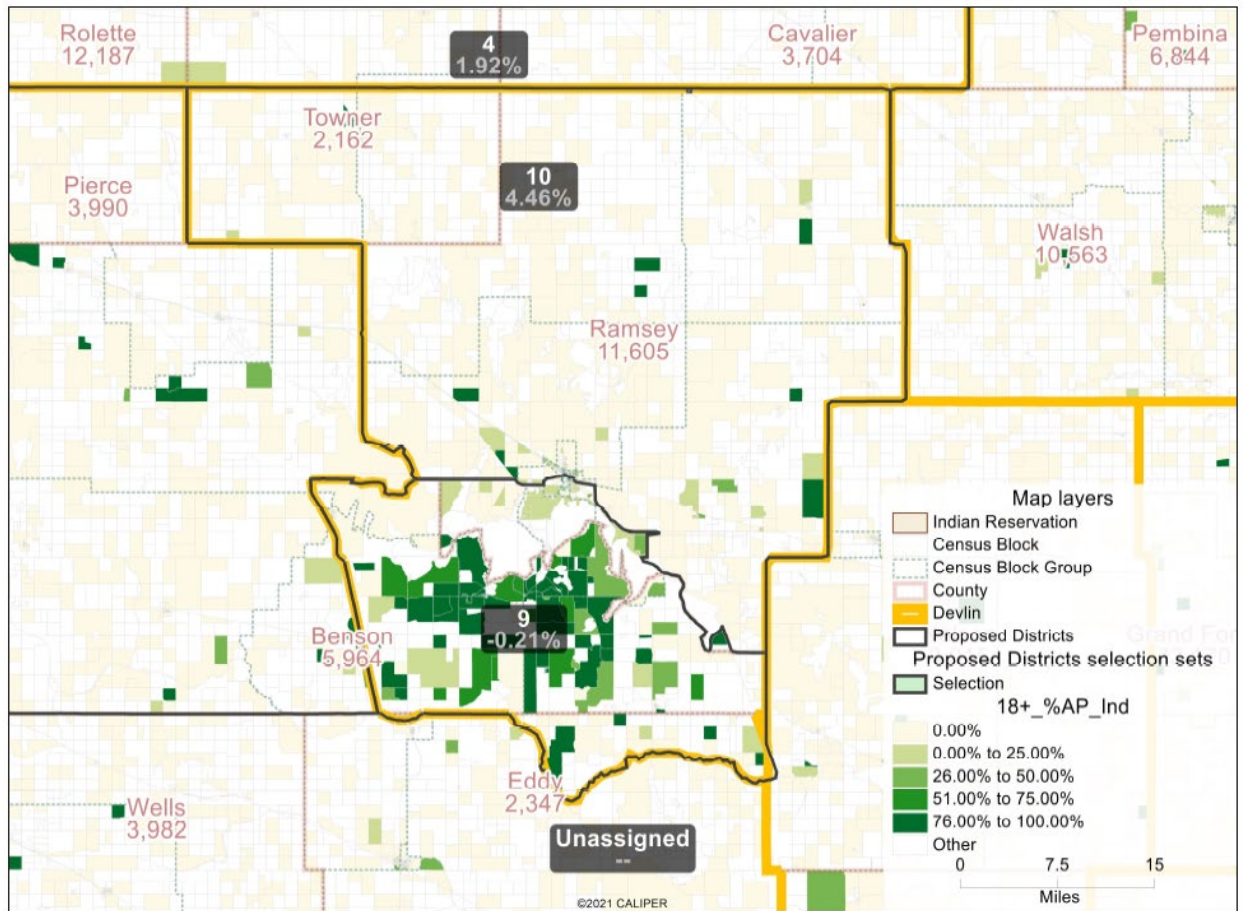
Below is a proposed district map, which also includes a proposed sub-district. The proposed sub-district contains a Native American Voting Age Population of over 41%. The creation of such a district would improve the representation of the Spirit Lake Nation our surrounding communities that have shared interests, and I strongly encourage the Committee to consider adopting this map.

Approval of the below proposed district and sub-district would be legally sound and well within the authority of the Committee and Legislature. Sub-districts are specifically contemplated and authorized under the North Dakota Constitution. Article 4, Section 2 of the North Dakota Constitution states: “A senator and at least two representatives must be apportioned to each senatorial district and be elected at large or from subdistricts from those districts.” (emphasis added).

The proposed sub-district would also fit within the standards established by the United States Supreme Court in *Shaw v. Reno*, 509 U.S. 620 (1993) and *Miller v. Johnson*, 515 U.S. 900 (1995). The *Shaw* and *Miller* cases, and their related cases, have generally held that districts are constitutional if race is not the predominant factor in drawing its lines. The *Shaw* case focused on the fact that the proposed district in that case was bizarrely shaped and not compact. The proposed sub-district here would be established based on maintaining the Spirit Lake reservation and its surrounding areas as communities of interest, with similar economics, culture, language, and political affiliation. Moreover, the Spirit Lake Nation and its members represent a sovereign Indian nation, which maintains a political relationship with the state of North Dakota and the

United States of American. The proposed sub-district would not be established predominately on race, and is sufficiently compact to withstand any potential legal scrutiny.

I hope the Committee will strongly consider the creation of a sub-district encompassing the Spirit Lake reservation. As the Nation has requested in all its prior testimony, I continue to urge the Committee to work with the Nation to hold a hearing on the reservation to allow tribal members a meaningful opportunity to participate in the redistricting process.

**Proposed District and Sub-District**

District	9	10
Population	8271	8658
Deviation	-17	370
% Deviation	-0.00205	0.044643
18+_Pop	5516	6797
% 18+_Pop	0.666908	0.785054
NH18+_Wht	3090	5999
% NH18+_Wht	0.560189	0.882595
18+_AP_Ind	2291	544
% 18+_AP_Ind	0.415337	0.080035



September 28, 2021

North Dakota Legislative Redistricting Committee

Testimony of Lisa DeVille

Mandaree, ND

Mandan, Hidatsa, Arikara Nation

Chairman Devlin and members of the legislative redistricting committee,

Dosha, my name is Lisa DeVille and I am a citizen of the Mandan, Hidatsa, and Arikara Nation in Fort Berthold. I grew up in Mandaree where I and my family are lifelong residents of our ancestral lands. Thank you for the opportunity to testify today.

