

**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.

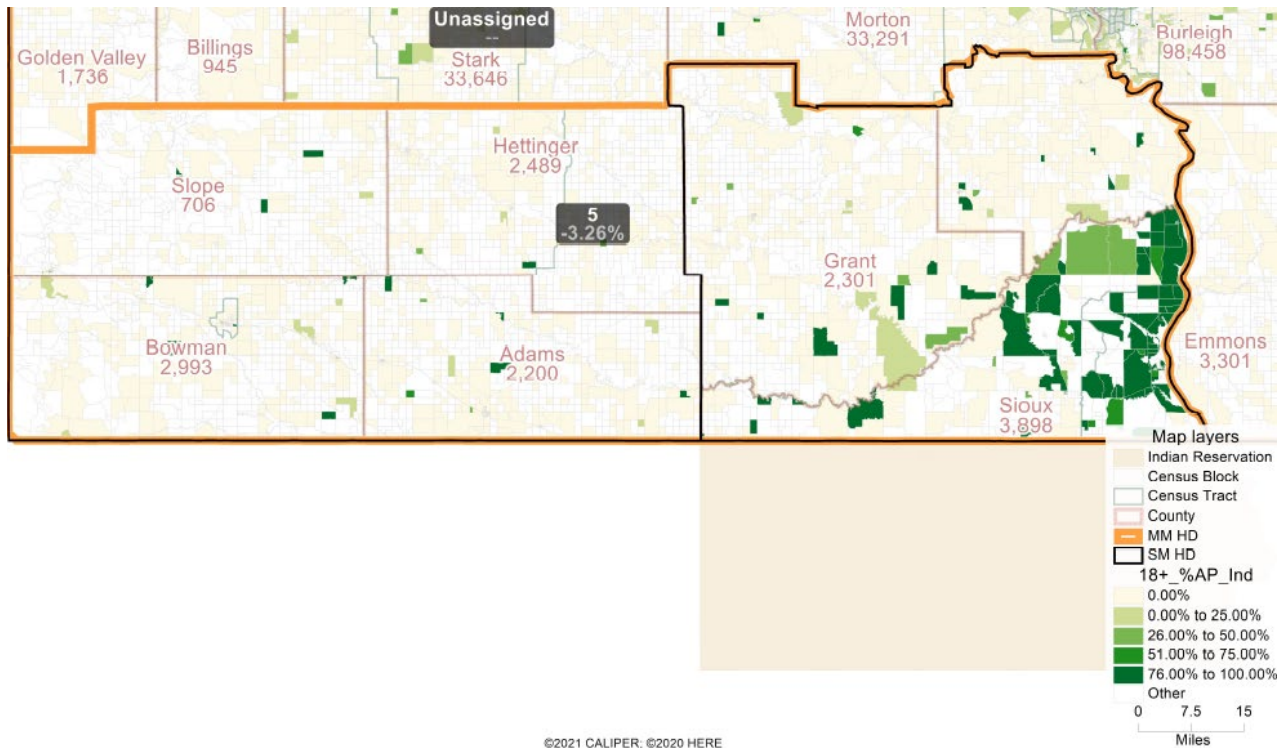
Below is a proposed district map, which also includes a proposed sub-district. The proposed district contains a Native American Voting Age Population (“VAP”) of 20%, and the proposed sub-district contains a Native American VAP of over 41%. The creation of such a district would improve the representation 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**

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

Proposed Sub-District Encompassing the Standing Rock Sioux Tribe Reservation

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