

FIELD HEARING ON VOTING RIGHTS AND ELECTION ADMINISTRATION IN THE DAKOTAS

HEARING BEFORE THE COMMITTEE ON HOUSE ADMINISTRATION HOUSE OF REPRESENTATIVES ONE HUNDRED SIXTEENTH CONGRESS FIRST SESSION

APRIL 16, 2019

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VOTING RIGHTS AND ELECTION ADMINISTRATION IN THE DAKOTAS

TUESDAY, APRIL 16, 2019

HOUSE OF REPRESENTATIVES,
THE SUBCOMMITTEE ON ELECTIONS,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:10 a.m., at Standing Rock Sioux Tribal Council, Building #1, North Standing Rock Avenue, Fort Yates, North Dakota, 58538, Hon. Marcia L. Fudge [Chair of the Subcommittee] presiding.

Present: Representatives Fudge, Butterfield, and Rodney Davis.
Also Present: Representative Thompson.

Staff Present: Jamie Fleet, Staff Director; Sean Jones, Legislative Clerk; David Tucker, Senior Counsel and Parliamentarian; Elizabeth Hira, Elections Counsel; Sarah Nasta, Elections Counsel; Peter Whippy, Communications Director; Courtney Parella, Minority Communications Director; Cole Felder, Minority General Counsel; Joy Yunji-Lee, Minority Counsel; and Jesse Roberts, Minority Counsel.

Chairwoman FUDGE. Good morning. The Committee on the Elections of—the Subcommittee on Elections of the Committee on House Administration will come to order.

I would like to thank the Members of the Subcommittee and my colleagues from the House who are here with us today, as well as our witnesses and all those in attendance for being here today. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and that written statements be made part of the record. Hearing no objection, so ordered.

I ask unanimous consent that Chairman Thompson be invited to sit on the dais for the Subcommittee hearing today. Hearing no objection, so ordered.

My name is Marcia Fudge, and I am the Subcommittee Chair. I want to thank my colleagues, our witnesses, and the people of North and South Dakota and the Tribal leaders of several communities for joining us here today.

We have had the responsibility and the honor of traveling this Nation in the past few months, hearing from those on the ground about the reality of how elections are run and gathering accounts of those who have experienced challenges and outright discrimination as they seek to exercise their Constitutional right to vote.

The Voting Rights Act was necessary because of this country's long and painful history of not extending the right to vote to all of

“We the People”. The Native American community has suffered alongside other minority groups in this denial of the franchise.

When the 14th Amendment granted citizenship rights to Black Americans in 1868, the government specifically interpreted the amendment to exclude Native Americans on reservations. It wasn’t until 1924 that Native Americans were in full citizenship under the Indian Citizenship Act. Native American advocates fought State by State to ensure their right to vote. Only in 1962 did Native Americans become enfranchised in every State. Thus, current efforts at voter suppression and disenfranchisement of Native American communities fall within a continuum of extreme marginalization of this particular population.

For that reason, there is no better place to hear the story of Native American voting access than here at Standing Rock, where plain efforts are as suppressing the Native American vote persist in law to this day.

North Dakota adopted a voter ID law even after the deputy Secretary of State warned it would disproportionately burden the Native American community. South Dakota had more litigation over voting rights violations than any other State in Indian country. We have heard stories of voters being forced to vote in a chicken coop. That is not what the Voting Rights Act envisioned and it simply has no place in our democracy. We are here to listen, and to do something about what we hear.

With that in mind, we are pleased to have with us today the very people who can tell this story firsthand, Native American advocates and litigators, Tribal leaders, and legislators who are right in the middle of the fight for justice, and who are willing to honor us with their presence and stories today.

I thank you for your tireless efforts on behalf of every voter in the Native American community, and toward a robust democracy for all. I look forward to your testimony.

I would now yield for an opening statement to my colleague and friend, the Ranking Member, Mr. Davis.

ZOE LOFGREN, CALIFORNIA
CHAIRPERSON

JAMIE RASKIN, MARYLAND
VICE CHAIRPERSON

SUSAN DAVIS, CALIFORNIA
G.K. BUTTERFIELD, NORTH CAROLINA
MARCIA FUDGE, OHIO
PETE AGUILAR, CALIFORNIA

JAMIE FLEET, STAFF DIRECTOR

Congress of the United States

House of Representatives COMMITTEE ON HOUSE ADMINISTRATION

1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-2061
<https://cha.house.gov>

RODNEY DAVIS, ILLINOIS
RANKING MINORITY MEMBER

MARK WALKER, NORTH CAROLINA
BARRY LOUDERMILK, GEORGIA

ONE HUNDRED SIXTEENTH CONGRESS

JEN DAULBY, MINORITY STAFF DIRECTOR

Voting Rights and Election Administration in the Dakotas Chairwoman Marcia L. Fudge Opening Statement

My name is Marcia Fudge and I am the Subcommittee Chair. I want to thank my colleagues, our witnesses, and the people of North Dakota, South Dakota, and the Tribal leaders of several communities for joining us here today. We have had the responsibility and the honor of traveling this nation in the past few months, hearing from those on the ground about the reality of how elections are run, and gathering accounts of those who have experienced challenges and outright discrimination as they seek to exercise their constitutional right to vote.

The Voting Rights Act was necessary because of this country's long and painful history of not extending the right to vote to *all* of "We the People." The Native American community has suffered alongside other minority groups in this denial of the franchise. When the 14th Amendment granted citizenship rights to Black Americans in 1868, the government specifically interpreted the Amendment to exclude Native Americans on reservations, and it wasn't until 1924 that Native Americans won full citizenship under the Indian Citizenship Act. Native American advocates fought state by state to ensure their right to vote—only in 1962 did Native Americans become enfranchised in every state.

Thus, current efforts at voter suppression and disenfranchisement of Native American communities fall within a continuum of extreme marginalization of this population. For that reason, there is no better place to hear the story of Native American voting access than here at Standing Rock—where plain efforts at suppressing the Native American vote persist in law to this day. North Dakota adopted a voter ID law even after a Deputy Secretary of State warned it would disproportionately burden the Native American community. South Dakota has had more litigation over voting rights violations than any other state in Indian country.

We've heard stories of voters being forced to vote in a chicken coop. That is not what the Voting Rights Act envisioned, and it simply has no place in our democracy. We are here to listen, and to do something about it. With that in mind, we are pleased to have with us today the very people who can tell this story first hand: Native

American advocates and litigators, Tribal leaders and legislators, who are right in the middle of the fight for justice, and who are willing to honor us with their presence and stories today.

Thank you for your tireless efforts on behalf of every voter in the Native American community, and toward a robust democracy for all. I look forward to your testimony.

Mr. DAVIS. Thank you, Madam Chairwoman. It is great to be here. My first time. As many of us who are coming from outside of North Dakota and South Dakota, our first time to the Dakotas.

It is an honor for me to be here at Standing Rock. As somebody who had the honor of recognizing the first ever Native American woman, our colleague, Deb Haaland, when she chaired House Proceedings just a few months ago, this is really, truly an honor for me to be able to be surrounded by such history. As a Member of the House Administration Committee, this is a great opportunity to be here, to bring Washington to you, rather than expecting everybody else to go to Washington.

Since the creation of the Committee on House Administration, oversight of Federal elections quickly became one of our chief tasks. Throughout CHA's existence, the Committee has worked across the aisle to create significant and necessary election policy that has widely impacted this Nation, including legislation to eliminate the poll tax, legislation to create easier access to members of the military and their families when they are voting overseas, and also the *Help America Vote Act of 2002*, a landmark piece of legislation that took significant steps to remedy the problems seen in the 2000 Presidential election.

The Subcommittee on Elections is designed to serve as an extension of the CHA to enhance oversight capabilities of Federal elections. While the Subcommittee has not always been a formal part of the Committee on House Administration, the work on election administration has always remained a top priority. Since the Subcommittee's recent reinstatement, I have been told by my good friend, Chairwoman Fudge, that the current intention of the Subcommittee is to investigate voting rights issues. The Voting Rights Act was enacted in 1965 for the purpose of removing racial-based restrictions on voting. The VRA historically has been a bipartisan effort, most recently reauthorized under a Republican President and a Republican Congress. This legislation has primarily remained under the jurisdiction of the House Judiciary Committee. Our Committee, however, has an obligation to review how elections are administered and recognize problems Congress can solve, which I hope we are able to learn more about here today.

One of the reasons we are here today was the Supreme Court's 2013 decision in *Shelby County v. Holder*, which revolves around Section 4 and Section 5 of the Voting Rights Act. In that opinion, Chief Justice Roberts opens his majority opinion by stating that the Voting Rights Act of 1965 employed extraordinary measures to address extraordinary problems.

Ultimately, the Court did not weigh in on whether there remains an extraordinary problem. The Court did, however, hold that what at one time made sense has lost its relevance, and noted that nearly 50 years later, things have changed dramatically. If there is evidence of intentional widespread voter discrimination, we should take steps to remedy that in a bipartisan manner. Additionally, we should do our due diligence to review the facts, and the numbers carefully, and hear from all stakeholders. What are the voter registration trends? What are the turnout trends? It is essential that Congress make it the most well-informed decision as possible. Voting is a fundamental right of American citizens, and protecting

that right is a responsibility I take very seriously as the Ranking Member of this Committee.

Today I am here, along with my colleagues and friends, to listen to all the witnesses who have graciously agreed to participate in this field hearing. I look forward to hearing what you have to share with the Subcommittee.

And with that, Madam Chairwoman, I yield back.

ZOE LOFGREN, CALIFORNIA
CHAIRPERSON

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VICE CHAIRPERSON

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Voting Rights and Election Administration in the Dakotas Ranking Member Rodney Davis Opening Statement

Thank you, Madam Chair. Since the creation of the Committee on House Administration, oversight of federal elections quickly became one of its chief tasks. Throughout CHA's existence, the Committee has worked across the aisle to create significant and necessary election policy that has widely impacted this nation, including legislation to eliminate the poll tax, legislation to create easier access to members of the military and their families when voting overseas, and the Help America Vote Act, a landmark piece of legislation that took significant steps to remedy the problems seen in the 2000 presidential election.

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The Voting Rights Act was enacted in 1965 for the purpose of removing racial-based restrictions on voting. The VRA historically has been a bipartisan effort which was most recently re-authorized under a Republican President and Republican Congress.

This legislation has primarily remained under the jurisdiction of the House Judiciary Committee. Our committee, however, has an obligation to review how elections are administered and recognize problems Congress can solve, which I hope we're able to learn more about here. One of the reasons we are here today was the Supreme Court's 2013 decision in *Shelby County v. Holder* which revolves around Section 4 and Section 5 of the Voting Rights Act. In that opinion, Chief Justice Roberts opens his majority opinion by stating that "the Voting Rights Act of 1965 employed extraordinary measures to address an extraordinary problem."

Ultimately the Court did not weigh in on whether there remains an extraordinary problem. The court did, however, hold that what at one time "made sense," has lost its relevance, and noted that "nearly 50 years later, things have changed dramatically." If there is evidence of intentional, widespread voter discrimination, we should take steps to remedy that in a bipartisan manner. Additionally, we should do our due diligence to review the facts and the numbers carefully and also hear from all stakeholders. What are the voter registration trends? What are the voter turnout trends? It is essential that Congress make the most well-informed decisions possible.

Voting is a fundamental right to American citizens, and protecting that right is a responsibility I take very seriously as Ranking Member. Today, I'm here to listen to all of the witnesses who have graciously agreed to participate in this field hearing, and I look forward to hearing what you have to share with the subcommittee.

Thank you, and I yield back.

Chairwoman FUDGE. Thank you, Mr. Davis.

I would also like to recognize the other two Members of the Congress who are sitting here with us on the panel. First here is Mr. G.K. Butterfield of North Carolina, who is a member of the House Administration Committee, and the Energy and Commerce Committee. Lastly, Chairman Bennie Thompson, who is the Chairman of the Homeland Security Committee for the U.S. Congress.

We will now introduce our panelist. Again, each of you will have 5 minutes. When you begin, you will see the lights come on. Green light means start. Yellow light means you have one minute left. Red light means please try to wrap up.

First, we are pleased to recognize Charles Walker, Judicial Committee Chairman, Standing Rock Sioux Tribe; Myra Pearson, Chairwoman, Spirit Lake Nation; Alysia LaCounte—did I say it right? Okay—General Counsel, Turtle Mountain Band of Chippewa Indians; and Mr. Roger White Owl, CEO, Mandan Hidatsa and tell me—Arikara Nation. Thank you so much.

We will begin with you, Mr. Walker. You have 5 minutes.

STATEMENTS OF CHARLES WALKER, COUNCILMAN AT LARGE, STANDING ROCK SIOUX TRIBE; RODGER WHITE OWL, CEO, MANDAN, HIDATSA, & ARIKARA NATION, ALYSIA LACOUNTE, GENERAL COUNSEL, TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS; MYRA PEARSON, CHAIRWOMAN, SPIRIT LAKE NATION

STATEMENT OF CHARLES WALKER

Mr. WALKER. Good morning, Madam Chairwoman and Committee Members. My name is Charles Walker, and I serve as Chairman of the Judicial Committee of the Standing Rock Sioux Tribe. It is our pleasure to host you for this field hearing. Thank you for being here.

The Standing Rock Sioux Tribe is a Federally recognized Tribe located in both North and South Dakota. We have approximately 15,975 members, 8,637 of whom live on a reservation. And of those living on the reservation, roughly 5,868 are 18 years or older. The Standing Rock Sioux Tribe has strived for respectful relations with the State Governments of North and South Dakota. However, tensions have been pretty high, especially in recent history.

For example, North Dakota prosecuted hundreds of Dakota Access Pipeline protesters. The last trial didn't finish until this February. The North Dakota Governor signed a bill on April 9 that will make it harder to obtain public records regarding critical infrastructure projects, which presumably is targeted at further protecting pipeline construction projects.

South Dakota's legislature also just passed a bill that could hold pipeline protesters liable for three times the cost of extraordinary law enforcement costs. Presumably, once again, in preparation of protests over the pending Keystone XL Pipeline. The Governor was the one who introduced the legislation, and it took only 3 days—it took only 3 days for both chambers of the State legislature to pass it. Even if the States claim that these laws were passed with a neutral lens, they suggest heavy anti-Indian sentiment, especially regarding protests or other forms of political participation.

The State's recent voter ID laws carry a similar anti-Indian undertone. North Dakota has had voter ID laws in place since 2004. But for years, the law still permitted individuals to vote if the poll worker could vouch for the identity of a qualified voter or the voter signed an affidavit, swearing, under penalty of perjury, that he or she was qualified to vote. These exceptions were especially useful on the Standing Rock Reservation, where Tribal members serve as poll workers and can vouch for almost every person within the community.

This all changed in 2013. Democrat Heidi Heitkamp won the Senate seat in 2012 by less than 3,000 votes, or roughly 1 percent of the State population. We believe Standing Rock votes had a large impact on that election with Native American votes putting her over the top.

In response, in 2013, the State legislature immediately imposed an ID requirement that required a residential address. Unfortunately, these ID and residential address requirements severely impacted voters on Standing Rock reservation. Many people on Standing Rock do not have an ID which is simply not necessary for everyday life. Most people know each other, and many people did not have a vehicle. Truth is, an ID costs money that people simply do not have. The family poverty rate in Sioux County, North Dakota alone is 35.9 percent. The nearest driver's license site is about 40 miles away. The average person is not going to travel that distance just to get an ID they do not need. And the Tribal ID is still going to cost money.

Typically, unless you are elderly, we charge for the ID since we need funding to cover the cost of staff time and printing the ID. Additionally, the U.S. Postal Service does not always operate in the rural areas of the reservation. Many members use and share Post Office boxes instead of having mailed delivered straight to their homes. And even if the USPS did operate within a reservation, many of the homes are not marked with house numbers. Many streets lack signage. And even if the State government has an address listed for a particular residence that might not have ever been ever communicated to the homeowners. And to make matters worse, the State uses multiple addressing systems. So some government officials might have one address listed, while another having a different address—while another has a different address.

Simply put, it is a massive hurdle for many on the Standing Rock Reservation to figure out their actual residential address. We also have a significant portion of the population that is moving from home to home, because they do not have housing of their own, which means that even though they remain within the reservation, they do not have a consistent address. This makes the residential address requirement especially burdensome.

The North Dakota legislature has said that these voter IDs are necessary to prevent voter fraud, but this is simply not a problem on Standing Rock Reservation. Tribal members serve as poll workers, so they recognize just about all the members in the community. Further, the failsafe mechanisms in the latest iteration of the voter ID law did not actually address the problems that Indian voters face. If the problem is simply a lack of a legitimate residential

address then they likely do have a utility bill or some other document addressed to that address.

Bottom line, members of Standing Rock Sioux Tribe feel that the North Dakota ID law was meant to target them and dissuade them from exercising their constitutional right to vote. It was hurtful to our members to be excluded this way, and our community remains outraged. This election cycle, the Tribe responded by expending valuable resources to try and make sure our members were not disenfranchised. We normally charge a \$5 fee to print new IDs for any Tribal member. Under the age of 60, we waived this fee. Leading up to the election, we issued 807 new Tribal IDs between October 15, 2018, and November 6, 2018. We could have charged a fee to print 486 of these, which means we lost nearly \$2,500 in income and spent almost 500 to print all these IDs. Previously, and by comparison, Tribal enrollment office averages only 47 IDs a month.

We remain concerned with the State's voter ID law. We joined the Spirit Lake Tribe in their lawsuit against the State. And we will continue to fight against the repressive effects of the law.

Once again, thank you for being here today and hearing our concerns. This concludes my comments.

[The statement of Mr. Walker follows:]

**Testimony of Charles Walker,
Judicial Committee Chairman
Of the Standing Rock Sioux Tribe,
Before the Committee on House Administration,
Subcommittee on Elections.**

In Fort Yates, ND

April 16, 2019

Voting Rights and Election Administration in the Dakotas

Good morning Madam Chair and Committee Members. My name is Charles Walker and I serve as Chairman of the Judicial Committee of the Standing Rock Sioux Tribe. It is our pleasure to host you for this field hearing. Thank you for being here.

The Standing Rock Sioux Tribe is a federally recognized tribe located in both North and South Dakota. We have approximately 15,975 members, 8,367 of whom live on the Reservation. And of those living on the Reservation, roughly 5,868 are eighteen years or older.

The Standing Rock Sioux Tribe has strived for respectful relations with the state governments of North and South Dakota. However, tensions have been especially high in recent history. For example, North Dakota prosecuted hundreds of Dakota Access Pipeline protesters.¹ The last trial didn't finish until this February.² And the North Dakota Governor signed a bill on April 9 that will make it

¹ Blake Nicholson, *Dakota Access Criminal Cases Wrapping up in North Dakota*, AP NEWS (Feb. 6, 2019), <https://www.apnews.com/514723a4f3524009ab8923f2ed994c83>.