The Mandan, Hidatsa, and Arikara Nation is a federally recognized tribe in the state of North Dakota, located in the counties of Dunn, Mountrail, McKenzie, Mercer, Ward and McLean. The Mandan, Hidatsa, and Arikara Nation is a sovereign nation governed by its Tribal Business Council. We have an enrollment of nearly 17,000 members. Under the 2020 Census, the population of the reservation was 8,350. The total population in North Dakota increased overall between 2010 and 2020 from 672,591 residents to 779,094, representing a 15.8% increase. The Native American population outpaced the state, and grew by 29.7% in the last decade. The Fort Berthold Reservation is within North Dakota State District 4, which elects two members to the State House (at-large), and one member to the Senate.

Currently, District 4 is represented by three Republicans: Senator Jordan Kannianen, Representative Clayton Fegley, and Representative Terry B. Jones. Prior to the 2016 election, the District had a Democratic senator and one Democratic representative for several years. In 2020 I challenged Senator Kannianen and unfortunately was not able to be elected even though portions of the district on the reservation strongly supported myself and House of Representatives candidate Thomasina Mandan.

Every decade new district lines are drawn that give each of our votes equal weight, each of our voice's equal stature, and each of our communities equal resources. Voters pick our leaders, and our leaders should not pick their voters. To determine how we will be represented and how funds for schools, hospitals, and other essential services will be allocated we need legislators that work with tribal citizens as well as government.

Representation at state, county, and federal level is not all about oil and gas. We Native American/Indigenous people have our own voice. The Non-Native American have been speaking for us since they landed here.

Recently, I gave a short comment on redistricting during the ND and MHA Tribal relations meeting. I support implementation of subdistricts. We need to be at the table when decisions are made that impact our lives and possibly the lives of future generations. There should be no assumption that ND knows what is best for us Indigenous people when our culture, tradition, and beliefs are different and often not taken into account when decisions are made.

Again, we need to be at the table and we need fair representation in North Dakota.  
Maacagiraac-Thank you for this opportunity to speak to you.

**Exhibit W**

**Testimony of Spirit Lake Nation Chairman Douglas Yankton, Sr.  
Before the North Dakota Legislative Council Redistricting Committee  
November 8, 2021**

Members of the Redistricting Committee, thank you for allowing me to testify today. I am Douglas Yankton, Sr., Chairman of the Spirit Lake Nation. Spirit Lake is a sovereign nation and a federally recognized Indian Tribe with over 7,500 enrolled members. The Spirit Lake reservation is located mostly in Benson County, but also in portions of Eddy, Ramsey, Wells and Nelson counties.

I am here to ask that the Committee slightly revise its map to draw a single legislative district that includes the Spirit Lake Nation reservation and the Turtle Mountain Band of Chippewa reservation. This request was originally conveyed through a letter from myself and Chairman Azure, submitted to the Governor and Legislature on November 1st. I have attached a copy of the letter to my testimony. The letter includes a map of the proposed district, as well as maps showing how the proposed district could easily be incorporated into the Committee's approved map with very little change.

Spirit Lake and Turtle Mountain have many shared interests. We are the only two federally recognized Tribes in the North Eastern part of the state. We have similar economic interests, as well as cultural and political values. We both deal with the federal government on a government-to-government basis. We live just over an hour's drive from each other, and, because the boundaries between our two

**Exhibit X**





**November 8, 2021 Testimony of Chairman Douglas Yankton, Sr.**

**Page 2 of 2**

reservations are less than 55 miles apart as the crow flies, the district would be geographically compact. Additionally, a strong majority of the district's voters would be Native American, which means subdistricts would not be required for this district. Finally, we believe that joining our Tribes together into a single legislative district will improve the government-to-government relationships between our Tribes and with the State. In short, as sovereign tribal governments we have unique communities that have uniquely shared values. It only makes sense for us to have a shared political district.

I hope the Committee will give full consideration to this request. I thank you for your time today, and will stand for any questions the Committee may have.





November 1, 2021

The Honorable Doug Burgum  
Governor of the State of North Dakota  
600 East Boulevard Ave.  
Bismarck, ND 58505

The Honorable Joshua Boschec  
Minority Leader  
North Dakota House of Representatives  
600 East Boulevard Ave.  
Bismarck, ND 58505

The Honorable Kim Koppelman  
Speaker  
North Dakota House of Representatives  
600 East Boulevard Ave.  
Bismarck, ND 58505

The Honorable Rich Wardner  
Majority Leader  
North Dakota State Senate  
600 East Boulevard Ave.  
Bismarck, ND 58505

The Honorable Chet Pollert  
Majority Leader  
North Dakota House of Representatives  
600 East Boulevard Ave.  
Bismarck, ND 58505

The Honorable Joan Heckaman  
Minority Leader  
North Dakota State Senate  
600 East Boulevard Ave.  
Bismarck, ND 58505

Dear Governor Burgum, Speaker Koppelman, and Leaders Pollert, Boschec, Wardner and Heckaman:

On behalf of the Turtle Mountain Band of Chippewa Indians ("Turtle Mountain") and the Spirit Lake Nation ("Spirit Lake"), we write to express concerns with the proposed legislative map to be considered for approval by the State Legislature on November 8, and to respectfully request that our Tribal Nations be incorporated into the same legislative district.

Throughout the redistricting process, the Tribes of North Dakota made numerous requests to the Legislature's Redistricting Committee to hold redistricting hearings on and near reservations to allow tribal members an opportunity to be heard on how their state legislative representation will be guided for the next ten years. Those requests fell on deaf ears. Many of our tribal members lack the means to travel to Bismarck and were therefore shut out of the redistricting process. Also concerning was the Redistricting Committee's position that the Tribal and State Relations Committee could report back to it if any redistricting comments happened to be brought up during the Tribal and State Relations Committee meetings. That approach was wholly inadequate. Despite repeated requests, the only outreach from the

