

**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

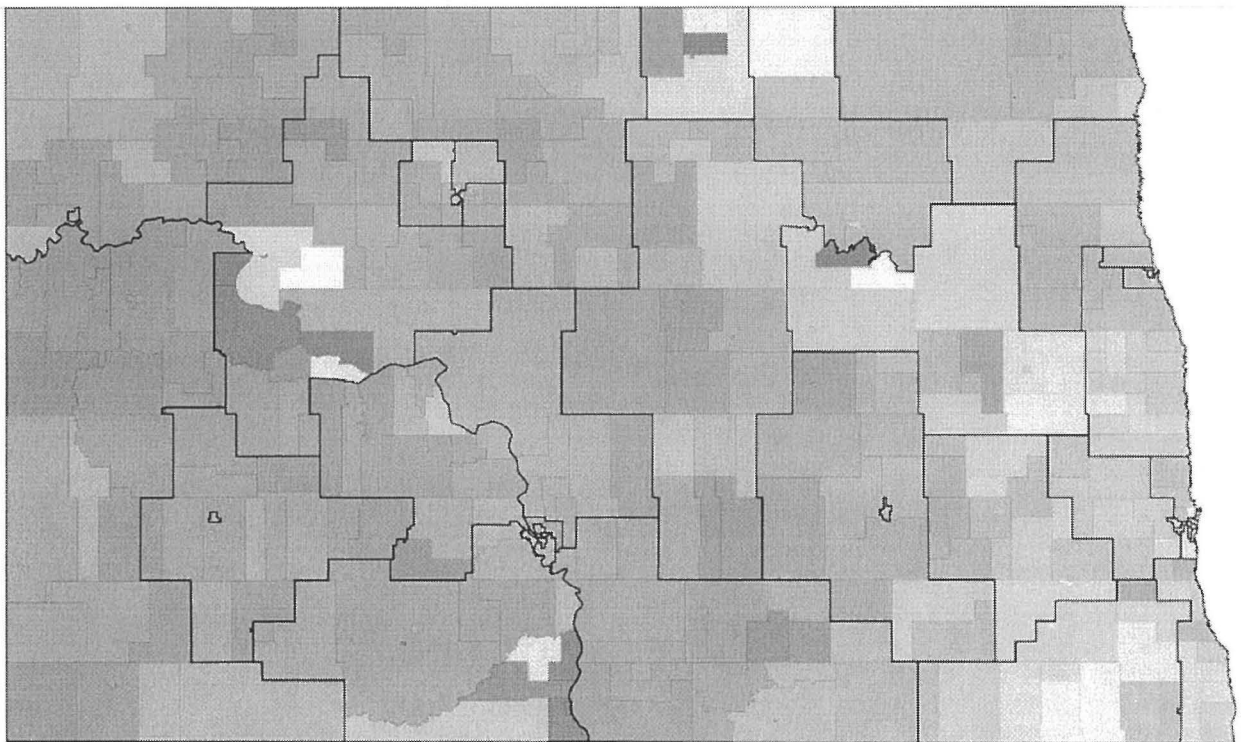
In North Dakota, the Native American population grew by 29.7% in the last decade. So as the state of North Dakota undertakes its redistricting process, the Legislature should take several steps. First, the Legislature should move away from at-large districts for the State House of Representatives, which 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.¹

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,

¹ 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.² Additionally, the North Dakota District Court recently

² *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.³ Native people also disproportionately lack access to transportation and broadband internet.⁴ 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.

³ *Id.* at *8 (Native Americans living in North Dakota disproportionately live in severe poverty).

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