² *Id.*; Lisa Kaczke, *Pipeline Protest Bills Head to Noem with Senate, House Approval*, ARGUS LEADER (Mar. 7, 2019), <https://www.argusleader.com/story/news/politics/2019/03/07/keystone-xl-pipeline-protest-bills-pass-south-dakota-senate-house/3090014002/>.

harder to obtain public records regarding “critical infrastructure projects”—which is presumably targeted at further protecting pipeline construction projects.³ The South Dakota legislature also just passed a bill that could hold pipeline protesters liable for three times the cost of “extraordinary law enforcement costs,” presumably in preparation of protests over the pending Keystone XL Pipeline.⁴ The governor was the one who introduced the legislation, and it took only three days for both chambers of the state legislature to pass it. Even if the states claim that these laws were passed with a neutral lens, they suggest a heavy anti-Indian sentiment, especially regarding protests or other forms of political participation.

The state’s recent voter IDs laws carry a similar anti-Indian undertone. North Dakota has had voter ID laws in place since 2004, but for years the law still permitted individuals to vote if the poll worker could vouch for the identity of a qualified voter or the voter signed an affidavit swearing, under penalty of perjury, that he or she was qualified to vote.⁵ These exceptions were especially useful on the Standing Rock Reservation, where tribal members serve as poll workers and can vouch for almost every person within the community.

This all changed in 2013. Democrat Heidi Heitkamp won a Senate seat in 2012 by less than 3,000 votes, or roughly 1 percent of the state population.⁶ We believe Standing Rock votes had a large impact on that election, with Native American votes putting her over the top. In response, in 2013, the Legislature immediately imposed an ID requirement that required a residential address. Unfortunately, these

³ Will Parrish, *North Dakota Seeks to Restrict Access to Public Records After Standing Rock Reporting Exposed Law Enforcement Abuses*, THE INTERCEPT (Feb. 11, 2019), <https://theintercept.com/2019/02/11/north-dakota-public-records-pipeline-protest/>; S.B. 2209, 66th Leg. Assemb. (N.D. 2019).

⁴ S.B. 189, 94th Sess. (S.D. 2019).

⁵ *North Dakota Again Passes Discriminatory Voter ID Law*, NATIVE AMERICAN RIGHTS FUND (May 9, 2017), <https://www.narf.org/north-dakota-voter-id-law/>.

⁶ First Am. Compl. ¶ 146.

ID and residential address requirements severely impacted voters on the Standing Rock Reservation.

Many people on Standing Rock do not have an ID. It simply is not necessary for everyday life. Most people know each other and many people do not have a vehicle. And the truth is, an ID costs money that people simply do not have. The family poverty rate in Sioux County, North Dakota, alone is 35.9 percent.⁷ The nearest Driver's License Site is about 40 miles away – the average person is not going to travel that distance just to get an ID they do not need. And a tribal ID is still going to cost money. Typically, unless you are elderly, we charge for an ID since we need funding in order to cover the cost of staff time and printing the ID.

Additionally, the US Postal Service does not always operate in the rural areas of the Reservation. Many members use and share PO boxes instead of having mail delivered straight to their homes. And even if USPS did operate within the Reservation, many of the homes are not marked with house numbers, many streets lack signage, and even if the state government has an address listed for a particular residence, that might not have ever been communicated to the homeowners. And to make matters worse, the state uses multiple addressing systems, so some government officials might have one address listed while another has a different address. Simply put, it is a massive hurdle for many on the Standing Rock Reservation to figure out their actual residential address.

We also have a significant portion of the population that is moving from home to home because they do not have housing of their own, which means that even though they remain within the reservation, they do not have a consistent address. This makes the residential address requirement especially burdensome.

⁷ *Id.* at ¶39.

The North Dakota legislature has said that these voter ID laws are necessary to prevent voter fraud.⁸ But this is simply not a problem on the Standing Rock Reservation. Tribal members serve as poll workers, so they recognize just about all of the members in the community who come to vote and they will likely be able to spot someone who is attempting to vote illegally. There is little to no risk of voter fraud on the Standing Rock Reservation, and there has never been an issue with it before with more lenient voter ID laws.

Further, the “failsafe mechanisms” in the latest iteration of the voter ID law do not actually address the problems that Indian voters face. If the problem is simply a lack of a legitimate residential address, they likely do not have a utility bill or some other document addressed to that address. The same is true for the set-aside ballots; if a voter couldn’t obtain an address in time for the election, there is little evidence to suggest that they would be able to do so in the six days following the election.

Bottom line, members of the Standing Rock Tribe feel that the North Dakota voter ID law was meant to target them and dissuade them from exercising their constitutional right to vote. It was hurtful to our members to be excluded this way and our community remains outraged.

This election cycle the tribe responded by expending valuable resources to try to make sure that our members were not disenfranchised. We normally charge a \$5 fee to print new IDs for any tribal member under the age of 60; we waived this fee leading up to the election. We issued 807 new tribal IDs between October 15, 2018 and November 6, 2018. We would have charged a fee to print 486 of these IDs, which means we lost nearly \$2,500 in income and spent almost \$500 to print all of these IDs. And by comparison, previously the tribal enrollment office at Fort Yates printed an

⁸ *North Dakota Again Passes Discriminatory Voter ID Law*, *supra* note 6.

average of only 47 IDs per month—printing over 800 IDs in the span of roughly three and a half weeks was obviously a huge burden on the staff, and almost every day there were long lines of people waiting to receive new IDs. Luckily the ID printer we were using didn't start to malfunction until the last day, so we were able to print all of the IDs, but we will need to replace the machine.

Despite the fact that our efforts and the efforts of our get out the vote staff and volunteers led to strong voter turnout in 2018, our concern remains. The state has not offered any money or assistance in complying with the Voter ID law, there has been no effort to update the state's addressing system and make it 911-compliant, and homes remain unmarked. Before the election we attempted to assign addresses ourselves using the Burkle addressing system and we reached out to the State to see if they would accept these addresses. We never received confirmation that the State would accept these addresses. Instead, shortly before the election, the State said that members that need addresses should reach out to the county. But in our case, the assigned county employee was the Sheriff. Not only was the Sheriff busy with other matters and sometimes unavailable, many of our members do not like interacting with law enforcement. We do not think having a Sheriff as a point of contact to assign homes on a one by one basis is a good long term solution for assigning addresses to homes.

And even if we were able to assign a street address to each house on the Standing Rock Reservation, there are not enough units on the reservation to serve the population given our severe overcrowding problem, meaning people will still be moving home to home. And further, many people who may have received a compliant ID in 2018 or may receive one in the near future will have a new address in a matter of months, which will mean that they need to either receive yet another compliant ID or risk being turned away at the polls next year. Many members are transient or change residences frequently, and many live in poverty. We do not have the resources to offer free

IDs indefinitely, which means many people will have to make a choice of paying a prohibitive fee to obtain a new ID, or, again, losing the ability to vote in the 2020 election.

We remain concerned with the state's Voter ID law. We joined the Spirit Lake Tribe in their lawsuit against the state, and we will continue to fight against the repressive effects of the law.

Once again, thank you for being here today and for hearing our concerns. This concludes my comments.

Chairwoman Fudge. Thank you very much, Mr. Walker.
Ms. Pearson.

STATEMENT OF MYRA PEARSON

Ms. Pearson. Good morning, Chairwoman Fudge and Ranking Member Davis. Thank you for having me here today. And I would also like to thank the Standing Rock Sioux Tribe for allowing me to come here and speak today.

I am Myra Pearson. I am Chairwoman for the Spirit Lake Tribe. Spirit Lake is a federally recognized Tribe located in the center of North Dakota with an enrolled membership of 7,547 members as of February 13, 2019. There are approximately 3,659 members currently living on the reservation land situated within North Dakota, and about 108 members live within 20 miles of the reservation. Approximately 2,146 members of Spirit Lake living on the reservation are 18 years or older. Adjacent to the reservation are approximately 66 members who are 18 years of age or older.

Many of our members struggle with housing instability, unemployment, and poverty. In 2015, a survey of 285 people living on the Spirit Lake reservation indicated that 38 percent of people have an individual income of under \$5,000, and 73 percent have an income of under \$20,000 a year. 47.8 percent of the residents live below the poverty level as compared to the national average of 13.8 percent. Forty-one percent reported that they had been homeless at some point in their lives. The Cankdeska Cikana Community College here in North Dakota estimated in September, 2014 that there were around 300 homeless people residing on or around the reservation, but also noted that this estimate might be conservative due to the many members not signing up for housing assistance.

Given these realities and the fact that many parts of the reservation have not been thoroughly addressed, many members do not have an ID, since they do not need one to live their lives, and they cost money. If the members have IDs at all, they hold Tribal IDs that list their address as a P.O. box, if they have one. There are many streets on the reservation that are not labelled, and there are many houses which lack numbers. And even if the county 911 coordinator was assigned a residential address to someone's home, many are never notified of this address.

Mail services do not extend to certain parts of the reservation. For example, in Fort Totten, all residents receive their mail through a P.O. box. There is no postal service delivery to residents in this area, so they must rely on a P.O. box to conduct their affairs. Spirit Lake became concerned that its members would not have IDs required to comply with the current voter ID law and decided to expand its resources to help its members obtain acceptable IDs.

In the weeks leading up to November 2018 election, members and staff of Spirit Lake Tribal government spent several hours a day working to address these serious issues for its members. In order to ensure that its members had valid IDs, the Tribe chose to extend hours at the Tribal enrollment office. Between October 22 and November 8, 2018, the enrollment office was open from 8 a.m. until as late as 7:00 p.m., depending on need.

Robin Smith, the Director for the enrollment department, had to work through her lunch break on a regular basis to ensure the needs were met. Ms. Smith worked a total of 21.25 hours of overtime between this timeframe at a rate of \$37.50 per hour, which cost the Tribe an additional \$796.88.

During this timeframe, the Tribe also waived the cost of the Tribal IDs for many of the members, which ordinarily would cost \$11. The ID fee would normally have gone toward covering the cost of issuing the ID, including supplies, equipment, ink, and paying the staff. In order to meet the needs of the members of—and the additional requests for IDs, the Tribe purchased a new printer, worth \$2,655, and \$1,105 worth of supplies, such as the ink and the cards themselves. The Tribe issued a total of 665 ID cards between October 22 and November 8. Normally, the Tribe issues 30 ID cards per month. Due to the fee waiver, the Tribe lost \$7,315 in income during this time.

I am going to share a personal story with you. My time is running out here. But I am—you know, my testimony pretty much echoes what Mr. Walker had just stated previously. But I did experience—you know, this past summer, I had gone to apply for some central air. And while I was filling my application the company that was going to finance my central air unit told me he couldn't do it. He said it is not because of your—you know, your credit rating or anything. It is because we can't locate you on the map. He said as far as I am concerned, you could live in Canada, he said, and not live where you say you are living.

I gave him a physical address and everything, and he wouldn't accept it. I couldn't get my central air through his company. But at the same time, I also had a phone delivered to my home, and they couldn't find my address, but I was paying the bill. About 7 months later, I asked about the bill and why I was paying for something I didn't have. Well, they finally sent it, but it sat in the warehouse all that time at the FedEx office, because they didn't have a physical address on me.

I have had that physical address and I have lived in that same location for the past 22 years. But I still do not exist as far as the GPS and everything that goes along with that.

I hope today you can understand the difficulties that we have here, not only on our reservations, but as a Native American. We have many issues that we have to face and that we have to go up against.

Again, I want to thank you for allowing me this extra time.

[The statement of Ms. Pearson follows:]

Testimony of Spirit Lake Tribe re: Voting Rights and Election Administration in the Dakotas

April 16, 2019

Chairman Fudge and Ranking Member Davis, thank you for having me here today. I am Myra Pearson, Chairwoman for the Spirit Lake Tribe.

The Spirit Lake Tribe is a federally recognized tribe located in the state of North Dakota, with an enrolled membership of 7,547 members as of February 13, 2019. There are approximately 3,659 members currently living on the reservation land situated within North Dakota, and about 108 members live within 20 miles of the reservation. Approximately 2,146 of Spirit Lake members living on the reservation are 18 years or older. Adjacent to the reservation there are approximately 66 members who are 18 years or older.

These past few years, our members have been deeply affected by North Dakota's voter ID law. We do not believe that voter ID is necessary. We are a small community that know each other. Fraud has never been a problem in our communities. Instead, the Voter ID requirement imposes unfair burdens on our members.

Many of our members struggle with housing instability, unemployment, and poverty. In 2015, a survey of 285 people living on the Spirit Lake Reservation indicated that 38 percent of people have an individual income of under \$5,000, and 73 percent have an income of under \$20,000 a year.¹ 47.8 percent of the residents live below the poverty line, as compared to the national average of 13.8 percent.² 41 percent reported that they had been homeless at some point in their lives.³ The Cankdeska Cikana Community College estimated in September 2014 that there are around 300 homeless people residing on or around the reservation, but also noted that estimate might be conservative due to many members not signing up for housing assistance.⁴

Given these realities, and the fact that many parts of the reservation have not been thoroughly addressed, many members do not have ID since they do not need one to live their lives and they cost money. If the members have IDs at all, they hold tribal IDs that list their address as a P.O. Box if they have one. There are many streets on the reservation that are not labeled, and there are many houses which lack numbers. And even if the county 911 coordinator has assigned a residential address to someone's home, many are never notified of this address. Mail services do not extend to certain parts of the reservation. For example, in Fort Totten all residents receive their mail through a P.O. Box. There is no U.S. Postal Service delivery to residents in this area so they must rely on a P.O. Box to conduct their affairs.

¹ CANKDESKA CIKANA COMMUNITY COLLEGE, SPIRIT LAKE NATION COMPREHENSIVE COMMUNITY ASSESSMENT 1 (2015).

² *Id.* at 1.5. The family poverty rate is 41.3 percent. First Am. Compl. at ¶ 18.

³ CANKDESKA CIKANA COMMUNITY COLLEGE, SPIRIT LAKE NATION COMPREHENSIVE COMMUNITY ASSESSMENT 3 (2015).

⁴ *Id.* at 1.26.

Spirit Lake became concerned that its members would not have the IDs required to comply with the current voter ID law and decided to expend its resources to help its members obtain acceptable IDs. In the weeks leading up to the November 2018 election, members and staff of the Spirit Lake tribal government spent several hours each day, working to address this serious issue for its members. In order to ensure that its members had valid IDs the Tribe chose to extend its hours at the Tribal Enrollment Office. Between October 22, 2018 and November 8, 2018 the enrollment office was open from 8:00AM until as late as 7:00PM, depending on need. Robin Smith, the Director of the Enrollment Department for the Spirit Lake Tribe, had to work through her lunch break on a regular basis in order to ensure that needs were met. Ms. Smith worked a total of 21.25 hours of overtime between this timeframe at a rate of \$37.50/hr., which cost the Tribe an additional \$796.88. During this time frame, the Tribe also waived the cost of the Tribal IDs for its members, which ordinarily would cost \$11. The ID fee would normally have gone toward covering the cost of issuing the ID, including supplies, equipment, ink and paying the staff.

In order to meet the needs of the members and the additional requests for IDs, the Tribe purchased a new printer for \$2,655.95 and \$1,105.78 worth of supplies such as ink and the cards themselves. The Tribe issued a total of 665 ID cards between October 22, 2018 and November 8, 2018. Normally the Tribe issues about 30 IDs per month. Due to the fee waiver, the Tribe lost \$7,315.00 in income during that time.

The amount of time spent to issue the new IDs was significant. If all goes well it takes five to seven minutes to locate a member in the system, make an ID and obtain the members signature. But if the individual does not have an address the staff must try to figure an address out or contact the 911 coordinator and significant time is added to the process. The Tribal Enrollment Office only has two staff members available to issue IDs, Ms. Smith and her coworker. In order to assist the Enrollment Office staff, employees from Tribal Administration came to work in the Enrollment Office.

There were several difficulties in issuing the IDs. For instance, if a person was homeless or relied on a P.O. Box number because they did not have a consistent address, the enrollment staff would have to find out where the individual stayed most recently and most often. Usually, the individual would give a relative or a friend's house. Enrollment staff would then have to look up the relative or friend and verify with that person that the individual had stayed there. In other instances, members would arrive and not know their physical address. In those circumstances, enrollment staff had to assist the member in determining their physical address. This process involves checking internal records about the physical addresses of other members that live at the same residence. If that did not determine an address, staff would then call the Benson County 911 coordinator to determine the address or have an address assigned.

The system for assigning addresses through the 911 coordinator is complicated and confusing. In very rural areas such as Woodlake or Crow Hill, the cities utilized are not consistent. For example, in the Woodlake district, some people consider their address to be in the city of Shyenenne, while others believe their address to be in the city of Tokio or Warwick. Therefore, Woodlake alone has three different cities used for addresses. In Crow Hill, half of the residents

use Fort Totten city for their physical address, and the other half use the city of Oberon. This confusion and lack of consistency makes it even more difficult to obtain an address for tribal members.

The Benson County 911 Coordinator gave Ms. Smith a website so she could make sure that the physical address given was registered as an official address. One evening Ms. Smith stayed with another volunteer and went through every ID to make sure the addresses given by the 911 Coordinator which were issued on IDs were correct on the website. Approximately 5-10% of the issued IDs, or about 30-60 addresses, were not listed on the website. For the individuals for whom the 911 coordinator had given addresses that did not appear on the website, Ms. Smith reprinted IDs and changed the incorrect address to the address listed on the website. Ms. Smith then reached out to the individuals, or their family members, if they happened to come back into the enrollment office and told the individual to come back in for an updated ID. Through this extraordinary effort, fortunately, all of the individuals with incorrect addresses received an updated ID.

One story shows how difficult it is to get an accurate address. One member had to come in three times to get an address. He called the 911 coordinator multiple times and when he was finally issued an address it was one of the incorrect addresses issued by the 911 coordinator when compared to the website provided. Ms. Smith then had to chase him down to give him the corrected ID with an address that was listed on the website.

The Enrollment office predicts that many of the individuals who obtained a new ID will not be living at the same address by the next state or federal election. Tribal IDs also expire every 5 years. In November of 2021, all the IDs issued between October and November of 2018 will be to expire. The Tribal Enrollment Office is also faced with replacing IDs for other reasons, such as lost or stolen IDs.