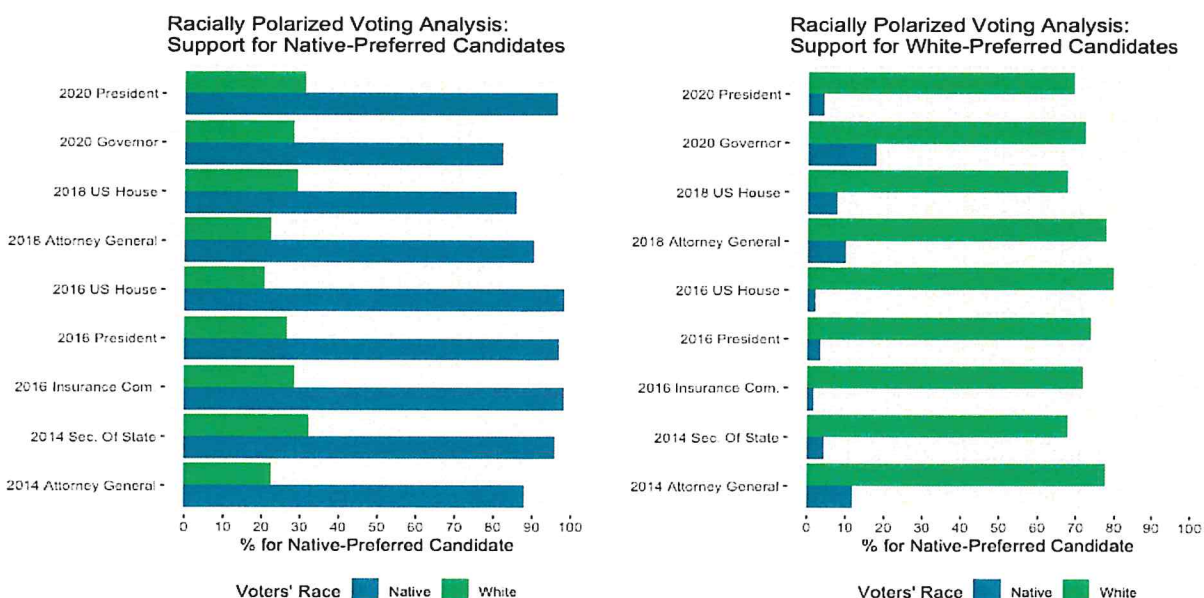


Redistricting Committee was the e-mailing of a hearing notice to the Tribes with one day's notice. Of course, given the short notice, not all of the Tribes were able to make it to Bismarck to attend the hearing. Indeed, we as tribal leaders are governing in the middle of a pandemic with limited resources, and so one day's notice is far from sufficient.

At that redistricting hearing, representatives from the Spirit Lake Nation, Standing Rock Sioux Tribe, and Three Affiliated Tribes advocated for the creation of legislative subdistricts to improve their representation. Of these requests, only a subdistrict for the Three Affiliated Tribes reservation area was approved by the Redistricting Committee. The Committee, however, also decided to create subdistricts in the Turtle Mountain reservation area, even though no subdistricts were ever requested by Turtle Mountain to the Redistricting Committee.

As a result of the poor outreach to our Tribal Nations, despite our repeated requests, the Redistricting Committee's proposed District 9, containing the Turtle Mountain reservation, is illegally drawn and we believe will be struck down in court if it is adopted by the State Legislature. To remedy this situation, and to also allow the members of Turtle Mountain and Spirit Lake to be able to elect the representatives of their choice in accordance with federal law, we have developed a proposed district containing the Turtle Mountain and Spirit Lake reservations. (**Attached as Figure 1**).

Given that our Tribal communities together would be sufficiently large and geographically compact to form a majority-minority district, and given the racially polarized voting that exists when comparing our communities to the surrounding areas, our proposed district satisfies the Voting Rights Act, and would negate the need for a subdistrict. To illustrate, the below charts show the differences between Native American and non-Native American voting patterns in 2016 and 2020 state-wide elections for the precincts within the district we have proposed. Our Tribal communities have voted cohesively in favor of clearly identified Native American preferred candidates. On the other hand, the non-Native American voters have, without exception, overwhelmingly voted against the Native American candidate of choice.








The disparity is even more severe when Native American candidates have run for office. In the 2016 election for the United States House of Representatives, a Native American candidate, Chase Iron Eyes, was preferred by an estimated 98 percent of Native American voters, but received only 21 percent of the vote from white voters. The vast majority of white voters rallied behind the eventual winner of the race, Kevin Cramer, who received only an estimated 2 percent of the Native American vote. A similar pattern is visible in the 2016 race for Insurance Commissioner, where an estimated 98 percent of Native American voters cast a ballot in favor of the Native American candidate, Ruth Buffalo, while being favored by only 28 percent of white voters.

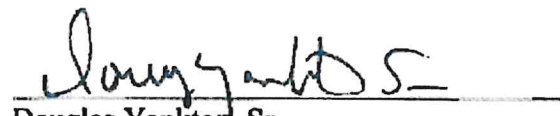
Not only will adopting the district proposed by our Tribes allow the State of North Dakota to forgo costly litigation (which would likely result in the Redistricting Committee's map being overturned anyway), the proposed district can also be incorporated into the overall state-wide redistricting map very easily, with minimal impacts to the districts proposed by the Redistricting Committee for the rest of the state. We have taken the additional step of drawing a full state-wide map that incorporates our proposed district. (**Attached as Figure 2**). To illustrate this minimal impact, we have additionally provided a map that shows the lines of a proposed state-wide map that incorporates our proposed district, overlaid with the lines of the Redistricting Committee's proposed map. (**Attached as Figure 3**). As you can see, incorporation of our proposed district only creates small changes to the other districts proposed by the Redistricting Committee, and only in the northeast corner of the state.

We respectfully bring this request forward, not only as the leaders of sovereign Tribal Nations, but as fellow citizens of the State of North Dakota. All citizens deserve to have their voices heard and to be treated fairly and equally under the law. Our proposed district accomplishes this, which benefits our Tribes as well as the State of North Dakota and all of its citizens. We appreciate your thorough attention to this matter.

Sincerely,

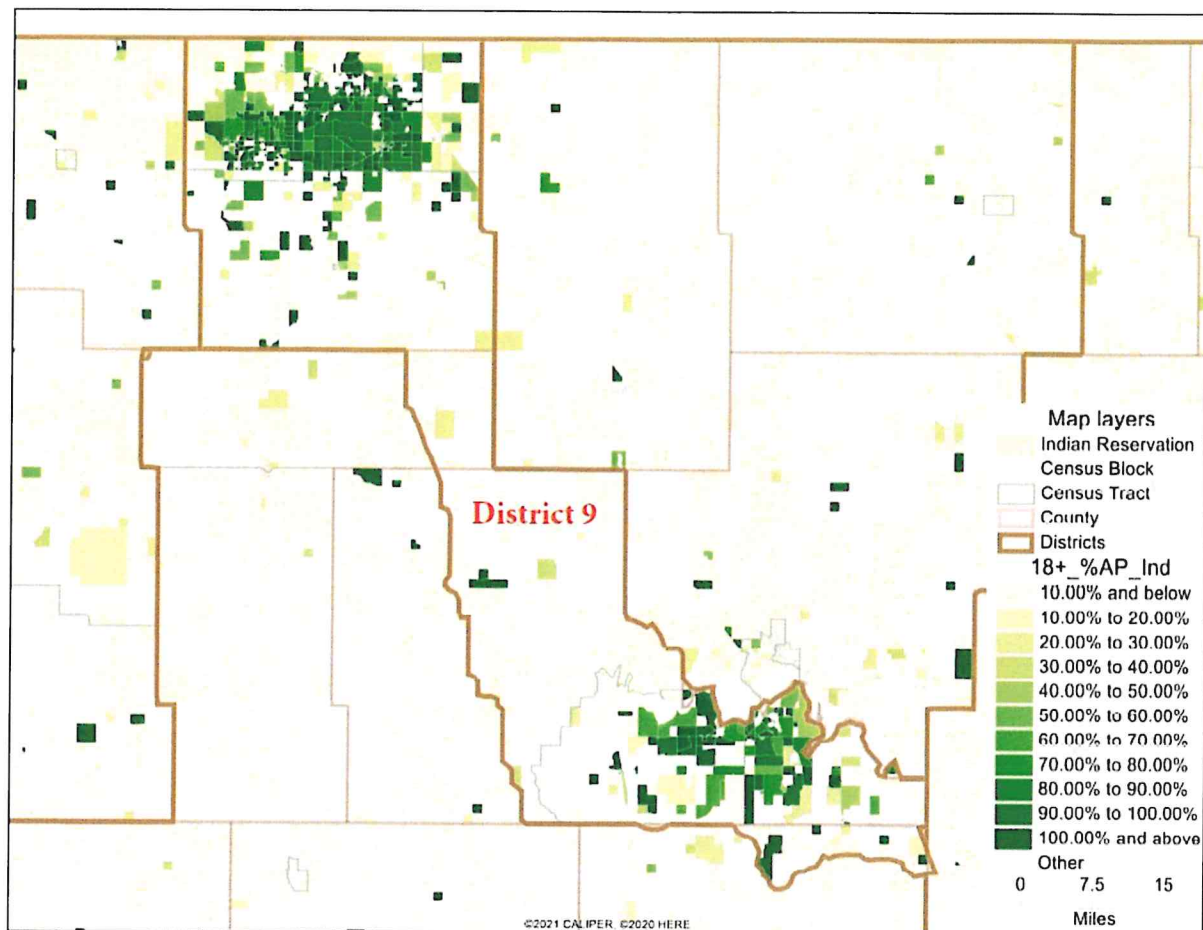


Jamie Azure  
Chairman  
Turtle Mountain Band of Chippewa Indians



Douglas Yankton, Sr.  
Chairman  
Spirit Lake Nation

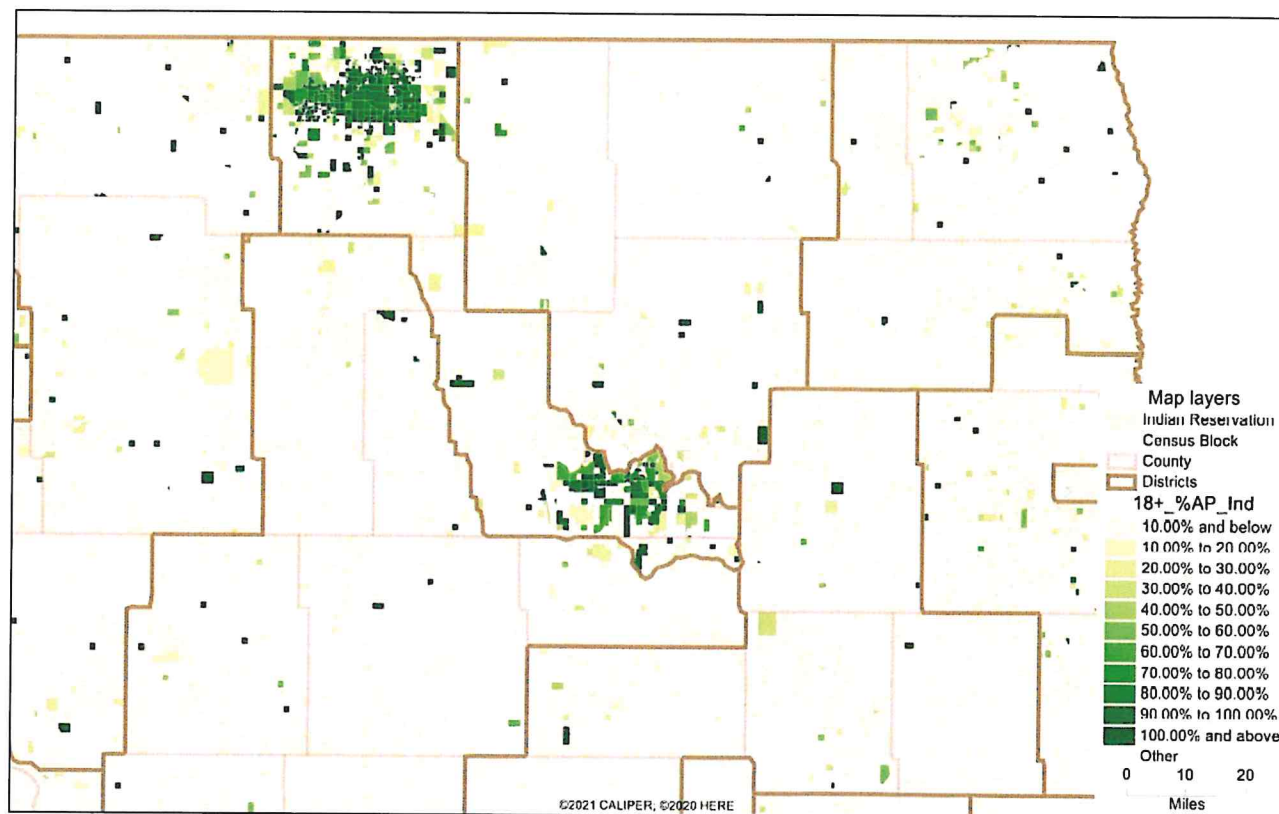


**Figure 1 – Proposed District Including Spirit Lake and Turtle Mountain Reservations**

District	Population	Deviation	%Deviation	18+ Native American Population	% 18+Native American Population
9	17,341	765	4.62%	7,887	69.06%