Many members of the Spirit Lake Tribe are under the impression that North Dakota's Voter ID law was passed with heavy anti-Indian sentiments. And it would not be unprecedented for the State of North Dakota to take efforts to minimize the political power of Native Americans in North Dakota, and the Spirit Lake Tribe in particular. For example, a federal court had to enter a consent decree in 2000 because it found that Benson County was attempting to administer Benson County Commission elections in a way that was discriminatory toward tribal members.⁵ And in *Spirit Lake Tribe v. Benson County*, the federal court issued an injunction against the county because it wanted to switch to a mail-in ballot system and close polling locations on the Spirit Lake Reservation; the court found that this would have an unfair impact on the Spirit Lake tribe and its members given the rates of housing instability and the difficulties members would have in traveling to the one county polling location that they planned to keep open.⁶

The Spirit Lake Tribe remains concerned with the implications of North Dakota's voter ID law and has recently filed suit in the District Court of North Dakota to challenge its enforcement. The

⁵ See *Spirit Lake Tribe v. Benson County*, No. 2:10-cv-095, 2010 WL 4226614 at *3 (D.N.D. Oct. 21, 2010) (quoting *United States v. Benson County*, No. 2:00-cv-30 (D.N.D. 2000)).

⁶ See generally *id.*

Tribe does not have the resources to indefinitely provide adequate IDs to tribal members in order to vote in all future elections, and without these efforts many of our members risk being turned away at the polls or not even attempting to exercise their right to vote out of fear that they will be turned away. Thank you for investigating this issue and protecting Native American's right to vote.

Chairwoman FUDGE. Thank you very much.
Ms. LaCounte.

STATEMENT OF ALYSIA LACOUNTE

Ms. LACOUNTE. Thank you, Chairwoman Marcia Fudge and Representatives for coming to North Dakota for this field hearing. I am Alysia LaCounte, the General Counsel to the Turtle Mountain Band of Chippewa Indians, and a Tribal member. I apologize on behalf of Chairman Jamie S. Azure. Presently, Chairman Azure is attending a government finance meeting on behalf of the Turtle Mountain Band of Chippewa Indians.

The Turtle Mountain Band of Chippewa Indians reside in North Central North Dakota on a 6-by-12 mile reservation. We have upwards of 36,000 members, with 19,000 living on or near the reservation.

Based upon the Bureau of Indian Affairs labor statistics, our present unemployment rate hovers at 69.75 percent. Of course, with high unemployment, poverty ensues. Great poverty and its reality escape many U.S. citizens' comprehension.

Because of this high poverty rate, the community's access remains limited. Limited because of those living below poverty do not have vehicles, driver's license, or other means of public transportation to various government service providers. So the recent enactment of the North Dakota bills, which places requirements on the original citizens of this land, tend to diminish, discourage, and repress the Turtle Mountain Tribal citizens right to vote and access to polls. As you are all aware, the various States of the Union administer the Federal elections so in order to vote for the President or any other Federal delegations to U.S. Congress, my Tribal community must vote in a State election. This is not our preference.

When the U.S. Supreme Court's decision issued in mid-October upheld the law that required physical addresses, the youth demanded action. The youth came to the Tribe and asked, "What are you going to do to prevent disenfranchisement of our people?" The Tribal government enacted a law to enable voters to receive free Tribal identification cards. Understand that the fee of \$15 is not exorbitantly high, but \$15 is milk and bread for a week for a poor family.

And as many of the Congressional delegation may be aware we are not a wealthy Tribe. We have scraped and scraped and survived these past 200 years.

Every time I come before one of these hearings, I start crying.

With this understanding, the government waived fees for Tribal identifications to meet the requirements to allow our members to vote. Now our Tribal identifications meet the same standards as the State of North Dakota's, the same weight, dimensions, and appearance on 2400 new identification cards.

Still, with this mandate for free identification cards, things were not easy. The Turtle Mountain Band of Chippewa Indian reservation's use of addresses and street names commenced recently. Uniform addresses and numbering of residences only occurred within the last 10 years. Still, we implemented that law with street naming and house numbering. Street signs do not exist. Most residences lack a house number.

Myself, growing up in a small town rather than on a reservation proper, I placed my number on my residence when I moved to Belcourt. Now, most private residences still lack a house number or a fire number. Many of our public housing numbers have house numbers, but those house numbers all start with the same number, and separate unit number applies to every individual. Such a system confuses our first responders, because the 911 system fails to enumerate the unit numbers. Furthermore, to get the 2,400 IDs issued, we experienced numerous technical difficulties. The first day of free Tribal IDs, our ID machine melted down and the actual physical IDs, because it became too hot. As a result, we sought assistance through any means necessary. Social media, news outlets, moccasin telegraph. We received an outpouring of support and donation to further our cause.

The Turtle Mountain Tribal College created a help line which the students volunteered manning. We purchased new machines to produce IDs and set them up on numerous locations throughout the community. Our dedicated motor vehicle department staff worked 14-hour days for the 2 weeks through the date of the election. We held get-out-the-vote rallies.

While we do not comment upon the intent of the law, its practical implication acted to disenfranchise the people of the Turtle Mountain Band of Chippewa. We met the challenge and improved our voter turnout from the 2016 Presidential election by 42 percent but please understand this took a great amount of financial and time resources. The Tribes organized like never before. The Tribe's youth led the charge so much so that the students led a march from high school to the polls on Election Day in a snowstorm with wind chills. But luckily, most of that was downhill.

The Subcommittee clearly sees tribes and Tribal members as vulnerable populations with limited resources, access to education, healthy food, and opportunity. So that we as a Tribe and as a people can vote, access to polls to include our few voices will forever be a priority for a Tribe. And we ask that the Subcommittee consider our population and its work.

The 2018 Federal election is now part of our cultural history, and the youths' movement provided hope and expectation for a better tomorrow for the Turtle Mountain Band of Chippewa Indians.

[The statement of Ms. LaCounte follows:]

Testimony of the Alysia LaCounte

On behalf of the Honorable Jamie Azure

Turtle Mountain Band of Chippewa Indians

April 16, 2019

Field Hearing – House Administration, Subcommittee on Elections

“Voting Rights and Elections Administration in the Dakotas.”

Thank you, Chair Marcia L. Fudge and Representatives for coming to North Dakota for this field hearing. I am Alysia LaCounte, General Counsel to the Turtle Mountain Band of Chippewa Indians and tribal member. I apologize on behalf of the Chairman, Jamie S. Azure. Presently Chairman Azure attends a government finance meeting on behalf of the Turtle Mountain Band of Chippewa Indians.

The Turtle Mountain Band of Chippewa Indians reside in the North Central North Dakota on a 6 mile by 12 mile reservation. We have upwards of 36,000 members with 19,000 living on or near the reservation. Based upon the Bureau of Indian Affairs labor statistics our present unemployment rate hovers at sixty-nine point seventy-five (69.75%). Of course, with high unemployment, poverty ensues. Such great poverty, its reality escapes many U.S. Citizens' comprehension.

Because of this high poverty rate the community's access remains limited. Limited because those living below poverty do not have vehicles, Driver's Licenses, or other means of public transportation to various government service providers. So, the recent enactment of North

Dakota Bills which places requirements on the original citizens of the land tend to diminish, discourage, and repress the Turtle Mountain Tribal Citizen's right to vote and access to the poll. As you are all aware, the various States of the Union administer the Federal Elections. So in order to Vote for the President or any of the federal delegation to U.S. Congress, my tribal community must vote in a State Election. This is not our preference.

When the U.S. Supreme Court decision issued in mid-October upheld the law that requiring physical addresses, the youth demanded action. The Youth Came to the Tribe and asked what are you going to do to prevent disenfranchisement of our People. The Tribal Government enacted law to enable voters to receive free Tribal Identification Cards. Understand that the fee of \$15 is not exorbitantly high but \$15 is milk and bread for a week for a poor family. And as many of the Congressional delegation may be aware that we are not a wealthy Tribe, we have scrapped and scrimped to survive these past 200 years. With this understanding the government waived fees for Tribal Identifications to meet the requirements to allow our members to vote. Now our Tribal Identifications meet the same standards as the State of North Dakota's. The same weight, dimension, and appearance on 2,400 new Identification Cards.

Still with this mandate for free Identification Card mandate, things were not easy. The Turtle Mountain Band of Chippewa Indians' reservation use of addresses and street names commenced recently. Uniform Addressing and Numbering of residences only occurred within the last ten years. Still we implement that law with street naming and house numbering, street signs do not exist. Most residences lack a house number. Myself growing up in a small town rather than on the reservation proper, if I may, placed a number on my residence when I moved to Belcourt.

Now, most private residences still lack a house number or fire number. Many of our public housing projects have house numbers, but those house numbers all start with the same number and a separate unit number applies to the individual. So such system confuses our first responders, because the 911 system fails to enumerate the Unit numbers.

Furthermore, to get the 2,400 ID's issued, we experienced numerous technical difficulties. The first day of free tribal ID's our ID machine melted down the actual physical ID's because it became too hot. As a result, we sought assistance through any means necessary, social media, news outlets, and moccasin telegraph. We received an outpouring of support and donations to further our cause. The Turtle Mountain Tribal College created a help line which the students volunteered manning. We purchased new machines to produce ID, and set them up at numerous locations throughout the community. Our dedicated Motor Vehicle Department staff worked 14 hour days for the two weeks through the date of the election. We held get out the vote rallies.

While we do not comment upon the intent of law, but its practical implication acted to disenfranchise the people of the Turtle Mountain Band of Chippewa. We met the challenge and improved voter turn out from the 2016 presidential election by 42%. But please understand this took a great amount of financial and times resources. The Tribe organized like never before. The Tribe's Youth lead the charge. So much so the Students lead a march from the High School to the Poll on election day in a snow storm with wind chills, luckily it was mostly down hill.

The Subcommittee clearly sees Tribe's and Tribal members as vulnerable populations with limited resources, access to education, healthy food, and opportunity. So that we as a Tribe and a

people vote, access to polls to include our few voices will forever be a priority for our Tribe and we ask that the Subcommittee consider our population in it work. The 2018 federal election is now part of cultural history and the Youth's movement provides hope and expectation for a better tomorrow for the Turtle Mountain Band of Chippewa Indians.

Chairwoman FUDGE. Thank you very, very much. Thank you.
Mr. White Owl.

STATEMENT OF ROGER WHITE OWL

Mr. WHITE OWL. Well, good morning.

[Speaking in Mandan, Hidatsa and Arikara.] Hello and greetings in all three languages of the Mandan, Hidatsa and Arikara Nation.

Good morning, Chairwoman and Members of the Committee. My name is Roger White Owl. I work for Chairman Mark Fox as the Chief Executive Officer of the Mandan Hidatsa and Arikara Nation. Thank you for this opportunity to testify today.

Our Fort Berthold Indian reservation is in Western North Dakota along the Missouri River. We reserve these lands through a series of treaties and agreements with the United States, beginning with the 1851 Fort Laramie Treaty. Ever since the treaty of Fort Laramie, there have been difficulties and great challenges and government relationship with the United States. Today, voting and election administration is one of them.

I am a citizen of the Mandan Hidatsa and Arikara Nation, and I voted in Tribal elections. I am also a citizen of the United States, and I proudly served in the United States Marine Corps to provide defense for these lands. But as a Tribal member living on a reservation, I do not have the same ability to vote as other United States citizens. This is unfair and must be corrected.

We have a treaty and trust relationship with the United States, but this is not upheld in the area of elections. Instead, we are required to vote according to State laws. This is wrong. States have no business passing laws and determining polling places for Indian tribes. We do not have a treaty and trust relationship with the State of North Dakota.

When the State runs the elections and comes up with voting laws, they don't have to ensure that Tribal members can cast their vote. The State does not work with us to make these voting places accessible for our members. This is wrong and suppresses the Tribal vote.

The MHA Nation asks that the Subcommittee raise this to the highest levels of House leadership. The Federal Government, not the States, should work with tribes to come up with the voting rules that will work on all our reservations. The Federal Government should also work with us to determine how many polling places are needed on our reservation. And the Federal Government should provide funding to support these polling places.

The State should have no part in our right to vote in the elections. In fact, North Dakota is working hard to keep Tribal members from casting a vote. Recent elections here have been very close, decided by a few thousand votes. If a Tribal member can't cast their vote, candidates they support that support our issues can't get elected.

As you know, in 2017, North Dakota passed a law that was designed to reduce the Tribal vote. The State laws requires IDs to have the current residential street address. This goes beyond, beyond the typical voter registration requirements. Our rural reservations and housing systems were not set up that way. Many members use a P.O. box for their addresses.

We recently began developing community streets and housing with residential addresses, but our reservation is mostly rural. The State knew this, and they used it to suppress Tribal voters.

The MHA Nation has more than 16,000 members. Almost 6,000 of our members are of voting age and live on or near the reservation. Remember, elections in North Dakota get decided by a few thousand votes. Most of our members have IDs that list a P.O. box as their address. The MHA Nation had to step in to take action to make sure that Tribal members' votes would be counted. As fast as we could we began issuing new Tribal IDs and created street addresses for our members and their homes. Our enrollment office had limited staff and resources to do this work. In about a month and a half, they issued 456 new IDs with new addresses. We did not get any support, any support, from the State of North Dakota or Federal trustees to do this work. Some Tribal members had to drive for hours to get a new ID every day.

There were long lines of people waiting to receive new IDs, especially during lunch breaks. I am sure many people were unable to get the new ID. Even with all this work, about one-third of our members still do not have Tribal IDs. In addition, many of our addresses we use to make these IDs may not be accurate for the next election. Many Tribal members listed a family home or a home where they are currently staying. This is not voter fraud. This is a result of an unworkable State law being applied to our reservation.

We also do not have enough polling places. Two important polling places on our Four Bear segment and Mandaree segments were recently closed. Four Bears is one of the major economic hubs in our capital. With only a couple polling places, many Tribal members had to drive 80 to 100 miles round trip to cast their vote. This is unacceptable.

The Federal Government must provide resources and staff for polling places on Indian reservations. The MHA Nation has a government-to-government relationship with the United States. Indian tribes contributed vast resources to the founding of the United States. Our voters must not be denied the ability to vote by State laws.

It is time for the Federal Government to fulfill its treaty and trust responsibilities to ensure that Tribal members can vote. We need ID requirements that work for us, and we need enough polling places so that our votes can be counted.

Thank you for this opportunity to testify today. Thank you to the Standing Rock Nation for hosting this hearing. And thank you for the Committee for hosting this hearing. I am available to answer any questions.

[The statement of Mr. White Owl follows:]



Mark N. Fox
Office of the Chairman

MANDAN, HIDATSA & ARIKARA NATION
Three Affiliated Tribes * Fort Berthold Indian Reservation

**U.S. House of Representatives
Committee on House Administration
Subcommittee on Elections**

**Field Hearing on Voting Rights and Election Administration in the Dakotas
April 16, 2019**

Testimony of the Mandan Hidatsa and Arikara Nation

Introduction

Good morning Chairwoman and Members of the Subcommittee. My name is Roger White Owl. I serve as the Chief Executive Officer for Chairman Mark Fox of the Mandan Hidatsa and Arikara Nation (MHA Nation). Thank you for the opportunity to testify as a part of this important hearing on "Voting Rights and Election Administration in the Dakotas."

The MHA Nation is located in western North Dakota. Our Fort Berthold Indian Reservation encompasses a major part of the Missouri River. The Missouri River has always been a part of our homelands and a central part of our culture, traditions and economic livelihood. The Missouri River and its bottomlands provided the MHA Nation with plentiful fish, wildlife, agriculture lands, building materials, trade routes and shelter from the winter winds and cold. We originally reserved these lands through a series of treaties, agreements and Executive Orders with the United States beginning with the 1851 Treaty Fort Laramie.

Impact of State Election Laws on the MHA Nation

Today's hearing is about how America's first inhabitants are treated in the election systems of the United States. I am a citizen of the MHA Nation and I vote in our tribal elections. I am also a citizen of the United States and I have proudly served, as many many tribal members do, in the United States military. Yet, in the United States, I do not have the same right and ability to vote as other United States citizens.

This is unfair and must be corrected. We have a treaty, trust and government-to-government relationship with the United States, but this is not upheld in the area of elections. Instead, the MHA Nation and its citizens are required to vote according to state laws that are not designed in consultation with us and to address unique issues on our Reservation. This is wrong and suppresses the tribal vote.

**Testimony of the MHA Nation
Voting and Elections in the Dakotas**

**April 16, 2019
Page 2 of 4**

The impact of suppressing tribal voices in elections is far reaching. Even today the MHA Nation and other Indian tribes are impacted by laws, policies and decisions at the federal level that are not in our best interest. We reserved our homelands in treaties with the United States, but almost every day since we have had to fight the Federal government and the State of North Dakota for control of our lands and to fully benefit from our resources.

The MHA Nation asks that the Subcommittee raise this issue of unfairness and disenfranchisement to the highest levels of House leadership. The MHA Nation and other Indian tribes should be working directly with the Federal government to determine how elections will be held on our Reservation. We should determine with the Federal government what the registration requirements will be for tribal voters. We should determine with the Federal government how many polling places will be on our Reservation and where they will be located. North Dakota is not a part of our federal-tribal government-to-government relationship and has no business passing laws that effect the vote on our Reservation.

After we worked so hard to elect former Senator Heidi Heitkamp, a friend to North Dakota's Indian tribes, the State knew that it could not let that happen again. In 2017, the North Dakota Legislature enacted House Bill 1369 a voter ID law that broke with established practice and went far beyond national voter ID norms. House Bill 1369 required all voters to present an ID with a "residential street address in North Dakota."

North Dakota was ultimately able to enforce this law against the MHA Nation and other tribes even though neither the Federal government nor its Bureau of Indian Affairs (BIA) ever established or supported establishing residential addresses on our rural reservation. If state laws did not apply to tribal voters, the Federal government and the BIA could have worked with us to establish sensible voter ID requirements for the MHA Nation. Working together we could have ensured that all tribal voices and votes would be heard.

This state law barely survived scrutiny by the courts, but it was ultimately upheld and limited our members access to the polls. In a case known as *Brakebill, et. al. v. Jaeger*, the tribes in North Dakota challenged the law. First, on April 3, 2018, the Federal District Court in North Dakota prevented application of North Dakota's law. Citing North Dakota's knowledge that many Indian reservations do not have residential street addresses, Judge Hoveland determined that requiring individuals to have a current residential street address was a clear legal obstacle that would inhibit the right to vote.

While this District Court's decision was initially upheld, eventually the Eight Circuit Court of Appeals upheld North Dakota's voter ID law on September 24, 2018, even though it was on the eve of the election and early voting had already occurred. On October 9, 2018, the United States Supreme Court refused to overturn North Dakota's law even though having different laws in effect at the primary and general election was going to cause confusion for voters—specifically for Indian voters lacking a current residential street address.

Once again, the MHA Nation was forced to bear the burden of federal laws, policies and decisions giving improper authority to the State over elections on our Fort Berthold Indian

**Testimony of the MHA Nation
Voting and Elections in the Dakotas**

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Reservation. The MHA Nation has approximately 16,306 members. About 5,686 of our members are voting age and live on or near the Reservation. Until 2016, the MHA Nation allowed tribal members to list a P.O. Box as their address on their tribal ID cards. On parts of our Reservation, the homes do not have street addresses assigned.