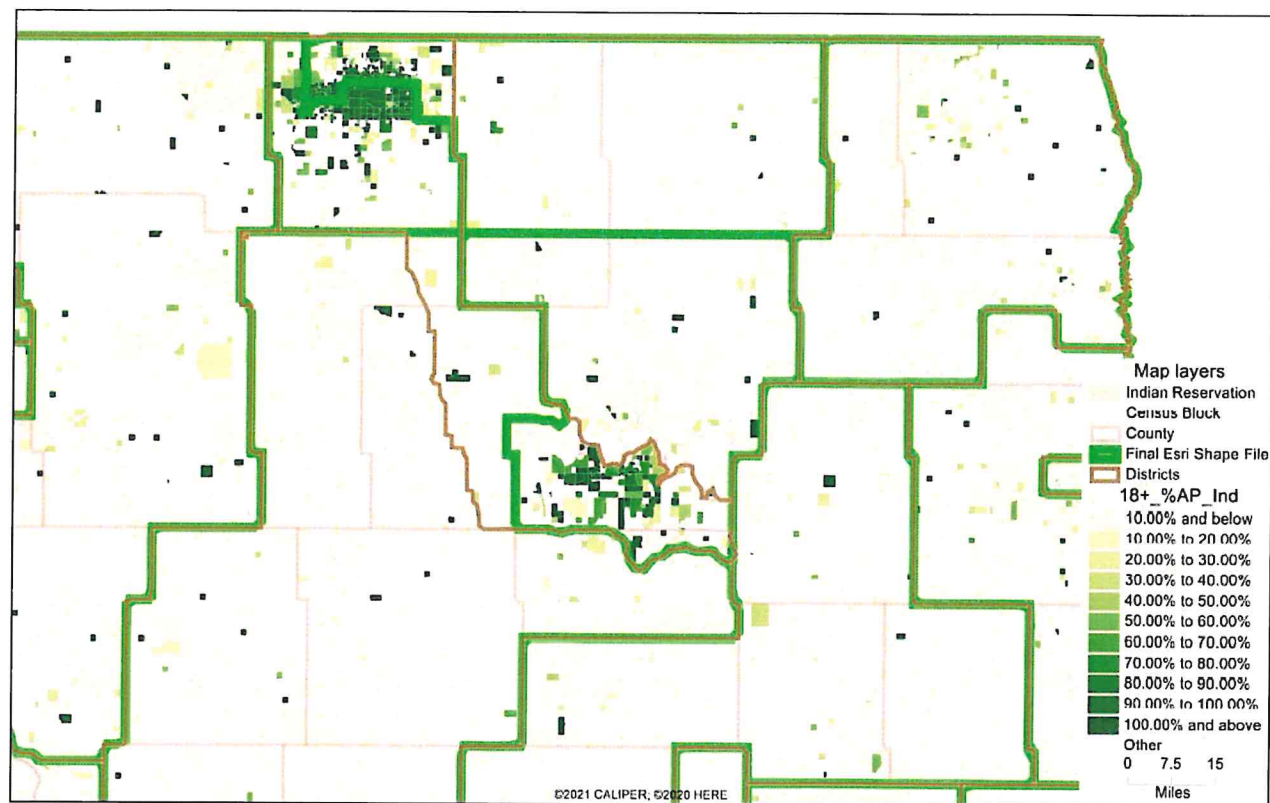


**Figure 2 – Proposed District as Incorporated Into State-Wide District Map**





**Figure 3 – Our Proposed District as Incorporated into State-Wide Map (Dark Brown Lines), Overlaid with and the Redistricting Committee’s Map (Green Lines)**







**Testimony of Turtle Mountain Band of Chippewa Indians Chairman Jamie Azure  
Before the North Dakota Legislature Redistricting Committee  
November 8, 2021**

Members of the Redistricting Committee, thank you for allowing me to testify today. I am Jamie Azure, Chairman of the Turtle Mountain Band of Chippewa Indians. Turtle Mountain is a federally recognized Indian Tribe with over 30,000 enrolled members. The Turtle Mountain reservation is located entirely within Rolette County with our Tribal Headquarters located in Belcourt. The reservation is seventy-two square miles and is one of the most densely populated reservations in the United States. Turtle Mountain operates the Sky Dancer Casino, and founded the Turtle Mountain Community College.

Today, I come before the Committee to ask that you honor the request of Turtle Mountain and the Spirit Lake to approve a legislative district that includes both of our communities. As you know, this request was submitted to the Legislature on November 1st through a joint letter from Chairman Yankton and myself. I have attached a copy of the letter to my testimony. If approved, this district would be the first of its kind in North Dakota, by allowing two Tribal Nations to share one voice in the State's Senate and House elections.

I am very concerned about the Committee's proposed District 9 that encompasses the Turtle Mountain reservation. The Committee's proposed district would dilute the Native American vote, would not provide our tribal members with

**Exhibit Y**



the ability to elect the candidates of their choice. On the other hand, a single district with Turtle Mountain and Spirit Lake together would allow the tribal members from both Tribes to elect their preferred candidates.

Turtle Mountain and Spirit Lake have many shared interests. We are the only two federally recognized Tribes in the North Eastern part of the state. We have similar economic interests, as well as cultural and political values. We both deal with the federal government on a government-to-government basis and we both have federal Bureau of Indian Education Schools on our reservations. Due to the short distance between our two reservations, the district would be geographically compact; and due to sufficient Native American voter population in the district, subdistricts would not be required. Joining our Tribes together into a single legislative district will improve the government-to-government relationships between our Tribes and with the State. As sovereign tribal governments we have unique communities that have uniquely shared values; therefore, it makes sense for us to have a shared political district.

As you can see from our letter, adopting our proposed district would (1) require very little change to the map already approved by the Committee; (2) comply with redistricting laws; and (3) not require subdistricts.

Thank you for your attention. I can address any questions the Committee may have.





November 1, 2021

The Honorable Doug Burgum  
Governor of the State of North Dakota  
600 East Boulevard Ave.  
Bismarck, ND 58505

The Honorable Joshua Boschée  
Minority Leader  
North Dakota House of Representatives  
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The Honorable Kim Koppelman  
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600 East Boulevard Ave.  
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The Honorable Rich Wardner  
Majority Leader  
North Dakota State Senate  
600 East Boulevard Ave.  
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The Honorable Chet Pollert  
Majority Leader  
North Dakota House of Representatives  
600 East Boulevard Ave.  
Bismarck, ND 58505

The Honorable Joan Heckaman  
Minority Leader  
North Dakota State Senate  
600 East Boulevard Ave.  
Bismarck, ND 58505

Dear Governor Burgum, Speaker Koppelman, and Leaders Pollert, Boschée, Wardner and Heckaman:

On behalf of the Turtle Mountain Band of Chippewa Indians ("Turtle Mountain") and the Spirit Lake Nation ("Spirit Lake"), we write to express concerns with the proposed legislative map to be considered for approval by the State Legislature on November 8, and to respectfully request that our Tribal Nations be incorporated into the same legislative district.