Following the decision by the Eight Circuit and United States Supreme Court, the MHA Nation stepped into action and began allowing tribal members to exchange their IDs with P.O. Boxes for new IDs with residential street addresses free of charge. About a week later, the MHA Nation began issuing new free tribal IDs to tribal members for any reason. We wanted to ensure that everyone who wanted to vote could vote.

Our efforts to provide voter ID cards that complied with North Dakota law were slowed by a lack of staff resources to do this unexpected work and distances separating our communities. Not to mention a complete lack of support from the Federal government—our federal trustee. Some tribal members had to drive for hours just to get a new ID card. We had just two staff members available to provide new tribal IDs and they were overwhelmed with the need leading up to the November 2018 election. Every day, especially during lunch breaks, there were long lines of people waiting to receive new IDs.

Between the time of the Eight Circuit decision and the November 6, 2018 election our Tribal Enrollment Office issued 456 new IDs to tribal members. Normally we issue about 150 to 200 IDs a month. This burdened our system, limited our ability to provide other important services to tribal members, and the MHA Nation absorbed the cost of issuing these IDs. We estimate the about 75 to 80 percent of the tribal members who received a new ID during this time did not have another form of ID that would have complied with North Dakota's law. Even with all of this additional work, about one-third of our members still do not have a tribal ID.

In addition, many of the current residential addresses that we used to make these IDs may not be accurate in future years. About one in four tribal members who came in for a new ID did not know their residential address. In many cases we could not identify an address for someone even when looking at a map of their house. Or, they may have given me a family member's house address where they are currently staying. This is not voter fraud. This is the result of unworkable state laws being applied to our Reservation.

In addition to issuing IDs, the MHA Nation put out information on voting requirements, and issued letters to tribal members that could be used in place of an ID. All of this extra effort was needed because of the new North Dakota law and back-and-forth court decisions leading up to election day. We were not able to count the number of tribal members who never received a new ID or were discouraged from voting or were unable to vote due to North Dakota's new law.

We also provided buses to bring voters to the polls. Buses were necessary because, in addition to everything else, two polling locations were shut down and some members had to travel 30 to 45 miles on Election Day to vote. We have a long way to go to make voting accessible and fair and taking into account tribal needs. This is not how it should be in the United States.

Conclusion

The MHA Nation has a treaty and government-to-government relationship with the United States. The United States has a trust responsibility to protect the MHA Nation's tribal homelands and promote tribal self-determination. Despite all this, we are required to vote according to North Dakota's requirements. These requirements were not developed in consultation with us. In fact, they were specifically developed to suppress and disenfranchise the vote of tribal members.

The Subcommittee must raise this issue to the highest level of House leadership and pass laws that will protect and promote our right to vote. After all we have contributed and still contribute to the United States, the MHA Nation and its voters must not be denied the ability to vote by state laws. It is time for the Federal government to fulfill its treaty and trust responsibilities and enact federal laws that provide adequate polling places on Indian reservations and use voter identification requirements that work for tribal members.

Chairwoman FUDGE. I thank you all so much for your testimony. Now the Committee will ask questions. We will each have 5 minutes as well.

Before my time, I would prefer to close, so I am going to yield to Mr. Butterfield for 5 minutes.

Mr. BUTTERFIELD. Thank you to the Chairwoman for convening this very important hearing today and thank you for your leadership.

For those of you who don't know, Chairwoman Fudge has scheduled seven of these hearings across the country from Brownsville, Texas, to North Dakota. I believe this is number three of seven. And thank all of you, and to the future panels, for your participation today.

I really came today to listen. As Members of Congress, we do quite well in speaking and talking. But I really came today to listen. The four of you have given very valuable testimony today, and I am going to take what you have said back to Washington.

It is our responsibility, as Members of Congress, to protect the right to vote; not just for African-Americans or Native Americans or Hispanic Americans but protect the right to vote for every American. And what I have heard here today seems to suggest to me that there is a deliberate effort in both Dakotas to suppress a portion of the vote in these States, and I am very, very concerned about it.

I am a little naive when it comes to some things about Indian reservations, and so you are going to need to help me just a little bit with this.

Are you able—does the law give you the right to participate in local elections and elections for the State legislature and the like?

Mr. White Owl, do you participate in State and local elections?

Mr. WHITE OWL. Madam Chairwoman, and the rest of the Committee, yes, we do. It is that—we are allowed to vote, yes. It is not that we are being totally denied it. But sometimes the systematic portion of it within the local elections, in and of itself, specifically for us at Fort Berthold, is that our voting district was kind of in a unique position. And this is something—with the State elections.

Unfortunately, we had a legislator resign. It wasn't made public in a timely manner for us to hold another special election and so the majority party was able to appoint a person to do that representation of the Fort Berthold Indian Reservation in District 4 in North Dakota.

Mr. BUTTERFIELD. I am sorry.

Mr. WHITE OWL. I am sorry. Just to put it in context, there is a northern and a southern part in our district, District 4, which we can get that information to you as soon as we can. The southern portion of it encompasses the Fort Berthold Indian Reservation and the northern portion of it encompasses non-Indian communities.

It is gerrymandered in a way that is a little suppressive to us in that capacity. And in this instance, the chairperson of the Republican Party did not allow enough public time—or public announcement to hold a special election. They were able to appoint somebody from their own party.

Mr. BUTTERFIELD. Let me ask you this. Are there any Native Americans who serve in the State legislature in North Dakota?

Mr. WHITE OWL. In North Dakota, we have two legislators, yes.

Mr. BUTTERFIELD. Out of how many?

Mr. WHITE OWL. Wow. I would have to get that number and get back to you on that one. I don't know offhand.

Mr. BUTTERFIELD. Ms. LaCounte, do you know, right off the top of your head, the size of the State legislature in North Dakota?

Ms. LACOUNTE. From recent votes, I have seen legislation that has been relevant to us. There is at least 45.

Mr. BUTTERFIELD. So Native Americans do run for the State legislature from time to time; is that correct?

Mr. WHITE OWL. Yes, sir.

Mr. BUTTERFIELD. Okay. Are they often elected or often not elected?

Mr. WHITE OWL. I would have to say it depends on the demographics of where you are at, the proximity to that. Turtle Mountain has had a very consistent Native American voice and vote that has been able to ensure that that happens. Fort Berthold, unfortunately, as I said, has been put into a district that isn't very favorable to have so. We haven't had a Native American legislator from Fort Berthold serve in our State legislature.

Mr. BUTTERFIELD. Mr. Walker, do you have redrawing of the districts every 10 years like most States?

Mr. WALKER. Yes. The gerrymandering, which was mentioned, you look at the district here from which Standing Rock or Sioux County, it goes into Morton County, which is technically, you look at it realistically, it is a Republican stronghold. And if you look at it from a factual point of view, you have—the demographics doesn't represent the true representation of the people within that district, because you have Tribal members living here who still have a distinct culture language, world point of view, which doesn't align with either party, I would say, and—

Mr. BUTTERFIELD. Do you have input in the drawing of the lines?

Mr. WALKER. Not that I know.

Mr. BUTTERFIELD. Thank you.

My time has expired. I yield back.

Chairwoman FUDGE. Thank you.

Ranking Member Davis.

Mr. DAVIS. Thank you, Madam Chairwoman. Thank you to all our panelists. I appreciate the opportunity to speak with you. I appreciated hearing your concerns. As somebody who understands close elections, I get the fact that you want everybody to be able to cast a ballot. You want to make sure that no one is disenfranchised. Coming from Illinois, where the tables are turned when it comes to partisan majorities in our State, I would love for those of you who are concerned with the gerrymandering process to please come down to Illinois when we start redrawing our lines here in a few years, because many of the same concerns that you may have with the legislature here in North Dakota, we certainly have with our legislators in my home State, too.

I want to ask you Mr. White Owl, you mentioned voter turnout. You know, we share the same goal, that we want every registered voter who is eligible to cast a vote to be able to do so. In and around the counties that you serve, was the turnout in 2018, a midterm election, higher or lower than 2014, the last midterm?

Mr. WHITE OWL. I would have to definitely Madam Chairwoman and Representative Rodney Davis, I couldn't have the direct numbers on it for you right now at this time and I definitely can get back to you with those.

Mr. DAVIS. What counties in North Dakota are in your Tribal area?

Mr. WHITE OWL. We have six counties that encompass a million-acre Indian reservation in Northwest Central North Dakota. And so as we are looking at it, it is one of those things, when we talk about proximity and the accessibility to voting, it is definitely an issue where we have—also we have a reservoir in the middle of our reservation created by the Pick Sloan Act that also impedes—has a bit of an impediment where we have parts of a county—

Mr. DAVIS. Okay. I understand. I am losing some time here, and I got to get to some other witnesses. I appreciate the geography issue.

But in the end, I am looking at county turnout. And it looks like it was substantially higher in 2018, midterm election, than it was in 2014. I am looking at Sioux County, that had a higher turnout than even the Presidential election in the 2018 midterm. So it looked like a lot of the issues that—you know, a lot of the outreach was successful in getting people to the polls even in a midterm election, higher than Presidential election levels. That is good news. So we are working in the right direction.

Mr. Walker, are you the only Tribe that cuts into two States?

Mr. WALKER. Yes.

Mr. DAVIS. Okay. So the rest of you are working consistently just with the North Carolina leader—or North Dakota leaders, correct?

So I will focus on more North Dakota.

North Dakota is the only State in the Nation that has no voter registration process, right?

Mr. WHITE OWL. That is correct.

Mr. DAVIS. Okay. We all have voter registration. We all have to go and register beforehand, provide who we are, street addresses. And many of my rural communities that I serve have similar issues where they go get their mail at a P.O. box. But they also have to then use their 911 address. It seems to me that, with a nonregistration State, is it easier to then go vote on Election Day, or is it more difficult?

Mr. WHITE OWL. When you are talking about—Madam Chairwoman and Representative, when you are talking about that, there is kind of not the same type of issues that we deal with when you are talking about registration in that capacity, because we have proximity issues and distances that we have—

Mr. DAVIS. You guys have proximity and distance issues, yes. But what about registration versus a nonregistration State?

Mr. WHITE OWL. The process portion of it is, it is okay. That portion of it, portion is—

Mr. DAVIS. You don't want to become a voter registration State?

Mr. WHITE OWL. No. I think North Dakota has some of the most progressive laws in that capacity. However, it is due to the simple fact that you have such a rural State, and the accessibility portion of it does become an issue for—

Mr. DAVIS. And that is something you have addressed with your State leaders for sure?

Mr. WHITE OWL. We have attempted to, yes.

Mr. DAVIS. All right.

Mr. Walker, Madam Chair, Ms. LaCounte any comments on turnout?

Mr. WALKER. I would say the voter turnout wouldn't have been as high as it has been had not our Tribe and our allies pushed for that to happen.

Mr. DAVIS. Right. Voter participation action—

Mr. WALKER. We could say that. We could say that. But it is all—it is all up to interpretation, because had the Tribes stepped back to see what effect the North Dakota voter law had, let's look at it as an experiment. Those numbers would have been twice, if not 60 percent lower. But the impact intended by the State would have taken place.

The question that you are asking to state the—I know your leading question is to state that, yes, there was there was higher voter turnout, but that was because of the collective actions of all the people involved to combat the intended effect of the voter laws. Whatever the intent, you take a look at the realistic, the truth, the facts. We must be objective here.

Mr. DAVIS. Right. So that is what I am trying to get at here with the numbers. I mean, the numbers are—the turnout was higher. What you are telling me is the intention that you are talking about was not achieved?

Mr. WALKER. What I am talking about is that there is a law—you put something into place, and you are—you keep referencing the higher turnouts. Those higher turnouts wouldn't have happened if there wasn't a collective effort.

Mr. DAVIS. Are you going to continue those collective efforts?

Mr. WALKER. Yes.

Mr. DAVIS. Good.

Mr. WALKER. We are up against something that—and without—I guess, to a point, we have to do what we have to do. We have been doing this for generations upon generations. Even before the establishment of the United States of America, the corporate government, we have been in here for time immemorial, and we will continue to survive. We will do what we have to do.

Mr. DAVIS. I will leave with this: I know my time is out, and Madam Chairwoman has been very generous to me. But I would remind you that the turnout was even substantially higher than the 2010 midterm where this law wasn't in place.

So keep up the efforts. Keep continuing to get people engaged. We want everyone who has an opportunity to vote to be able to do so.

Thank you.

Chairwoman FUDGE. Thank you.

Chairman Thompson.

Mr. THOMPSON. Thank you very much. Let me thank the witnesses. My accent will probably give me away. I am from Mississippi, so pardon my accent.

Just for the record, in Mississippi, my State, you can register to vote with a post office box. You don't need a physical address as of this day.

I am registered, like everybody else in my little community of 500 people. We don't have door-to-door delivery. You get your mail at a post office box. You get your jury summons at a post office box. You don't get it at a physical address, because you have to have a post office box in my community.

The other thing is, to each of the witnesses, by requiring a physical address for registration, is it your testimony to this Committee that that caused a financial burden on individuals? Or what burden did it cause by the implementation of this requirement to have a physical address?

I will start with Mr. Walker and we will go—

Mr. WALKER. Well, the financial burden has to fall somewhere. You look at that—we have—had the Standing Rock Sioux Tribe not waived the price or—the \$5 fee for the Tribal IDs, you look at the testimony, 807 were issued. That, in itself, is substantial to take a look at not only supplies, the time, and also the effort from our partners and allies who have actually the transportation. And like Mr. White Owl's testimony, also that reflects the facts that there is a lot of area we have to travel just to see to our basic needs, such as a doctor, go to the store, do those different types of things. I commute 26 miles every day just to come here and conduct business.

If you are in a financial hardship time, you know, that is \$40 guaranteed that is going to have to come out of pocket. If you are living on a fixed income, just like a relative has said here, that is bread and milk for a week. You know, are you going to eat or are you going to vote? It comes down to those, literally.

We talk about all these different Maslow's hierarchies of needs, all different things here. Needs come before everything else. And that is the basis of it.

When you have to choose between having supper for your children or grandchildren or multigenerational living units, you are going to choose to take care of your family first. In a way, the cultural—or the lack of cultural understanding and knowledge, the gap is so wide that at times, I feel like I am literally going into a different world if we go to the State legislators or State leaders, because there is a lack of understanding or maybe even a lack of wanting to understand the people here on Standing Rock.

So with that being said, there is a cost. Who eats that cost if the financial—if the capital is not there? Nobody is going to eat the cost and nobody is going to vote so, yes, the Standing Rock Sioux Tribe did waive some of that. Ultimately, Standing Rock Sioux Tribe is who had to take care of that cost in order so that—and I will say this for the record, too, is that the reason we have done that is because, as elected officials here in this body, we also took an oath to the Constitution of the United States. We have to uphold those guaranteed so called rights. So we have to guarantee that our membership had the right to vote whenever those types of things—and there is a lot of different angles and everything that we can interpret and come into that with that being said. But in regards to the situation we are talking about with North Dakota's

voting ID law, that, in itself, is something that we have to really take a look at. And it didn't catch us by surprise either, because it was something we knew was coming.

Mr. THOMPSON. I would assume that the other three witnesses agree with Mr. Walker's statement. Chair Pearson.

Ms. PEARSON. Yes. I would have to agree there. And as far as the money that was—or the funds that were used for this, what I didn't include in my testimony either was—the transportation costs. And I know there was people that, you know, we asked if they can haul the voters to the sites, because a lot of people lack transportation. So that is something that wasn't included in here either.

But, you know, like Mr. Walker stated, the Tribe has to eat this cost. But I guess it was well worth it, because we did get a good turnout. And we do cover four counties there that, you know, I can speak for—that Native Americans are a part of.

Mr. THOMPSON. Thank you, Madam Chairwoman.

Chairwoman FUDGE. Thank you so much. And thank you all. And I am just going to try to wrap up as we prepare for our next panel.

Let me just first thank you for your patriotism, for wanting to participate in this democracy. I thank you for that.

And just because your results are better than some might have expected, due to your strength and your fortitude, it still doesn't make it right. So I thank you for doing what you can to be good Americans.

I also want to apologize for what seems to be the neglect of the Federal Government to stand up to the promises that it made to you and all of those on reservations in this country.

As you look at the amount of poverty, as you look at the amount of homelessness, and all of the challenges that you face, I, again, congratulate you for making sure that you still live up to what you believe is your responsibility as an American, because I know that just as we all pledge allegiance to this country, and we should be treating you in a much, much better way. So I thank you for being here.

I just want to ask you that if there were two things you wanted us to go back and put into this report today, what would it be?

I am going to start with Mr. White Owl and go straight down the line.

Mr. WHITE OWL. Well, I think it is definitely to remember the government-to-government and trust responsibility relationship up with tribes that that goes with—between the tribes and the Federal Government of the United States. And in a solution form, to go back and remember is to help us with helping to be able to ensure votes to the polling places and proximity. Do not forget proximity and the distances that have to be traveled. For us at Fort Berthold, it was in the Four Bears District. We had to travel 80 miles to Watford City round trip, or to a little tiny town that is north of Watford City called Cartwright that is about 120 miles round trip, for us to be able to cast a vote if we weren't able to get to the mail-in ballots. So it is one of those things where, please, take those two things back with proximity and accessibility.

Chairwoman FUDGE. Thank you.

Ms. LaCounte.

Ms. LACOUNTE. Thank you, Mr. White Owl. I would agree with Mr. White Owl's comments. Thank you, Chairwoman Fudge. And please don't forget about us. We are here, often with 12 to 20 people in one household. So accessing an ID is burdensome for our communities. The knowledge and work towards uniform street addressing is something that is really foreign to us.

I appreciate your time.

Chairwoman FUDGE. Thank you.

Ms. Pearson, just know that in this age of technology, if we can't find you, it is just ridiculous. It is just outrageous that we can't find somebody who has lived in the same place for 20 years.

I don't know if it—if this is going to make a difference, or if it is worth something looking into, but remember next year is our Census. And perhaps, maybe, we can blend this together where everyone, you know, gets a fair chance at everything, and we are able to count our numbers. We are maybe able to maybe, you know, do physical addresses for people like that. But I think it is an important thing to try and blend it in here with the North Dakota voting laws that, you know, we encounter today and the obstacles that we have to jump over.

But I know our Census was kind of understated last time. And I look forward to, seeing those increase. My chairmanship with the Spirit Lake Tribe is going to end next month, and I have not gone—taken any steps to run again or anything like that. But I do look forward to helping my people at the Spirit Lake Tribe. And this is one thing I asked if I can help with is the Census and this voting law that, you know, I have plenty of time to work on that. But I would like to—to go back and consider something like this to where we can blend it together, and maybe get two projects done, you know, with one big effort. And that effort is going to include all of us.

And I—any questions, you know.

Chairwoman FUDGE. Thank you.

You know, it is just interesting to me that we are trying to take money away from the Postal Service, and we can't find you. We can't deliver to your house. The government maybe should just put an address on your house and make the post office deliver to you.

Mr. Walker, please, close us out, briefly.

Mr. WALKER. Thank you, again.

One of my recommendations, first and foremost, is that this Committee, and also not only members of this Committee but also the House of Representatives, is to educate yourself. It has been very evident today that the lack of knowledge and understanding of distinct Tribal Nations here today, there is a lack of understanding. And that, to me, is concerning, because the decisions that are made on our behalf in the House. I would say after this close-out, I would like a copy of what—if there is a plan of action in regards to this. Just don't let this be a check the box and say we went and we had field hearings doing this. It happens all the time. And I am not saying this to be pessimistic. I am saying it with optimism, because you are actually here. And I thank you for that.

Whatever we have in our written testimony, don't let it just be that. Reach out to all the Tribal Nations. Get to know what is

going on day to day in our Nations, because we didn't do this to ourselves, obviously.

Chairwoman FUDGE. Thank you.

Let me just say on behalf of the Ranking Member and myself, the Ranking Member is here because we do want this to be a bipartisan effort. Let me assure you, you have my word, you will get a report. You have my word. We are collecting this data so that we can do a report, so that we can go back to the Congress of the United States and say to them, this is what needs to happen to ensure that every American has the right to vote, the unfettered, unabridged right to vote. So you will get a report. It will probably be sometime in the fall, but you will get a report.

I want to thank all of you for being here. I especially want to thank our Ranking Member. I want to thank all the witnesses, of course, for their testimony. And we have your written testimony as well as your verbal testimony.

I would like to thank Standing Rock Sioux Tribal Council for hosting us today. It has been a pleasure to get to meet you all. I thank you for the work that you are doing on behalf of the tribes of North and South Dakota.

I want to thank the staff who has been so helpful in making sure that this happened today. Lastly, I want to thank my colleagues for being here.

And with that, this the Subcommittee—oh, next panel. I don't want to adjourn. We have another panel.

If this panel could allow us to reset. If you could just come up, you know, we would like to take a photograph for our report, if that is okay with you all.

Please come up.

[Discussion off the record.]

Chairwoman FUDGE. Good morning again. Thank you all. We are going to start our second panel. I want to introduce the witnesses on the second panel.

I am going to start with the other end, because we understand that Representative Buffalo does have a tight time schedule. We are going to start on her end, and I would introduce North Dakota State Representative, District 27, Ruth Buffalo.

Secondly, we have Prairie Rose Seminole, a community organizer.

Thank you for being here.

Lastly, Jacqueline De Leon, staff attorney, Native American Rights Fund.

Thank you all so much for being here.

Ms. Buffalo, you are recognized for 5 minutes.

STATEMENTS OF RUTH BUFFALO, NORTH DAKOTA STATE REPRESENTATIVE, DISTRICT 27; PRAIRIE ROSE SEMINOLE, COMMUNITY ORGANIZER; AND JACQUELINE DE LEON, STAFF ATTORNEY, NATIVE AMERICAN RIGHTS FUND

STATEMENT OF RUTH BUFFALO

Ms. BUFFALO. [Speaking in Mandan, Hidatsa and Arikara.] Good morning. [Speaking in Mandan, Hidatsa and Arikara.] My name is

Ruth Buffalo, Woman Appears. Chairwoman Fudge, Ranking Member Davis, thank you for having me here today.

Here in North Dakota I represent Fargo's District 27, which is 370 miles from my traditional homelands of the Fort Berthold Reservation.

Fargo District 27 is not a majority Native American district. By going door to door, knocking on thousands of doors, I was able to earn the trust of the people of Fargo, and I am proud to represent them today.

Sadly, even if I were to run in my reservation, that district would not be majority Native American. Most of my reservation is encompassed by the legislative District 4. Only one MHA member has ever been elected, but that individual lived in Garrison, which is located off the reservation.

District 4 overwhelmingly does have a White population that overwhelms the Native vote. Tribal citizens make up 31.8 percent of the district despite there being a sizable Native American population; 5,632 members currently live on the Fort Berthold Reservation, with another 3,655 living in close proximity yet there are no majority Native American districts. If maps were drawn another way, Native Americans could easily support their own district.

In fact, the dilution of the Native vote is even more outrageous if you look at the counties. There are six counties that intersect the Fort Berthold Reservation, ensuring no Native American representation among county seats.

It is disrespectful to the people of the Fort Berthold Reservation to subject them not only to voter dilution, but also to confusion as they move from county to county to vote. Not one county official is currently responsible for ensuring that the needs of all of the Fort Berthold people are being met.

There are also voting irregularities, as mentioned by our Tribal dignitaries. In the recent midterm election of 2018, two traditional voting precincts were shut down within the exterior boundaries of the Fort Berthold Reservation, Dunn County North Fox precinct located in Mandaree at St. Anthony Church, McKenzie County Four Bears precinct. If the county representatives more accurately reflected the MHA people, they would have known that these were important voting sites and would not have shut them down.

The voter ID law is the latest example of North Dakota's attempt to disenfranchise Native voters. The law's chief sponsor was my predecessor in the legislature. I can attest that as I campaigned and went door to door, Natives and non-Natives alike were outraged by the law. I heard over and over again people saying, "How could they do that?" Because if people don't have addresses, they shouldn't require them to show an address if they are qualified to vote. It is plainly unfair to everyone who has heard about the law.

To me, I question why would anyone intentionally prohibit an individual from practicing their right to participate in our democracy.

Since 2016, the world was made aware of exactly how unjust the original inhabitants of this land, the Tribal Nations, are treated. North Dakota has unfortunately, been referred to as the deep North, as many others have witnessed the unjust treatment of our Tribal Nation neighbors.

If the intent was not to suppress voters' access to voting, why does the State still defend this law? Why don't they allow the court orders that would have allowed people to vote to stand? The maps are drawn unfairly, and the Native vote is suppressed through North Dakota's current voter ID law.

I am proud to be the first Native American Democratic woman legislator, but I should not be alone. American Indians comprise only 1.4 percent of the North Dakota Legislature, but they represent 5.5 percent of the State population. Furthermore, we have a total of 141 State legislators, 94 in the House, 15 are Democratic-Nonpartisan League, 79 are of the majority, the Republican Party. In the Senate, we have a total of 47 members. Ten are Democratic-Nonpartisan Leaguers and 37 are of the majority party, the Republicans.

But representation does matter. I can personally attest that representation is important. Since my time in the legislature, I have been able to introduce legislation to address long festering and ignored problems. One bill requires law enforcement training on missing and murdered indigenous people. Another bill starts a repository collecting data of missing persons, including our indigenous population. Two other bills require hotels to train their staff to identify signs of human trafficking and to teach them what to do to respond.

I also introduced a bill that would allow Native American students to wear regalia at graduation, a point of cultural pride that is too often misunderstood and disparaged, even though Native American students should have the right to proudly represent who they are when they are being honored for their accomplishments.

Prior to my time at the legislature, in the 65th Legislative Assembly in 2017, there was horrendous legislation being introduced which primarily targeted the Native Americans in our State of North Dakota, triggered by the opposition of the Dakota Access Pipeline. It would allow for individuals to hit protesters with their vehicles without legal consequence. How is that a civil response, no matter what one thinks about the pipeline? To this day, there are a few bills lingering from this very mindset in this session of the 66th Legislative Assembly.

Indeed, too often Native people in the State of North Dakota are disparaged and put into second class citizen status. As a public official, unfortunately, I have been subjected to this abuse. When I was running, I would receive racist calls. For example, one woman mocked me and called me "injun." After I won public office, I have received threats against my children.

Being on the receiving end of these constant threats is not only frightening, it is demeaning and racist, and that type of behavior should not exist in 2019.

I will continue to work hard to represent the people of Fargo, North Dakota, and Native Americans across the State. However, Federal action is needed to make sure our voices are not abused. Thank you for coming today to listen and for bringing attention to these injustices.

[Speaking in Mandan, Hidatsa and Arikara.] Thank you.

[The statement of Ms. Buffalo follows:]

Subcommittee on Elections of the Committee on House Administration
"Voting Rights and Election Administration in the Dakotas"
Representative Ruth Buffalo Testimony
April 16, 2019

Chairwoman Fudge, Ranking Member Davis, thank you for having me here today. Here in North Dakota I represent Fargo's District 27, which is 370 miles from my traditional homelands of the Fort Berthold Reservation. Fargo is not a majority Native American district. By going door to door, knocking on thousands of doors, I was able to earn the trust of the people of Fargo, and I am proud to represent them today.

Sadly, even if I were to run in my reservation, that district would not be majority Native American. Most of my reservation is encompassed by legislative District 4. Only one Indigenous person has ever been elected from District 4 because the white population overwhelms the Native vote. Tribal citizens make up only 31.8 percent of the district despite there being a sizable Native American population. 5,632 members currently live on the Fort Berthold reservation with another 3,655 living in close proximity, yet there are no majority Native American districts. If maps were drawn another way, Native Americans could easily support their own district.

In fact, the dilution of the Native vote is even more outrageous if you look at the counties. There are **SIX** counties that intersect the Fort Berthold Reservation, ensuring no Native American representation among county seats. It is disrespectful to the people of the Fort Berthold Reservation to subject them not only to voter dilution, but also to confusion as they move from county to county. Not one county official is currently responsible for ensuring that the needs of all of the Fort Berthold people are being met.

There are also voting irregularities. In the recent mid-term election of 2018, two traditional voting precincts were shut down within the exterior boundaries of the Fort Berthold Reservation 1) Dunn County North Fox precinct located in Mandaree at the St. Anthony Church 2) McKenzie County Four Bears precinct. If the county representatives more accurately reflected the MHA people, they would have known that these were important voting sites, and would not have shut them down.

The voter ID law is the latest example of North Dakota's attempt to disenfranchise Native voters. The law's chief sponsor was my predecessor in the legislature. I can attest that as I campaigned and went door to door, Natives and non-Natives alike were outraged by the law. I heard over and over people saying "how could they do that?" because if people don't have addresses, they shouldn't require them to have to show an address if they are qualified to vote. It's plainly unfair to everyone who has heard about the law. To me, I question why would anyone intentionally prohibit an individual from practicing their right to participate in our democracy? Since 2016, the world was made aware of the exactly how unjust the original inhabitants of this land, the tribal nations, are treated. North Dakota has unfortunately been referred to as the deep North as many others have witnessed the unjust treatment of our tribal nation neighbors. If the intent was

not to suppress voters' access to voting, why does the State still defend the law? Why don't they allow the court orders that would have allowed people to vote, to stand?

The maps are drawn unfairly and the Native vote is suppressed through North Dakota's current voter ID law. I am proud to be the first Native American legislator, but I should not be alone. American Indians comprise 1.4 percent of the North Dakota Legislature but they only represent 5.5 percent of the state population.

But representation matters - I can personally attest that representation is important. Since my time in the Legislature I've been able to introduce legislation to address long festering and ignored problems. One bill requires law enforcement training on missing and murdered Native people; another bill starts a repository collecting data of missing persons – including Native people. Two other bills require hotels to train their staff to identify signs of human trafficking and teach them what to do to respond. I also introduced a bill that would allow Native students to wear their regalia at graduation, a point of cultural pride that is too often misunderstood and disparaged, even though Native students should have the right to proudly represent who they are when they are being honored for their accomplishments.

Prior to my time at the legislature, in the 65th Legislative Assembly in 2017 there was horrendous legislation being introduced which primarily targeted the Native Americans in our state of North Dakota triggered by the opposition of the Dakota Access Pipeline. It would allow for individuals to hit protestors with their vehicles without legal consequence. How is that a civil response, no matter what one thinks about the pipeline? To this day, there were a few bills lingering from that very mindset in this session of the 66th Legislative Assembly.

Indeed, too often, Native people in the state of North Dakota are disparaged and put into second class citizen status. As a public official, unfortunately, I've been subjected to this abuse. When I was running, I would receive racist calls. For example, one woman mocked me and called me "injun." After I won public office, I have received threats against my children. A woman wrote on a public forum that Indian children go missing all the time, and she was "on it" with regard to my children. Being on the receiving end of these taunts and threats is not only frightening, it is demeaning and racist, and that type of behavior should not exist in 2019.

I will continue to work hard to represent the people of Fargo, North Dakota and Native people across the state. However, federal action is needed to make sure that minority voices are not abused. Thank you for coming today to listen and for bringing attention to these injustices.

Chairwoman FUDGE. Thank you.
Ms. Seminole.

STATEMENT OF PRAIRIE ROSE SEMINOLE

Ms. SEMINOLE. [Speaking in Arikara.]

Thank you, Chairwoman Fudge and community members. Thank you for coming and welcome to North Dakota. And thank you to the Standing Rock Nation for hosting.

As a young adult, I started organizing around issues such as healthcare, marriage equality, economic equity, and others. Voting and civic engagement have been a revolving door of efforts for nearly 20 of my years, constantly needing to fight for a right given to all citizens.

As you read earlier, Chairwoman Fudge, American Indian people were given citizenship and the right to vote in 1924, whether we wanted to or not. Unfortunately, States had the authority to implement voting barriers that prevented our American Indian population from voting.

In North Dakota, we had to give up our Tribal identity to vote, essentially a strategy of erasure of the indigenous people from this area. If you consider that American Indians have served in every branch of the U.S. military for well over the past 200 years, it goes without saying that their efforts and histories of distinguished services should be recognized. The fact that American Indians serve at a high rate and have a higher concentration of female servicemembers than any other ethnic demographic in the United States demonstrates we still have to fight for our right to vote.

The *Voting Rights Act of 1965* created a false ending of the State-by-State efforts of Tribal Nations fighting the issues in court for the right to vote. The States still found ways to create arbitrary barriers to voting.

North Dakota in 2010, for example, during the fight for affordable healthcare and workers' rights, our organizers, along with Democratic leadership, including Senator Byron Dorgan, were fighting to create more polling locations for Tribal voters, specifically in Benson County, on the Spirit Lake Reservation. At that time, there was only one polling location, that was inaccessible to all voters in the district. The decision was made to make an additional polling site, only to have that site made inaccessible by flood waters in the spring.

Consistently, even in 2018, the previous county auditors of Sioux County for the Standing Rock Reservation inefficiently equipped the polling sites with ballots, many times running out and denying people the opportunity to vote because there were no more ballots.

The Fort Berthold Reservation is divided by six voting districts that are set up to confuse and create barriers because of the distance voters have to travel to cast an in-person ballot. People who drove an hour to vote only to be told that they are at the wrong polling location. A trend is to also make some or all our precincts on Fort Berthold Reservation mail-in only, which also creates a barrier as postal stations are closing in the rural communities of North Dakota.

As an organizer, we organized people to write letters to editors to create visibility on the issue, as well as people to testify at the

State legislature hearings on the need for more polling locations. Legislators often refer to the county auditor's authority of establishing polling locations and how many ballots to have on hand.

In 2009–2010, we were basically told that it wasn't a big enough issue for State legislators to waste time on the issue of American Indian voters having barriers in place in one of the most voting-friendly States in the country.

In 2012, we started to see polling locations deny people their right to vote for not having proper identification. Voters could still vote by having an affidavit filled out on their behalf. In the next year, the State legislature voted to end the affidavit system and required voting IDs to have a physical address.

You have heard some of this testimony before, so I want to fast forward here.

In 2018, I partnered with Tribal colleges and funders to educate American Indian voters of their power of voting, especially in response to the Supreme Court upholding the North Dakota law; in essence establishing a crisis across Tribes in North Dakota to equip voters with acceptable forms of identification. The State of North Dakota did not put forward any effort to fund the mandated requirement.

Tribal members, citizens of North Dakota, implemented incredible efforts to build voter turnout accomplished in the 2018 elections with less than a month to scale local efforts to reach the potential tens of thousands of Native voters in North Dakota who needed new IDs to vote.

Election Day 2018, I was also present in New Town, North Dakota, where students were denied their rights to vote and the administration of the Tribal college, the Nueta Hidatsa Sahnish College, granted residency papers for these students who were later allowed to vote because of the leadership of the Tribal college.

I learned in 2018, working with national organizations pushing the Native vote, that as American Indian voters we do not show up to the vote unless we are engaged. We as a voting bloc have been left out of the civic process for so long that some have grown apathetic. Yet we are the most legislated demographic in the entire county. We have to vote. We have power when we vote.

In 2018, we emphasized that it is only in recent history that we have been allowed to vote and mobilized efforts around the values of education, healthcare, infrastructure, and sovereignty that are all at risk when we don't vote. Efforts raised money for Tribes to become equipped with technology that met the need to make the IDs needed for Tribal members and citizens of North Dakota.

There continues to be barriers, interpersonal and systemic, at our polling locations in our Tribal communities and for our Native voters across the State.

The result of high voter turnout of Native voters in North Dakota has always been the result of significant on-the-ground organizing efforts and education happening in Tribal communities by volunteers and paid staff from partisan and nonpartisan organizations committed to building consistent, engaged, informed voting communities.

I continue to do this work so that there are no more barriers in place for American Indian voters and advance our inherent rights of citizenship.

Thank you.

[The statement of Ms. Seminole follows:]

April 12, 2019

My name is Prairie Rose Seminole. I grew up in North Dakota and I am also a citizen of the Three Affiliated Tribes of ND on the Fort Berthold reservation. I am a descendent of the Sahnish/Arikara, Northern Cheyenne and Lakota Nations. I've served in appointed public office on the Fargo Human Relations Commission in Fargo from 2001 to 2010, serving as Chairperson from 2007 -2010. I've held faculty appointments with the Tri-College NEW Leadership Institute since 2005 to 2014 and am a trainer with Wellstone Action and VoteRunLead, national organizations that train candidates, campaign workers and activists. I have been lead on campaigns to elect candidates and organized and trained on issues from health care, gender justice, marriage equality, voting and voting rights.

I have been involved with ND state politics since 2006, leading the ND Native Vote since 2012. I recently concluded a three-year term on the Midwest advisory council to the Federal Reserve Bank of Minneapolis and was the former cultural advisor to Sanford Health One Care initiative. Awards and recognition include being named the White Shield ND, Arikara Woman of the Year in 2013, a ND Center for Technology and Business Leading Lady in 2015, Bush Foundation Native Nation Rebuilder in 2015, and a Salzburg Global Fellow in 2016 and 2017.

Currently, since 2016, I serve as the American Indian Alaska Native Program Director for the Evangelical Lutheran Church in America. Serving American Indian, Alaska Native communities around the United States as an educator, and advocate, deconstructing colonial systems of oppression.