Throughout the redistricting process, the Tribes of North Dakota made numerous requests to the Legislature's Redistricting Committee to hold redistricting hearings on and near reservations to allow tribal members an opportunity to be heard on how their state legislative representation will be guided for the next ten years. Those requests fell on deaf ears. Many of our tribal members lack the means to travel to Bismarck and were therefore shut out of the redistricting process. Also concerning was the Redistricting Committee's position that the Tribal and State Relations Committee could report back to it if any redistricting comments happened to be brought up during the Tribal and State Relations Committee meetings. That approach was wholly inadequate. Despite repeated requests, the only outreach from the



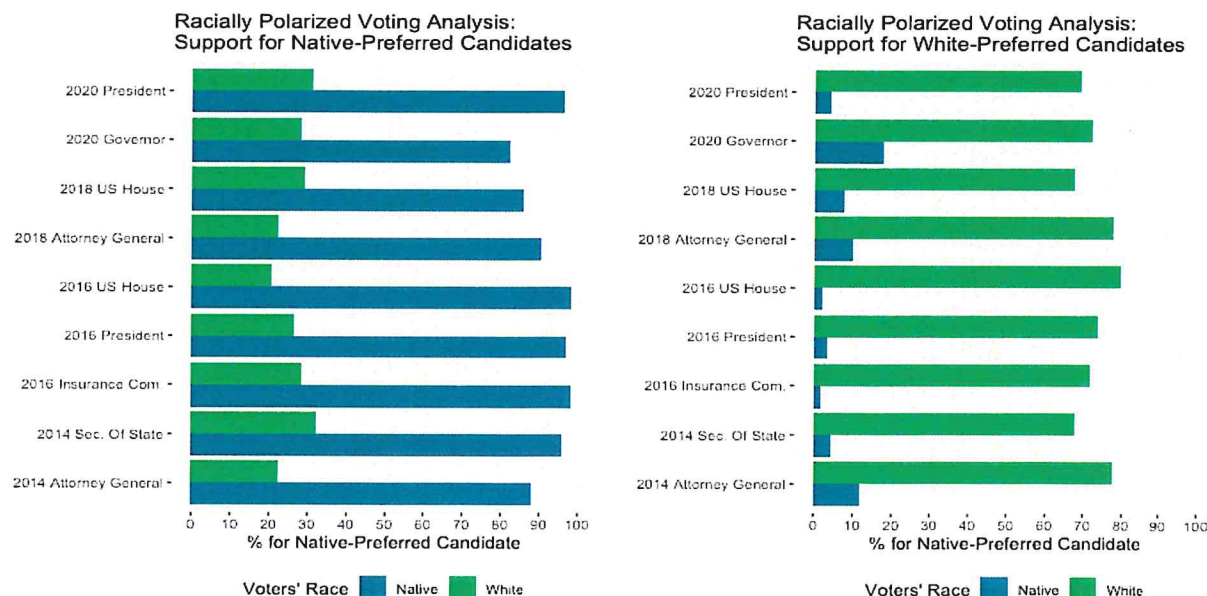


Redistricting Committee was the e-mailing of a hearing notice to the Tribes with one day's notice. Of course, given the short notice, not all of the Tribes were able to make it to Bismarck to attend the hearing. Indeed, we as tribal leaders are governing in the middle of a pandemic with limited resources, and so one day's notice is far from sufficient.

At that redistricting hearing, representatives from the Spirit Lake Nation, Standing Rock Sioux Tribe, and Three Affiliated Tribes advocated for the creation of legislative subdistricts to improve their representation. Of these requests, only a subdistrict for the Three Affiliated Tribes reservation area was approved by the Redistricting Committee. The Committee, however, also decided to create subdistricts in the Turtle Mountain reservation area, even though no subdistricts were ever requested by Turtle Mountain to the Redistricting Committee.

As a result of the poor outreach to our Tribal Nations, despite our repeated requests, the Redistricting Committee's proposed District 9, containing the Turtle Mountain reservation, is illegally drawn and we believe will be struck down in court if it is adopted by the State Legislature. To remedy this situation, and to also allow the members of Turtle Mountain and Spirit Lake to be able to elect the representatives of their choice in accordance with federal law, we have developed a proposed district containing the Turtle Mountain and Spirit Lake reservations. (**Attached as Figure 1**).

Given that our Tribal communities together would be sufficiently large and geographically compact to form a majority-minority district, and given the racially polarized voting that exists when comparing our communities to the surrounding areas, our proposed district satisfies the Voting Rights Act, and would negate the need for a subdistrict. To illustrate, the below charts show the differences between Native American and non-Native American voting patterns in 2016 and 2020 state-wide elections for the precincts within the district we have proposed. Our Tribal communities have voted cohesively in favor of clearly identified Native American preferred candidates. On the other hand, the non-Native American voters have, without exception, overwhelmingly voted against the Native American candidate of choice.






The disparity is even more severe when Native American candidates have run for office. In the 2016 election for the United States House of Representatives, a Native American candidate, Chase Iron Eyes, was preferred by an estimated 98 percent of Native American voters, but received only 21 percent of the vote from white voters. The vast majority of white voters rallied behind the eventual winner of the race, Kevin Cramer, who received only an estimated 2 percent of the Native American vote. A similar pattern is visible in the 2016 race for Insurance Commissioner, where an estimated 98 percent of Native American voters cast a ballot in favor of the Native American candidate, Ruth Buffalo, while being favored by only 28 percent of white voters.

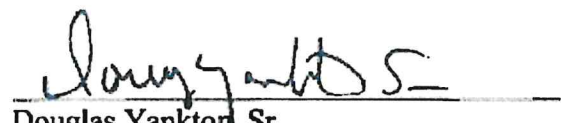
Not only will adopting the district proposed by our Tribes allow the State of North Dakota to forgo costly litigation (which would likely result in the Redistricting Committee's map being overturned anyway), the proposed district can also be incorporated into the overall state-wide redistricting map very easily, with minimal impacts to the districts proposed by the Redistricting Committee for the rest of the state. We have taken the additional step of drawing a full state-wide map that incorporates our proposed district. **(Attached as Figure 2)**. To illustrate this minimal impact, we have additionally provided a map that shows the lines of a proposed state-wide map that incorporates our proposed district, overlaid with the lines of the Redistricting Committee's proposed map. **(Attached as Figure 3)**. As you can see, incorporation of our proposed district only creates small changes to the other districts proposed by the Redistricting Committee, and only in the northeast corner of the state.