I'm an educator and organizer. Community organizing is in my DNA. I grew up in a multicultural home with parents who lived out their faith in action through democratic participation and encouraging others to be engaged starting conversations at kitchen tables and church basements. Albeit different models of organizing, my parents' role modeled efforts that are values based and personal. I at home with non-partisan politics, understanding the issues we face as a community are personal. American Indian visibility, our quality of education, affordable health care, how the police were trained to work in communities of color, and our access to vote were just a few of the examples I grew up with. My mother is a devout Lutheran with a social justice lens, guided by the love of her children. My father was a community educator, active in the American Indian movement, not to use violence, but to stand up and speak up when necessary. They raised me in a household where community organizing happened, relationship building with leaders and folding in like-minded citizens who were committed to seeing sustainable change that mattered be a reality. My mom voted and worked every election I can remember. I started organizing in middle school, bringing education around American Indian identity and narrative into our schools. I realized by having a conversation with teachers and principals, people who make the decisions about my well-being, can make a difference about the visibility of American Indian people. School assemblies, classroom conversations, that got me started into the world of organizing.

As a young adult, I started organizing around issues such as health care, marriage equality, economic equity and others. Voting and civic engagement have been a revolving door of efforts

for nearly twenty of my years, constantly needing to fight for a right given to all citizens. American Indian people were given citizenship and the right to vote in 1924 whether we wanted to or not. Unfortunately, states had authority to implement voting barriers that prevented our American Indian population from voting. In ND we had to give up our tribal identity to vote, essentially a strategy of erasure of the Indigenous people from this area. Considering American Indian Veterans have served in every branch of the U.S. Military for well over the past 200 years, It goes without saying that their efforts and histories of distinguished services should be recognized. The fact that American Indians serve at a high rate and have a higher concentration of female service member than any other ethnic demographic in the United States, we still have to fight for our right to vote. The Voting Rights act of 1965 created a false ending of the state by state efforts of tribal nations fighting the issue in courts for the right to vote. States however, still found ways to create arbitrary barriers to voting.

ND in 2010, during the fight for affordable health care and workers rights, as organizers with democratic leadership, including Senator Byron Dorgan were fighting to create more polling locations for tribal voters in Benson County, on the Spirit Lake reservation. At the time, there was only one polling location that wasn't accessible to all voters in the district. The decision was made to make an additional polling site, only to have that site made inaccessible by floodwaters washing the roads out. Consistently, even in the 2018, the previous county auditors of Sioux County for the Standing Rock reservation inefficiently equipped the polling sites with ballots. Many times, running out and denying people the opportunity to vote because there were no more ballots. The Fort Berthold reservation is divided by six voting districts that are set up to confuse and creating barriers because of the distance voters have to travel to cast an in-person ballot. People who drove an hour to vote, only to be told they are at the wrong polling location. A trend conversation is to make some or all of the precincts on the Fort Berthold reservation mail in only also creates a barrier as postal stations are closing in the rural communities of North Dakota. As an organizer, organized people to write letters to editors to create visibility on the issue as well as people who testified at state legislature hearings on the need for more polling locations. Legislators often referred to the county auditors' authority of establishing polling locations and how many ballots to have on hand. In 2009-2010, we were basically told that it wasn't a big enough issue for state legislators to waste time on the issue of American Indian voters having barriers in place in one of the most voting friendly states in the country.

In 2012, we started to see polling locations deny people their right to vote for not having proper identification. Voters could still vote by having an affidavit filled out on their behalf. In the next years, the state legislature voted to end the affidavit system and started to require voting ID's to have a physical address. This action created a disparity for American Indian Voters, rural North Dakotans and College students. The reservation system in ND was not mapped out like urban districts are. Physical addresses varied between the tribal system, the 911 administrative system and other mapping systems in the state. Having one authority to address the American Indian population has yet to be efficiently implemented. In the 2014, 2016 and 2018 we started to see more American Indian voters denied their right to vote because of the denial of common forms of identification such as tribal ID's and student ID's. Elders were turned away because they didn't have ID cards and they no longer had the affidavit process, legitimizing their right to vote.

In 2014 and 2016 as an election observer, I witnessed few people being turned away from New Town ND polling locations because of not having proper ID's. I sat a small polling location. Several voters were turned away because they were at the wrong polling location, they would not be voting, again a confusing dynamic of having a reservation split by 6 districts.

2018, I partnered with tribal colleges and funders to educate American Indian voters of their power of voting. Especially in response to the Supreme Court upholding the ND law. In essence establishing a crisis across tribes in ND to equip voters with acceptable forms of identification. The state of ND did not put forward any efforts to fund the mandated requirement. Tribal members, citizens of ND implemented incredible efforts to build the voter turnout accomplished in the 2018 elections. With less than a month to scale local efforts to reach the potential tens of thousands of Native voters in ND who needed new ID's to vote. Election day 2018 I was present in New Town, ND where students were denied their right to vote and the administration of the tribal college, Nueta Hidatsa Sahnish College printed residency papers for these students who were later allowed to vote because the leadership of the tribal college stepped up.

I learned in 2008 working with national organizations pushing the Native Vote, that as American Indian voters, we do not show up to vote unless we are engaged. We as a voting block have been left out of this civic process for so long that some have grown apathetic, yet we are the most legislated demographic in the entire country. We have to vote, we have power when we vote. So, in 2018, we emphasized that it is recent history that we've been allowed to vote and mobilized efforts around the values of education, health care, infrastructure, and sovereignty- that are at risk when we don't vote. Efforts raised money for tribes to become equipped with technology that met the need to make the ID's needed for tribal members, citizens of North Dakota. I partnered with national media and our in state tribal colleges to ensure our efforts were non-partisan, and spoke to the personal nature of American Indian voters, our quality of life is a decision of people at the tables of government, and the right we have as voters.

There continues to be barriers, interpersonal and systemic at our polling locations in our tribal communities and for our Native voters across the state. The result of the high voter turnout of Native voters in ND has always been the result of significant on the ground organizing efforts and education happening in tribal communities by volunteers and paid staff from partisan and non-partisan organizations, committing to building consistently engaged, informed voting communities.

I continue to do this work so that there are no more barriers in place for our American Indian voters and advance our inherent rights of citizenship.

Chairwoman FUDGE. Thank you.
Ms. De Leon.

STATEMENT OF JACQUELINE DE LEON

Ms. DE LEON. Thank you, Chairwoman Fudge, Ranking Member Davis, and Members, for having me testify today and for coming to Indian Country. And thank you to the Standing Rock Tribe for this warm welcome.

My name is Jacqueline De Leon. I am a member of the Isleta Pueblo and a staff attorney for the Native American Rights Fund, also known as NARF, the Nation's oldest nonprofit law firm dedicated to advancing the rights of Native Americans.

Today I am going to give you a brief overview of how the voter ID law came to be, because it provides important context for the powerful testimony we are hearing today.

In 2014, NARF received a request for assistance regarding Native Americans in North Dakota that were being turned away from the polls. NARF began its investigation and was appalled to learn that veterans, school teachers, elders, and other lifelong voters were being rejected by poll workers that had known these individuals their entire lives. NARF decided that this was a case worth investing our limited resources.

I mention resources because the burden of proof under the Voting Rights Act and constitutional cases, alleging voter discrimination is extremely high, which means that in order to prevail in these cases litigators must invest substantial resources, and, unfortunately, NARF cannot address every injustice facing Native American voters today.

During the course of our investigation we were alarmed to learn that one of the legislature's motivations for passing the voter ID law was to suppress the Native American vote because of the unexpected victory of Democrat Heidi Heitkamp in the 2012 Senatorial election, who won by less than 3,000 votes. The Native American vote was widely attributed to her win.

We know this was their motivation because in 2011 the North Dakota Legislature considered a new voter ID law that would have limited the valid forms of voter ID and gotten rid of the State's affidavit system where a voter swears to their qualifications.

Throughout consideration of the bill, legislators on both sides of the aisle raised concerns about disenfranchisement. Additionally, the legislature was informed during these deliberations that there were Native Americans that lacked residential addresses. The legislature decided 38-8 on a bipartisan basis not to enact the proposed changes to the voter ID laws given the concerns about disenfranchisement.

After Senator Heitkamp's win, however, the legislature quickly changed course and immediately passed the law that greatly restricted the acceptable forms of voter identification, required residential addresses on all IDs, and eliminated all fail-safes. The legislature never analyzed whether Native American voters it was told lacked addresses in 2011 still lacked addresses. Indeed, those Native American voters continue to lack addresses to this day.

Even more conspicuously, the legislature utilized a "hodgehouse" amendment by replacing the entire text of an unrelated bill with

the new text to pass the bill without any debate. As expected, the impact on the Native American vote in 2014 was severe.

In 2016 NARF sought an injunction on the law on behalf of seven brave Turtle Mountain plaintiffs that were disenfranchised by the laws. The U.S. District Court in North Dakota granted the injunction, finding the law violated the U.S. Constitution and required that North Dakota again implement the affidavit system. Judge Hovland stated, “It is clear that a safety net is needed for those voters who simply cannot obtain a qualifying ID with reasonable effort.”

In 2017, in response to the decision from the District Court, the North Dakota Legislature amended the voter ID law. But despite at this point being well informed of the law’s discriminatory effects, it did not get rid of the discriminatory parts of the law. It still required all voters to have an ID that had a residential address.

We again brought suit, and the court granted another injunction barring the State from enforcing the newest version, but this time the State was ordered to allow P.O. boxes, which are utilized significantly by the Native American community due to their lack of addresses, to prove residency. The order also expanded the types of acceptable IDs.

The State appealed to the Eighth Circuit and the Eighth Circuit stayed the court’s injunction, allowing the law’s requirement of a residential address to go forward. We appealed to the Supreme Court, which was denied.

After the appeal to the Supreme Court was denied, significant media attention descended upon North Dakota. Senator Heitkamp was running for reelection. It was feared that the effects of the discriminatory voter ID law would unfairly impact the outcome of the race.

NARF then took two actions. First, it worked with Tribal leaders and local committee activists to marshal resources. I personally was inspired by the decisive leadership that the Tribal leaders here today took. All of the Tribes quickly moved to administer free IDs to their members and worked day and night to respond. Community activists, such as Prairie Rose, Danielle Finn, O.J. Semans, Sr., Barbara Semans, Nicole Donaghy, and, notably, the high school Native American Youth Council on the Turtle Mountain Reservation, mounted a tremendous get out the vote effort. I thank these individuals for their heroic efforts and commend them on a job well done.

Second, NARF teamed with local counsel Tim Purdon and the Campaign Legal Center to file an emergency temporary restraining order on behalf of the Spirit Lake Tribe and six individual plaintiffs, but this was denied. The Standing Rock Sioux Tribe has since joined the suit, which is ongoing.

As of today, the North Dakota voter ID law still stands. Voters are still required to present a qualifying ID and list a residential address in order to vote. Yet Native Americans across North Dakota still disproportionately lack residential addresses and the resources necessary to obtain qualifying ID.

As the cameras move on from North Dakota, so do the resources that made the herculean response to the ID law in this last election possible. Unfortunately, the story of discrimination and disenfran-

chisement in North Dakota is not an isolated one. Across the country, Native Americans are being denied fair access to the ballot box.

Given the tremendous cost of litigating voting cases, NARF cannot address every injustice, and Federal action is needed to prevent the continued disenfranchisement of Native Americans.

I thank you for coming to hear these stories and for shedding a much-needed light on these issues.

[The statement of Ms. De Leon follows:]



Written Statement of Jacqueline De León

Staff Attorney for the Native American Rights Fund

Before the Subcommittee on Elections Committee on Administration

United States House of Representatives

April 16, 2019

Thank you Chairman Fudge, Ranking Member Davis, and Members of the Subcommittee for having me testify today and for coming to Indian Country. My name is Jacqueline De León, and I am a staff attorney with the Native American Rights Fund (“NARF”). Since 1970, NARF has provided legal assistance to Indian tribes, organizations, and individuals nationwide who might otherwise have gone without adequate representation. NARF has successfully asserted and defended the most important rights of Indians and tribes in hundreds of major cases, and has achieved significant results in such critical areas as tribal sovereignty, treaty rights, natural resource protection, and Indian education. NARF is a non-profit 501(c)(3) organization that focuses on applying existing laws and treaties to guarantee that national and state governments live up to their legal obligations.

NARF is headquartered in Boulder, Colorado, with branch offices in Washington, D.C., and Anchorage, Alaska. NARF is governed by a volunteer board of directors composed of thirteen Native Americans from different tribes throughout the country with a variety of expertise in Indian matters. A staff of seventeen attorneys handles over fifty major cases at any given time, with most of the cases taking several years to resolve. Cases are accepted on the basis of their breadth and potential importance in setting precedents and establishing important principles of Indian law.

In 2014, NARF received a request for assistance regarding Native Americans in North Dakota that were being turned away from the polls. NARF began its investigation and was appalled to learn that veterans, school teachers, elders, and other life-long voters were being rejected by poll workers that had known these individuals their entire lives. Voters described the hurt and humiliation they felt when they were unable to vote because they lacked sufficient ID, and NARF decided that this case was worth investing our limited resources.

The burden of proof in Voting Rights Act and Constitutional cases alleging voter discrimination is high. In *Crawford v. Marion County Election Board*, the Supreme Court rejected a challenge to a voter ID law in large part because of an insufficient record.¹ Thus, in order to withstand judicial scrutiny, NARF began building a record that included engagement of experts to quantify the number of Native voters that lacked ID; to show the burdensome distances to North Dakota Driver's license sites; to explain the current strained racial dynamics within the state of North Dakota (including a history of discrimination); and to prove a correlation between Native Americans in North Dakota and their political affiliation.

During the course of our investigation, we came to learn that one of the Legislature's impetuses for passing the voter ID law was to suppress the Native American vote because of the unexpected victory of Democrat Heidi Heitkamp in the 2012 election. Senator Heitkamp narrowly won a Senate seat in 2012 by less than 3,000 votes.² The local and national media credited her success to the votes of the Native American community.³

North Dakota has had voter ID laws in place since 2004.⁴ Prior to the change in 2013, North Dakota's voter ID law was likely the most voter friendly in the nation. It required voters to present identification, but had fail-safe mechanisms that allowed a voter to cast their ballot if a poll worker could vouch for their identity or the voter signed an affidavit, under penalty of perjury, that he or she was qualified to vote.⁵ Indeed, the affidavit fail-safe was in place for nearly a century in North Dakota.

In 2011, the North Dakota legislature considered enacting a new voter ID law that would have limited the valid forms of voter ID to a state issued driver's license, a tribal ID card, and other forms of identification prescribed by the Secretary of State.⁶ Eventually, after deliberation, the bill also would have eliminated the fail-safe affidavit system and only contained a limited

¹ 553 U.S. 181, 189 (2008) ("we are . . . persuaded that the District Court and the Court of Appeals correctly concluded that the evidence in the record is not sufficient.").

² *Id.* at ¶ 40-43.

³ See Jim Fuglie, *United States Senator Mary Kathryn (Heidi) Heitkamp. How About That?*, The Prairie Blog (Nov. 9, 2012), <http://theprairieblog.areavoices.com/2012/11/09/united-states-senator-mary-kathrynheid-heitkamp-how-about-that/>; AnnMaria De Mars, *Native Americans: Why Heidi Heitkamp Won & Nate Silver Was Wrong?*, AnnMaria's Blog (Nov. 19, 2012), <http://www.thejuliagroup.com/blog/?p=2808>; *American Indian Voters and Indian Organizers Gave N.D. Senate Edge to Democrat Heidi Heitkamp* (Nov. 8, 2012), <https://www.dailykos.com/stories/2012/11/8/1158417/-American-Indian-votersand-Indian-organizers-gave-N-D-Senate-edge-to-Democrat-Heidi-Heitkamp>.

⁴ *North Dakota Again Passes Discriminatory Voter ID Law*, NATIVE AMERICAN RIGHTS FUND (May 9, 2017), <https://www.narf.org/north-dakota-voter-id-law/>.

⁵ *Id.*

⁶ *Brakebill First Amend. Compl.* ¶ 24, ECF No. 77.

form of the voucher system.⁷ Throughout consideration of the bill, legislators on both sides of the aisle raised concerns about disenfranchisement. Senator Sorvaag noted that “[w]e don’t want people voting if they are not suppose [sic] to vote but we don’t want to disenfranchise people either by making the process to [sic] cumbersome.”⁸ Additionally, the legislature was informed during these deliberations that there were Native Americans that lacked residential addresses and even if they did have an address, that address may not be known to them.⁹ The legislature ultimately decided, 38-8, not to enact the proposed changes to the voter ID laws given the concerns about disenfranchisement.¹⁰

After Senator Heitkamp’s win, however, the legislature quickly changed course. In the legislative session immediately following Senator Heitkamp’s victory, the North Dakota legislature passed the most restrictive voter ID and address requirements in the nation. The new law greatly restricted the acceptable forms of voter identification, required a residential address on IDs, and eliminated the two fail-safe mechanisms – vouchers and affidavits.¹¹

Despite the concerns about disenfranchisement raised the immediately preceding legislative session, and a lack of instances of voter fraud in the 2012 election, the legislature passed the new restrictive requirements.¹² The legislature never analyzed whether the Native American voters it was told lacked addresses in 2011 still lacked addresses– indeed, those Native American voters continue to lack addresses to this day. Further emphasizing the expedited and non-deliberative nature of the 2013 Voter ID law, the legislature utilized a “hoghouse” amendment, replacing the entire text of an unrelated bill with the new voter ID text, in order to pass the bill without debate.¹³ Hoghouse amendments are not subject to public hearings and are therefore disfavored.¹⁴ Democratic Senator Corey Mock strongly objected the use of the hoghouse amendment because it would “completely change the way we handle voters” and using a hoghouse would circumvent input from the public and agencies impacted by the bill.¹⁵

⁷ *Id.* at 1-2.

⁸ *Hearing Minutes on H.B. 1447 Before H. Political Subdivision Comm.*, 62nd Leg. Assemb. 1 (N.D. Apr. 12, 2011) (statement of Sen. Ronald Sorvaag, S. Comm. On Political Sub.).

⁹ *Hearing Minutes on H.B. 1447 Before H. Political Subdivision Comm.*, 62nd Leg. Assemb. 2 (N.D. Apr. 20, 2011) (statement of Rep. Zaiser, H. Political Subdivisions Comm.); *See Brakebill Compl.* ¶ 35-36, ECF No. 1.

¹⁰ *Brakebill First Amend. Compl.* ¶ 37, ECF No. 77.

¹¹ *Brakebill First Amend. Compl.* ¶ 49, ECF No. 77.

¹² *Id.* at ¶ 50-52.

¹³ *Id.* at ¶ 54.

¹⁴ *See Legislative Branch Function and Process*, North Dakota Legislative Branch, <http://www.legis.nd.gov/research-center/library/legislative-branch-function-and-process> (last visited Nov. 30, 2017).

¹⁵ *House Floor Session: Hearing on H.B. 1332*, 63rd Leg. Assemb. (N.D. Feb. 12, 2013) (statement of Rep. Corey Mock).