We respectfully bring this request forward, not only as the leaders of sovereign Tribal Nations, but as fellow citizens of the State of North Dakota. All citizens deserve to have their voices heard and to be treated fairly and equally under the law. Our proposed district accomplishes this, which benefits our Tribes as well as the State of North Dakota and all of its citizens. We appreciate your thorough attention to this matter.

Sincerely,

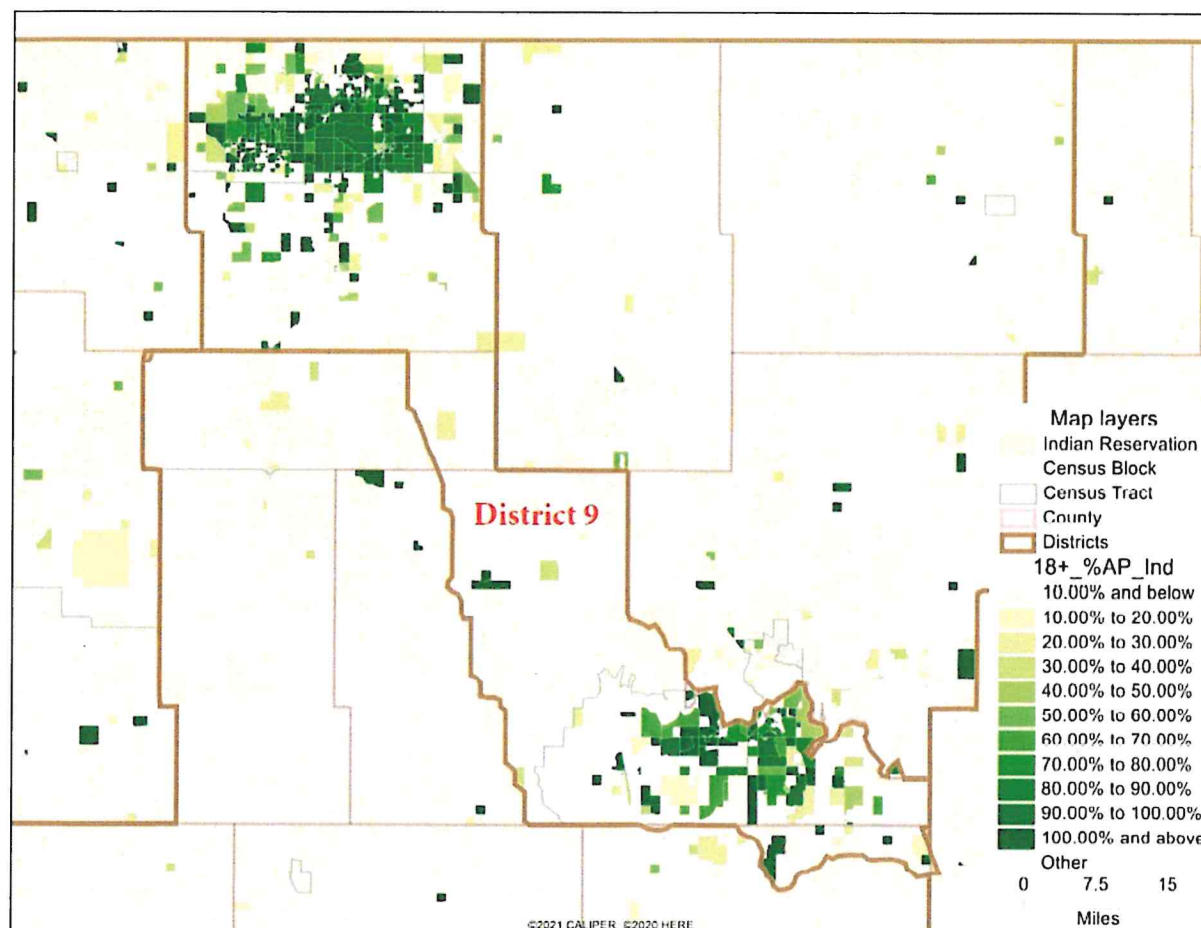


Jamie Azure  
Chairman  
Turtle Mountain Band of Chippewa Indians



Douglas Yankton, Sr.  
Chairman  
Spirit Lake Nation



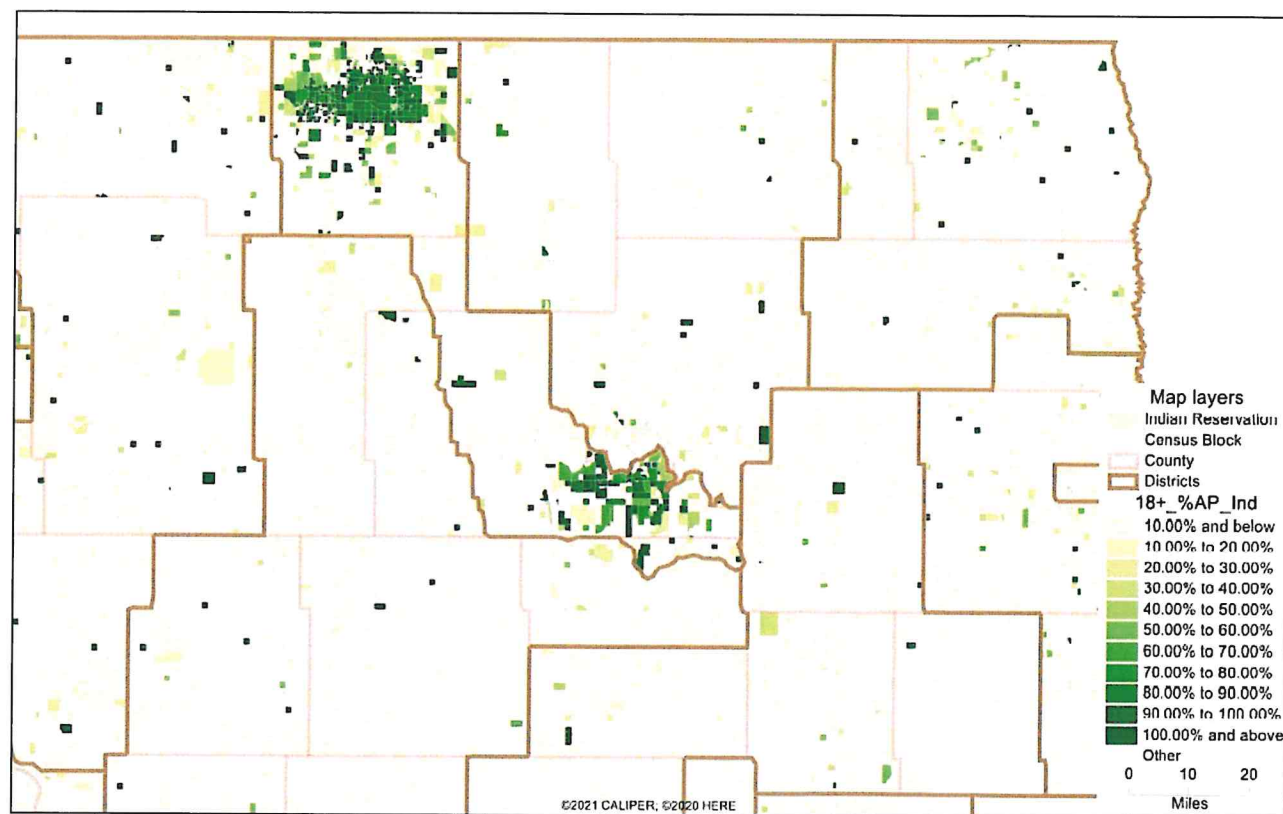
**Figure 1 – Proposed District Including Spirit Lake and Turtle Mountain Reservations**