Voters were required to present a residential address on one of the following acceptable forms of ID: a North Dakota Driver's License or non-identification card, a tribal government ID, or an alternative form of identification prescribed by the Secretary of State, which included a student identification certificate or a long-term care identification certificate.¹⁶ As expected, the impact on the Native American vote in 2014 was severe.

In the following legislative session North Dakota amended voter ID laws even further, restricting the forms of acceptable ID.¹⁷ Following these amendments, the Secretary of State could no longer prescribe other forms of qualifying ID, leaving voters with only four forms of qualifying ID.¹⁸

Following NARF's investigation, in 2016, NARF filed suit on behalf of seven Turtle Mountain plaintiffs that were disenfranchised by the laws. NARF showed that the law disenfranchised Native American voters and violated both the U.S. and North Dakota Constitutions as well as the Voting Rights Act.¹⁹ The U.S. District Court in North Dakota agreed, granting an injunction in favor of the Native American plaintiffs.²⁰ The Court found that the law violated the U.S. Constitution and required that North Dakota provide a fail-safe mechanism for the 2016 general election.²¹ In his decision, Judge Hovland stated, "it is clear that a safety net is needed for those voters who simply cannot obtain a qualifying ID with reasonable effort."²² The injunction required that the state provide an affidavit fail safe, allowing voters without proper ID to sign an affidavit swearing to their qualifications, similar to the law in place for nearly a century.²³

The effort and resources necessary to mount this legal challenge were significant. The total sought for Plaintiffs' attorneys' fees and litigation expenses was \$1,132,459.41. This sum represents \$832,977 in attorneys' fees and \$299,482.41 in litigation expenses, including expert reports. Thousands of attorney hours over almost two years were expended in order to build a legal record and respond to numerous motions filed by the State in defense of the law.

In 2017, in response to the decision from the District Court, the North Dakota legislature amended the voter ID law.²⁴ However, instead of providing an affidavit option, as ordered by the

¹⁶ See N.D. Cent. Code § 16.1-05-07.

¹⁷ *Brakebill* First Amend. Compl. ¶ 87-89, ECF No. 77.

¹⁸ *Id.* at ¶ 90-91.

¹⁹ *Brakebill* Compl. ¶ 2, ECF No. 1.

²⁰ *Brakebill v. Jaeger*, No. 1:16-cv-008, 2016 WL 7118548 (D.N.D. Aug. 1, 2016) (order granting preliminary injunction).

²¹ *Id.* at *13.

²² *Id.* at *10.

²³ *Id.* at *13.

²⁴ See N.D. CENT. CODE § 16.1-05-07 (2017); See H.B. 1369, 65th Leg. Assemb., Reg. Sess. (N.D. 2017).

District Court, the legislature chose to allow for a provisional ballot.²⁵ The provisional ballot, or “set-aside” ballot, would be permitted for voters without proper ID. However, the ballot would ultimately be thrown out unless the voter could return with a qualifying ID within six days of the election.²⁶ This amendment also provided that voters could supplement an unqualified ID with a utility bill, bank statement, check or governmental issued document.²⁷ While this amendment may have addressed the issues for voters who simply left their IDs at home, it ultimately failed to address the concern for those who, although qualified to vote, could not reasonably obtain a qualifying ID or who had no residential address to place on the ID.²⁸

When the North Dakota legislature chose to amend the voter ID law in 2017 they were well informed of the discriminatory impact such a restrictive law would have on the Native American community. Given the extensive litigation that had taken place, Senators raised concerns that this new law did little to change the discriminatory impacts of the law.²⁹ Yet, the legislature chose to move forward with the amendment knowing that it would still have a disproportionate effect on Native American voters.

Again, in December of 2017, following the newest amendment to the law, NARF assisted Native Americans disenfranchised by amending their complaint against the state of North Dakota to reflect the changes in the voter ID law.³⁰ As a result, on April 3, 2018, the Native American plaintiffs were granted another injunction barring the State from enforcing the newest version of the voter ID law.³¹ Instead of implementing the affidavit option again, the order required the State to permit P.O. Boxes – utilized significantly by the Native American community due to their lack of addresses – to prove residency.³² The order also expanded the types of acceptable ID to include documents, letters, enrollment cards, or other forms of tribal identification issued by the tribes until the final resolution of the litigation could be reached.³³

Following the order in April of 2018, the State filed an appeal to the Eighth Circuit seeking an order to stay the District Court’s injunction.³⁴ This would allow the State to continue enforcing the voter ID law, as is, until the case reached its conclusion.³⁵

²⁵ N.D. CENT. CODE § 16.1-01-04.1 (2017).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Brakebill* First Amend. Compl. ¶ 156-157, ECF No. 77.

²⁹ *Brakebill* First Amend. Compl. ¶ 72, ECF No. 77.

³⁰ *Id.* at ¶ 2.

³¹ *Brakebill v. Jaeger*, No. 1:16-cv-008, 2018 WL 1612190 (D.N.D. April 3, 2018) (order granting second preliminary injunction).

³² *Id.* at *7.

³³ *Id.*

³⁴ *Brakebill v. Jaeger*, 905 F.3d 553 (8th Cir. 2018).

³⁵ *Id.* at 555-556.

On September 10, 2018, the Eighth Circuit held a special session to decide if the current voter ID law would be allowed to continue or if the District Court's injunction would be upheld.³⁶ The Eighth Circuit subsequently granted the State's request to stay the part of the District Court order requiring the State to accept P.O. Boxes on IDs.³⁷ In making its decision the Court stated "even assuming that some communities lack residential street addresses, that fact does not justify a statewide injunction that prevents the Secretary from requiring a form of identification with a residential street address from the vast majority of residents who have residential street addresses."³⁸

In response to this decision, on September 27, 2018, the plaintiffs filed an emergency appeal to the United States Supreme Court.³⁹ The appeal requested that the court reverse the Eighth Circuit decision allowing North Dakota to impose the restrictive voter ID law in the 2018 election.⁴⁰ On October 9, 2018, the Supreme Court denied the emergency appeal.⁴¹ However, a dissenting opinion from Justice Ginsburg and Kagan notes that there was a significant risk of disenfranchisement should the State be permitted to enforce the ID requirements.⁴²

After appeal to the Supreme Court was denied, and shortly before the election, significant media attention descended upon North Dakota. Senator Heidi Heitkamp was running for re-election and it was feared that the effects of the discriminatory voter ID law would unfairly impact the outcome of the race. NARF then took two actions. First, it worked with tribal leaders and local community activists to marshal resources to ensure every Native voter could vote. I personally was inspired by the decisive leadership the tribal leaders here today took. All of the Tribes quickly moved to administer free IDs to their members, and worked day and night to respond to the outrage felt by its members when the full intent and impact of the voter ID law became clear. Community activists such as Prairie Rose, Danielle Finn, OJ Semans Sr. and Barbara Semans, Nicole Donaghy, and notably, the high school Native American Youth Council on the Turtle Mountain Reservation mounted a tremendous get out the vote effort. The on the ground efforts extended door to door to get Native Americans proper identification and addresses, traversed hundreds of miles to provide members with the resources necessary for them to get ID, informed members of their rights, and provided assistance to the polls. I thank these individuals for their heroic efforts and commend them on a job well done.

Second, NARF teamed with local counsel Tim Purdon, and the Campaign Legal Center to file an emergency Temporary Restraining Order on behalf of the Spirit Lake Tribe and six

³⁶ *Id.*

³⁷ *Id.* at 561.

³⁸ *Brakebill*, No 18-1725, Slip. Op. at 7.

³⁹ *Brakebill v. Jaeger*, 139 S.Ct. 10, 10 202 L.Ed. 2d 212, 212 (2018) (denying application to vacate stay).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

individual plaintiffs.⁴³ With the election less than a week away, on November 1, 2018, District Court Judge Hovland denied the plaintiffs request for relief out of fear that another decision so close to the election would only create further confusion.⁴⁴ The Standing Rock Sioux Tribe has since joined this suit, which is ongoing.

As of today, the North Dakota voter ID law still stands.⁴⁵ Voters are still required to present a qualifying ID and list a residential address in order to vote.⁴⁶ Yet, Native Americans across North Dakota still disproportionately lack residential addresses and the resources necessary to obtain qualifying ID. There remains a housing crisis across the North Dakota reservations and individuals must move from home to home to keep a roof over their head. Unfortunately, the IDs issued in this last election will quickly become obsolete and Tribes cannot continue to issue IDs for free indefinitely. As the cameras move on from North Dakota, so do the resources that made the herculean response to the ID law in this last election possible. NARF remains committed to fighting this law until all qualified North Dakotans have equal access to the ballot box.

Indeed, NARF is committed to expanding access to the ballot box for all Native Americans. Research by the National Congress of American Indians indicates the turnout rate of American Indian and Alaska Native registered voters is 5 to 14 percentage points lower than the rate of many other racial and ethnic groups.⁴⁷ Of American Indians and Alaska Natives eligible to vote, only 66% are registered, compared to 74% of eligible non-Hispanic Whites. 34% of the total Native population over 18 — or 1,000,000 eligible voters — is not registered to vote.⁴⁸

In January 2015, NARF proposed a new project to start to address these discrepancies, the Native American Voting Rights Coalition (NAVRC). NAVRC is a non-partisan alliance of national and grassroots organizations, scholars, and activists advocating for equal access for Native Americans to the political process. To begin its work, NAVRC needed a more complete understanding of the types of barriers that Native Americans face in trying to access the ballot box. In 2016, the Kellogg Foundation funded a multi-state study of the challenges facing Native American voters.⁴⁹ The results of that study were startling. For example, Native Americans

⁴³ See Spirit Lake Tribe Compl. ¶ 1, ECF No. 1.

⁴⁴ *Spirit Lake Tribe v. Jaeger*, No. 1:18-cv-222, 2018 WL 5722665, at *1 (D.N.D. Nov. 1, 2018) (order denied temporary restraining order).

⁴⁵ N.D. Cent. Code Ann. § 16.1-01-04.1 (2017).

⁴⁶ *Id.*

⁴⁷ National Congress of American Indians, *Top 10 States with the Highest Populations of Voting-Age Natives*, Native Vote (2018), http://www.ncai.org/initiatives/campaigns/NCAI_NativeVoteInfographic.pdf

⁴⁸ *Id.*

⁴⁹ Native American Voting Rights Coalition, *Voting Barriers Encountered by Native Americans in Arizona, New Mexico, Nevada and South Dakota*, January 2018, <https://vote.narf.org/wp-content/uploads/2018/10/2017NAVRCsurvey-summary.pdf>.

reported prohibitively long distances to polling places, lack of understanding of how to register to vote (including never seeing a voter registration drive within their communities), and, most alarmingly, huge levels of distrust of local, state, and federal governments.⁵⁰ In South Dakota, 95% of respondents said they did not trust the local governments that are responsible for the administration of elections.⁵¹

NAVRC's second initiative was to conduct a series of field hearings across Indian Country to ask directly why it is that Native Americans are not making it to the polls. For the past two years, I have co-led these hearings to document the unique needs and challenges faced by Native voters and identify successes to replicate. The report of the hearings' findings will be released in the next month and will be made available to this Committee. The report concludes that in significant part failure to address isolating conditions, unequal division of resources, and overt racism and discrimination keep Native Americans from the ballot box.

Native Americans, despite their continued disenfranchisement, have the potential to be a potent political force. According to research by the National Congress of American Indians, for example, the margin for the 2016 Presidential Election in Michigan was 0.3%. With more than 100,000 Native people age 18 and older in Michigan, the Native people eligible to vote was 4 times more than the margin of victory in that state. While the Native population in the United States is relatively small at about 1.5% of the general population, in many states and districts, Native voters make up a sizable portion of eligible voters. Some states where Native American potential for political influence is high include Alaska (where the Native eligible voter population is over 17%), New Mexico (more than 10%), Montana (7%), and Arizona (more than 5%), among others.⁵²

Unfortunately, the story of discrimination and disenfranchisement in North Dakota is not an isolated one. Across the country Native Americans are being denied fair access to the ballot box. Given the tremendous cost of litigating voting cases NARF cannot address every injustice. Federal action is needed to prevent the continued disenfranchisement of Native Americans. I thank you for coming to hear these stories and for shedding a much needed light on these issues.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² National Congress of American Indians, *2018 Native Vote: An Update for Tribal Leaders*, Native Vote (2018), <http://www.nativevote.org/wp-content/uploads/2018/02/Native-Vote-2018-Analysis-WEB-VERSION-FINAL.pdf>

Chairwoman FUDGE. Thank you. Thank you all for your testimony.

I do know that our representative has to go back. She is in session, and we clearly understand that. So if any of the members have a question that is going to be directed to Representative Buffalo, if you could ask your question now so she can get back into session.

We will go in order as we did before.

Mr. Butterfield.

Mr. BUTTERFIELD. Thank you, Madam Chairwoman.

I think the question that I had to the last panel might have been more appropriate to this panel. And let me just begin with you, Representative Buffalo.

Apparently there are 47 legislative districts in North Dakota. Am I right?

Ms. BUFFALO. Correct.

Mr. BUTTERFIELD. Each district has a State senator.

Ms. BUFFALO. Yes.

Mr. BUTTERFIELD. And each district has two house members?

Ms. BUFFALO. Yes.

Mr. BUTTERFIELD. Okay. And every 10 years the State legislature draws the lines and creates these 47 districts.

Ms. BUFFALO. Yes.

Mr. BUTTERFIELD. Okay. Among these 47 districts, how many Native Americans serve in the State Senate?

Ms. BUFFALO. One.

Mr. BUTTERFIELD. How many serve in the State House?

Ms. BUFFALO. As of this current—this recent election?

Mr. BUTTERFIELD. Yes.

Ms. BUFFALO. Myself.

Mr. BUTTERFIELD. One and one?

Ms. BUFFALO. Yes.

Mr. BUTTERFIELD. Okay.

In drawing these lines every 10 years, do Native Americans have input into the drawing of the lines aside from the one legislator that is in the State legislature? Do they go out to the reservations and consult with Tribal leaders and citizens and have public hearings such as this?

Ms. BUFFALO. Representative Butterfield, not that I am aware, no.

Mr. BUTTERFIELD. Okay.

Do you have any suspicion that these 47 lines are gerrymandered in such a way that dilutes the ability of Native Americans to elect legislators?

Ms. BUFFALO. Representative, most definitely.

Mr. BUTTERFIELD. The subdividing of these districts, the 47 districts, each one is then subdivided into two parts. Do you have any concerns about the way those lines are drawn as well?

Ms. BUFFALO. Representative, definitely. There are grave concerns there. I could easily be sliced out even within the district that I am currently representing. And based off of the approach that I have taken, this issue of voter access should not be a partisan issue, but there is retaliation, there are attacks. So that is some-

thing that is on the radar daily, but I will not be silenced. I will continue to stand up.

Mr. BUTTERFIELD. Please know that Section 2 of the Voting Rights Act is available to the citizens of North Dakota. It is nationwide in its application and it is a permanent law and it can be used to change the political landscape of your State.

Thank you. I yield back.

Chairwoman FUDGE. Ranking Member Davis.

Mr. DAVIS. Thank you.

Ms. Buffalo, congratulations on your election. I was at the State Capitol yesterday. I did not get a chance to meet you when I went into the House chamber and went into the Senate chamber, but congratulations.

Again, I am from Illinois. Many of the numbers that you mentioned of a majority Republican leadership in both your House and Senate here are flipped in my home State. Many of the same concerns I think Mr. Butterfield raised about gerrymandering are some of the similar concerns we have in my home State, too.

The biggest threat that we have to fair elections is in my opinion, partisanship, and we have got to do everything we can to focus more on bipartisan solutions.

Now, in your State representative district how many constituents do you represent?

Ms. BUFFALO. In District 27?

Mr. DAVIS. Yes.

Ms. BUFFALO. District 27 is on the eastern side of the State, so it is in south Fargo. I represent at least 5,000 constituents.

Mr. DAVIS. 5,000 constituents. And how many of them are registered voters?

Ms. BUFFALO. Representative, within the State of North Dakota we do not have a voter registration requirement.

Mr. DAVIS. Okay. So about 5,000 individuals. I will calculate a percentage. You could say over half might be eligible to vote. Was the turnout higher in the Fargo area, too, even though it is not typically a Native American sovereign nation?

Ms. BUFFALO. Representative Rodney Davis, the voter turnout was high across the United States in this midterm election because our communities know what is at stake. Unfortunately, people of color, indigenous people, women are being targeted right now. Hate crimes have risen within this current administration. People know what is at stake, and people are getting out to vote so that our families will be protected, because currently we aren't protected under this current administration.

Mr. DAVIS. Well, Madam Representative, as somebody who personally had to dodge bullets on a baseball field from someone who was inspired by not the President of the United States but others, because of hateful rhetoric coming on all sides, I concur. There is a lot of hate, there is a lot of rhetoric that led me and my friends to have to run from a gunman screaming "healthcare" as he was trying to kill all of us one morning in Virginia almost 2 years ago.

Watching my colleague lay on the ground and almost die and other friends bleeding on the ground, watching an African American Capitol Police hero get shot in the ankle, I can tell you that

there is a lot of hate in the world. And it is not limited to the President; it is not limited to one side.

I think we all ought to work together to make sure what I went through and what my colleagues went through never happens again, but let's not forget that. Let's work together. Again, bipartisan solutions are what matters here.

And I appreciate your service. I appreciate the time. And I want to spend some more of my time talking to some of the other witnesses.

So, Ms. De Leon, thank you for——

Chairwoman FUDGE. We are just asking her questions so she can get back to work.

Mr. DAVIS. All right.

Well, Representative Buffalo, I look forward to working with you and the legislature here and finding solutions. Thank you.

Chairwoman FUDGE. Mr. Thompson.

Mr. THOMPSON. Thank you very much.

Representative, I identify probably more than any other people. I would not be elected in Mississippi had it not been for the Voting Rights Act. In Mississippi you had to own land to run for public office. We challenged that law under the Voting Rights Act and we won. So a long time ago, I understand that.

My mother was a school teacher, but she could not vote because she was African American. When we beat that law back, then she had to interpret the Constitution of the United States even though she had a college degree. The person who administered the test to her had not finished the eighth grade. So there are a lot of things that happened.

One of the things I am committed to, as Mr. Davis said, is say, look, if we are Americans, then we should act like Americans and do the right thing.

So are you aware that when the legislature changed the law implementing the residence, the street address requirement did they provide monies to Native Americans for that transfer of responsibility or did they just pass the law and provide no resources?

Ms. BUFFALO. Representative Thompson, to my knowledge, there hasn't been additional resources. To my knowledge, there has been a strong lack of communication and outreach to prevent what happened in this last election, which left communities scrambling. My understanding is that counties do receive funding for their Native American head count, so there is a disconnect there that needs to be addressed.

Mr. THOMPSON. So in other words, it was more or less an unfunded mandate on Native Americans to say you have to have an address, but we are not going to give you the money necessary to complete the process, we will just establish it.