District	Population	Deviation	%Deviation	18+ Native American Population	% 18+Native American Population
9	17,341	765	4.62%	7,887	69.06%



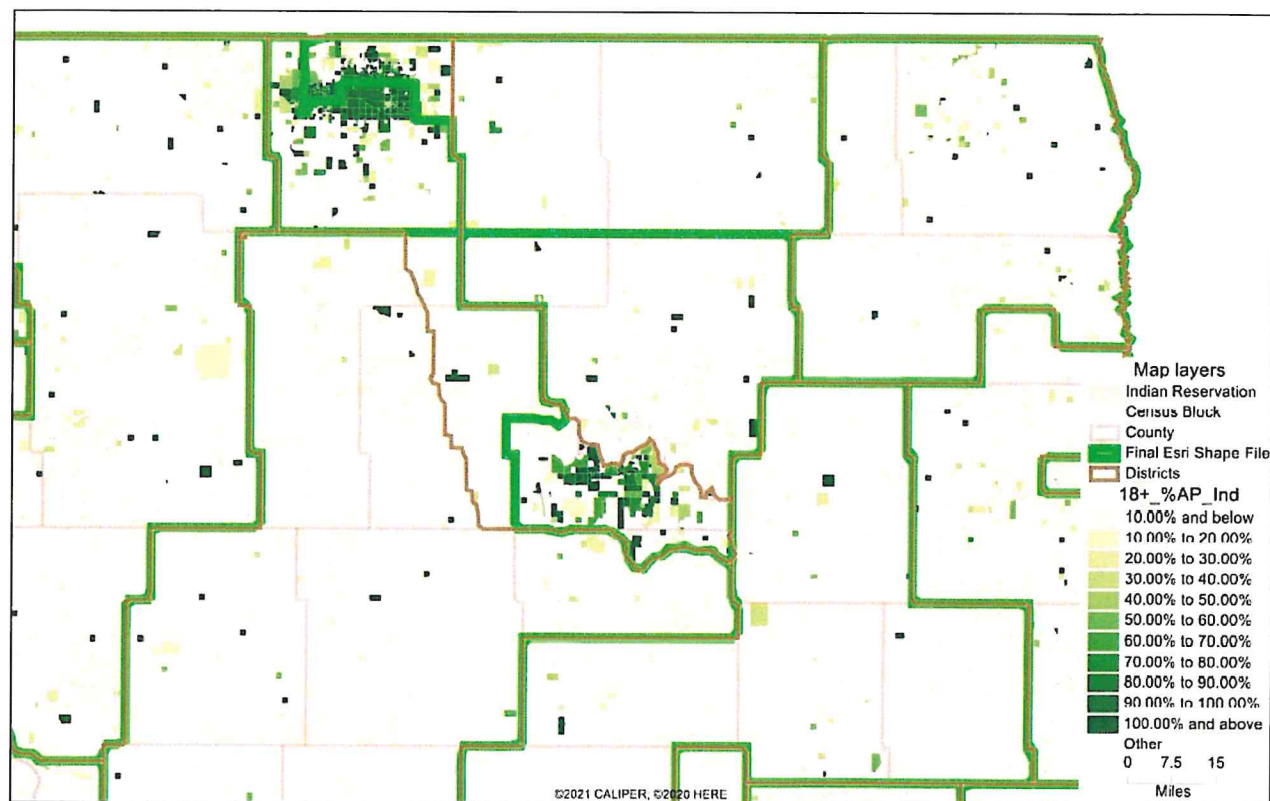


**Figure 2 – Proposed District as Incorporated Into State-Wide District Map**





**Figure 3 – Our Proposed District as Incorporated into State-Wide Map (Dark Brown Lines), Overlaid with and the Redistricting Committee’s Map (Green Lines)**







Joint Redistricting Committee written testimony  
2021 special session of the Legislature  
November 8, 2021

Chairman and members of the committee,

My name is Rick Gion, speaking on behalf of the North Dakota Voters First board of directors. I live in Fargo, ND.

North Dakota Voters First is a non-partisan, grassroots organization dedicated to strengthening democracy. Our organization focuses on educating and engaging North Dakota citizens to make elections and public policy more accountable, ethical, and transparent.

We commend the 2021 Redistricting Committee for their hard work and prudent decision to comply with the U.S. Voting Rights Act of 1965 by creating two House subdistricts. We are aware that this provision may be separated from the current redistricting bill, so please continue to advocate for these split districts if that's how a floor vote transpires.

As you know, North Dakota Voters First remains committed to House subdistricts throughout the whole state to bring elected officials closer to their voters. This isn't a new idea. It was discussed at length during the 2001 North Dakota redistricting process. Our neighbor to the east, Minnesota, uses this system. It was also recently endorsed by the Bismarck Tribune.

Throughout the redistricting process, leaders from our organization and other local voting rights groups have had concerns with the 2021 redistricting process. Our concerns include incumbent protection, scheduled time periods for public comment not being adhered to, agendas not being posted in a timely fashion, and draft maps not being posted prior to most meetings. This was unfortunate and disappointing. For these reasons and more, we feel that an independent redistricting commission would benefit the state and its citizens in future legislative redistricting.

Thank you for your time and hard work.

Sincerely,

Rick Gion  
Fargo, ND  
Lobbyist #1086

**Exhibit Z**