Ms. BUFFALO. Representative Thompson, to my knowledge, no. I could be wrong, but I would be willing to go back and find that specific information.

But to that end, I only have a few minutes, and I think that it is important that we work further upstream. I agree with Representative Rodney Davis, we do need to work together. And this has been generations upon generations upon generations of overdue.

We need to work further upstream. The true history of our people needs to be told. Comments saying, you know, "Well, turnout was great, wasn't it?" that is inappropriate and unacceptable because that is almost saying, like, "Oh, well, your kids, we mandated your children to be sent to the boarding schools to become civilized. But they are educated now, aren't they?" It is the same thing, and it is inappropriate. But it is due to a lack of education, truly, of who we are and which land we stand on today.

Mr. THOMPSON. Thank you.

Chairwoman FUDGE. Thank you.

And thank you for your time. We appreciate your coming some distance. Thank you so much.

Ms. BUFFALO. Thank you.

Chairwoman FUDGE. Mr. Davis, you can go back to your 5 minutes with your questions.

Mr. Davis for 5 minutes.

Mr. DAVIS. Thank you.

Ms. DE LEON, so are you a registered voter in North Dakota?

Ms. DE LEON. No, I am not. North Dakota doesn't have registration.

Mr. DAVIS. Have you ever voted—

Ms. DE LEON. I live in Colorado.

Mr. DAVIS. You live in Colorado? Okay.

So with North Dakota, as we look at the election results, clearly, I mean, obviously Representative Buffalo doesn't want us to discuss the facts about turnout when it comes to increased electoral participation, which I think is great. I think it is across the board. It is not offensive. Frankly, it is the numbers. That is what we should see. We want to see everybody participate.

You have made a commitment for Native American voting rights with the Native American Rights Fund. Given your experience in this area, I am curious to hear your thoughts specifically on the Voting Rights Act's Sections 2 and 3. What, if any, changes would you implement to Sections 2 and 3?

Ms. DE LEON. So, first, in regard to the voter turnout, I will just say that we don't think that outrage is a get-out-the-vote strategy, right. I think that Native Americans—you know, it was a coincidence that national attention was paid to North Dakota. There are voter suppression issues going on throughout Indian Country that aren't nearly getting the attention or resources that were poured into North Dakota because it just so happened that Senator Heitkamp at the time was running for reelection and the Senate balance of power elevated this issue to the national stage.

Mr. DAVIS. So this was all a conspiracy to beat Heidi Heitkamp?

Ms. DE LEON. Well, I think that it was certainly the case that the legislature enacted the law in order to suppress the Native American vote in response to Senator Heitkamp's win.

Mr. DAVIS. But, again, it was historic high turnout in the Native American counties here in North Dakota.

Ms. DE LEON. Well, that was a reflection of resources. I think throughout voting cases what we see is, is that resources turn into votes. That is not a surprise. That is true across the Nation. The more resources that you have, the more votes that you can have turned out to the polls.

You know, because of the outrage, because of the clear unfairness of the law, thousands of dollars were pumped into North Dakota. Outside community organizers paired with local community organizers to get out the vote. There were concerts. There were public figures that came to rally.

Mr. DAVIS. You are talking to somebody who ran a race that we probably had about \$14 million combined spent. I understand resources matter and getting your message out and getting your vote out.

But you still haven't answered my question on Section 2 and 3, and I am getting a little shorter on time.

Ms. DE LEON. I apologize. Yes, so I think that Section 2 should certainly be, you know, exist today, and that we should have more resources. I think Section 2 is fine as it stands.

I think that the section that we should be focused on is Section 5, which ended up getting rid of pre-clearance requirements, and I think that the focus should be on Congress reforming Section 5 in order to allow—because of the tremendous litigation costs associated with bringing voting rights claims, legislators should be prevented from passing those laws in the first place.

Mr. DAVIS. Okay. We appreciate your work. We appreciate the time you have spent here.

One other question, since you mentioned that you still feel that many changes were made to the voting process here in the State to affect one senatorial election. What was the margin of victory for Senator Cramer?

Ms. DE LEON. I think it was quite large. I think that at the end of the day voter turnout across the midterm elections was very high and North Dakota remains a pretty strong Republican stronghold.

Mr. DAVIS. So it was high all around and Senator Cramer won by a substantial margin, and even though there were many resources put into areas to drive up the vote that would have been stronger for one candidate over the other, which in turn, again, in the most non-offensive way possible, I can tell you, higher turnout matters. Success matters. And I hope it is emulated across the board everywhere in this country.

Ms. DE LEON. Yes, sir. I think that is what made Senator Heitkamp's victory in 2012 so surprising, and that is why the legislature responded so severely.

Mr. DAVIS. Thank you for your time.

I yield back.

Chairwoman FUDGE. Thank you.

Mr. Butterfield.

Mr. BUTTERFIELD. Thank you, Madam Chairwoman. I am not sure I will use all my time, in the interest of time.

Did I understand that 1.4 percent of the—5.5 percent of the State's population is Native American—does that sound right, 1 out of 20, perhaps?—but 1.4 percent of the legislature is Native American? That is a huge disparity. Your legislative representation does not reflect reasonably the population of the State.

Ms. De Leon, has there been any Section 2 litigation around redistricting in North Dakota in recent years?

Ms. DE LEON. Not in North Dakota, no. In South Dakota there has been significant Section 2 litigation.

Mr. BUTTERFIELD. Of course, as you and I both know, Section 2 is a very powerful weapon. It is a very expensive weapon, but it is a very powerful weapon.

Ms. DE LEON. Yes, sir.

Mr. BUTTERFIELD. And so certainly the citizens of North Dakota who have been disenfranchised and marginalized by voter laws certainly need to take up the right and to bring attention to action. I think you would be very pleased with the results. It may not always happen, but it will certainly happen if you would pursue litigation.

Polling place locations, that is very fertile ground for Section 2 litigation. The absence of Native Americans as staff at these polling places I think is a subject that needs to be addressed.

So I would like to encourage the Native American Rights Fund to consider investing and litigating in Section 2.

Thank you for all the work that you do.

Ms. DE LEON. Thank you, sir.

Mr. BUTTERFIELD. I yield back.

Chairwoman FUDGE. Mr. Thompson.

Mr. THOMPSON. Thank you.

Ms. SEMINOLE, one of the other hallmarks of the Voter Rights Act was preclearance. For a long time, when I was a local elected official, every time a precinct was proposed to be moved or abolished that had to be submitted to the Department of Justice under a VRA requirement. Somebody in Justice would call and say, "Are you aware of this? Was this public knowledge?"

In many instances, the public didn't know. Justice would say, "Now in America the public has a right to know if you are tampering or, quote, 'improving' the electoral process."

In many instances in my State those efforts were turned down simply because the public didn't know. One of the hallmarks of the Act was just that, that the public has a right to know.

The precincts that I am hearing about, did the people who were registered voters, did they receive letters saying, "Your precinct has been moved"?

Ms. SEMINOLE. Well, because we don't have voter registration in North Dakota the public is not notified in the same way that States that have voter registration are notified. Unfortunately, our Native populations are notified frequently by these types of hearings through the county selected newspapers, which are often not read by the Native population.

Mr. THOMPSON. So actually your situation is even worse than those areas that have registration because there is no real—

Ms. SEMINOLE. Accountability, yeah.

Mr. THOMPSON [continuing]. Document that people can work from to notify individuals. So you could conceivably go to your last precinct you voted at in another election and all of a sudden it is no longer there.

Ms. SEMINOLE. Yeah. We are actually looking at Section 2 as a tool in the upcoming census numbers. 2020 is going to be telling because historically the Tribes in North Dakota have been undercounted because of kind of an arbitrary rule of head of households,

how many head of households you can have within a location. And so families have been undercounted because they would say only two heads of household will be counted in their families, right, their descendants.

And then using the census as a tool then for redistricting and also encouraging our legislature to consult with Tribes, that has historically not been done as well. Even with this voting rights law in the State of North Dakota there is no consultation with Tribes. And so our legislature has historically left out conversations with our Tribal communities.

And then sometimes inviting Tribal leadership to different meetings, but those are not necessarily public to the community members to be present at those meetings. I mean, they are public meetings, but no notification has been sent that they are public meetings, so our Tribal members don't go.

Mr. THOMPSON. Thank you.

I yield.

Chairwoman FUDGE. Thank you.

Ms. De Leon, is your work location-specific?

Ms. DE LEON. No, not at all. We practice nationwide.

Chairwoman FUDGE. Okay.

Let me just say a couple of things.

One is that we are here today so that we can collect data from across the country to satisfy the decision in *Shelby*. Now, mind you, *Shelby* did not say that there was not discrimination. It said exactly the opposite, that discrimination does still exist. What they said was the formula that you are using to determine preclearance is too old and the data is too old.

So what we are doing now is trying to update the data so that we can, in fact, provide enough information to come up with an accurate formula for Section 4 so that we can, of course, then put back into effect Section 5 preclearance and have a fully functioning Voting Rights Act. So that is our real responsibility as we are here.

I think that all the Tribes that had to go and create these IDs at the last minute at such great expense should send the Federal Government a bill. Maybe under the Help America Vote Act we could pay you for all of the work. Because what we really have done is create a poll tax by requiring that people go out and buy an ID that they don't need for any other reason but to vote. They don't need it to drive because they don't drive. They don't need it for any other reason.

So, in fact, the state has created a poll tax on your reservations and all of the people who live in them. Do you think that is right?

Ms. SEMINOLE. I agree. Yes, I do. It was a burden put on the people of North Dakota which created a disparity for their American Indian populations, rural voters, and college students, and, therefore, those demographics had to come up with the means to go vote. That is essentially it. We had to create means to go vote.

Chairwoman FUDGE. And do you think that some of the voting that occurred in this last election in particular just as across the country, was people being angry about one thing or another or being encouraged in a different way than they had been in the past?

Ms. SEMINOLE. I think it was a combination. I think people who sent money to North Dakota for these various Tribal needs and get-out-the-vote efforts were still upset about the retaliation that they heard from the State of North Dakota implementing laws against the Dakota Access Pipeline protesters and people, but also seeing that this disparity with less than a month to election day, that people had to now provide these means, they were fired up because of this urgency that was created for this crisis.

And so there was this combination of, like, we need to support the Native people and the Native voices, because why are they fighting to prove that they are the original people of these lands to go vote? I mean, we have been here for time immemorial, and we still had to prove that we have a right to vote. There was a lot of urgency created during those times, and people responded to it.

Chairwoman FUDGE. Lastly, to you both, if there were—and I have asked this of the other panel. If there were two things that you want us to take back to the U.S. House of Representatives that you think would make voting easier or just deal with the populations that you deal with on a regular basis, what would those two things be?

We will start with you, Ms. De Leon.

Ms. DE LEON. Thank you, Madam Chairwoman.

So, first, I would say that North Dakota is not an isolated instance. Throughout the country, Native Americans are subjected to unfair, discriminatory laws and burdens that are keeping them from voting.

NARF, over this past year—and I am going to make the report available to the Committee—conducted a series of nine field hearings across the country asking this question of why is it that Native Americans have such low turnouts. And what we found were alarming results: unreasonable distance to the polls, which we have heard today; terrible conditions of road conditions that make it impossible to get to polling locations; gerrymandering; et cetera. The lack of residential address is going to affect things as we move towards mail-in voting and voting in North Dakota.

Then overt discrimination. Not only do we see it structurally through laws, but we also saw individuals throughout the country, county officials that treated Native Americans with disdain, that, when somebody would come in to vote, the entire polling location would fall silent and stare at them. Like you mentioned, voting out of a chicken coop is unacceptable.

There are other incidences like this all over the country. So, Native American discrimination at the polling locations is not unique to North Dakota, so we sincerely urge Federal action.

And a second thing that I will say is that, right now, the law's Section 2 I am very grateful for, Representative Butterfield, and I will pursue every case that I can, but, as you mentioned, they are very expensive. And it is prohibitively expensive for a small organization like NARF to reach every single instance of discrimination that is happening across this country, and so we really urge you to take action.

Thank you.

Chairwoman FUDGE. Thank you.

Ms. Prairie Rose Seminole, last word.

Ms. SEMINOLE. Sure. First is to ensure that there is Tribal consultation regarding the existing voting rights laws as well as proposed laws. I mean, we need that education, and we need to build trust with Tribal communities within a system where we have been neglected for such a long time. Voting is new, relatively, for a lot of our communities.

The other piece is our Tribal communities, our Tribal economies really took the burden of cost for an initiative like this. So, you know, just encompassing accessibility, as the other panelists have spoken to earlier, but accessibility to voting and ensuring our right to vote.

Chairwoman FUDGE. I thank you both so much for your testimony today. Thank you.

We will move to our third and final panel.

Thank you so much.

[Recess.]

Chairwoman FUDGE. Thank you all so much.

As you see, our panel is getting smaller. Our members, just as the Representative, they have to get back as well. So the Ranking Member and I are going to conduct this last panel.

We thank our Members who are here.

We have been looking forward to your testimony.

Oliver—"OJ" is what they call you—Semans, Sr., co-Executive Director of Four Directions, the floor is yours, sir. You have 5 minutes or close to it.

**STATEMENT OF OLIVER "OJ" SEMANS, SR., CO-EXECUTIVE
DIRECTOR, FOUR DIRECTIONS**

Mr. SEMANS. [Speaking in Siouan.]

You know, before I start, I want to say my relatives, I wish you health and help. I want to acknowledge and recognize the people that are our ancestors from the Oceti Sakowin that were here before us. I want to thank Standing Rock, our brothers and sisters, for bringing this. It wasn't that long ago that we were sitting here talking to the Tribal Council about the law that was created.

Before we go, I also want to recognize—and I think this is important—the media such as The New York Times, The Washington Post, Time Magazine, Think Progress, MSNBC, NBC, ABC, CBS, Rachel Maddow, Joey Reed, Al Sharpton, BuzzFeed, local news media, and the Center for Public Integrity, because without them I don't think we would have this hearing. I mean, they were able to get our voice out there to say: Hey, we have a problem here, and we need to deal with it.

I and my wife, who is a co-Director of Four Directions, we live on the Rosebud Sioux Tribal Indian Reservation in South Dakota. I heard you mention earlier that South Dakota has more litigation probably than any other State. We were basically responsible for that. We have filed under Section 2 voter denial cases in South Dakota twice. We learned, as we went along, litigation is not the way to go, but sometimes that is the only, the only avenue you have.

In South Dakota, after filing litigation under Section 2, basically we asked the State of South Dakota to establish satellite offices on the Indian reservations in South Dakota. They fought it, basically saying they didn't have the money. After they spent a bunch of

money in Federal court, they decided that, yes, they do have the money.

I can tell you that any county or any State that says they don't have the funds to open up a satellite office on reservations throughout the United States, every one that we have sued so far, once they have done it, they have not filed bankruptcy. We know they will be safe once this is done.

What we learned in South Dakota we took to Montana. We went and we settled that case. Now there are 13 satellite offices in the State of Montana. The Native vote has increased substantially.

We then went to Nevada. In Nevada, we established two more satellite offices. The State legislators worked with the Tribes. And now they can have up to 27 satellite offices in Nevada.

What we want to bring to your attention today is the Help America Vote Act funds. This is something that is under the preview of the House and which we don't need new laws; we already have it there. And what we would like the House to consider is opening up HAVA funds specifically identifying Tribes throughout the United States which would be able to—the States would utilize those HAVA funds to establish satellite offices.

I heard earlier about how Senator Cramer was able to substantially beat Senator Heitkamp. I and other organizations here were part of the historic voter turnout in North Dakota in a midterm election. But I also want to tell you how I think he might have won by substantial numbers.

In North Dakota, you have early voting, which means that 14 days prior to the election you can go and you can vote. And if you pass away, your vote still counts.

Under this North Dakota law, over 400,000—this is from the census—over 400,000 of the white population has access to vote early 14 days—over 400,000, two-thirds of the white population. Indian Country, living on the reservation, zero. Now, you want to talk about unequal, that is about as unequal as you are going to get.

If I was running against you, even if they don't know me, you give me 14 days and allow me to have 400,000-plus voters, I am going to beat you. That is what happened here.

So what we are proposing is that you use HAVA funds to allow counties and States to establish early voting, in-person voting, satellite offices on the reservation. You allow them to come and do in-person voter registration.

One more thing—and the light is on—I know they were talking about 911 addresses. One of the things that happened here, the State of North Dakota got funding, and they were able to get funding through cell phones, landlines. They took that funding, and they took the money from Tribal members, from Tribes, that was a surcharge. And this was to create 911 numbers—or addresses.

Well, the State never did it. They knew they never did it. They got the money to do it. They got it from our Tribal members; they got it from our Tribes. And then they turn around and they create a law that requires you to have an address, a physical address, when they know they didn't do what they were supposed to do to begin with when they got the money.

So there are problems. And this is not a partisan issue. I can tell you, we are nonpartisan. We have sued Democrats, and we have

sued Republicans. This is not a party issue. This is a nonpartisan issue and this should be addressed. It is disgraceful.

And I really appreciate you being here today, because it has been 17 years we have been knocking our heads against the wall. We can't afford litigation. We can't. But you can do what happened in 1924. We didn't ask for it, but we got citizenship. We got the right to vote in 1962, 1964.

But what you can do with these HAVA funds is, first you can complement the law in 1924, and then you make it just as historic by taking and offering equality at the ballot box throughout Indian Country.

In closing, what I would like to say is, I am glad you came to Standing Rock to rock equality. Thank you.

[The statement of Mr. Semans follows:]

**Four Directions**

Advancing equality at the
ballot box across Indian Country
fourdirectionsvote.com

Written Testimony by

Oliver “OJ” Semans, Sr.
Co-Executive Director

Committee on House Administration
Subcommittee on Elections

“Voting Rights and Election Administration in the Dakotas”

Tuesday, April 16, 2019
Standing Rock Sioux Indian Reservation
Fort Yates, North Dakota

Madam Chairwoman Fudge and members of the subcommittee; thank you for inviting me to speak with you today regarding barriers to voting for Native Americans, especially the lack of equal access for Native Americans to satellite in-person voter registration, in-person early voting, and in-person election day voting opportunities in the Dakotas and elsewhere, and what we believe is a common sense, low cost, achievable solution for the Congress to consider.

My name is Oliver Semans, Sr. and my wife Barb and I are the Co-Executive Directors of Four Directions, Inc., a nonprofit organized to benefit the social welfare of Native American citizens by conducting extraordinarily successful Native voter registration and get-out-the-vote drives, voter protection programs, and improved Native voter access through litigation, litigation threats, and persuasion with local and state government officials in Nevada, Arizona, North Carolina,

Montana, Minnesota, North Dakota, and South Dakota over the past 16 years.

We have been able to leverage partnerships with Tribes and Tribal organizations including the Coalition of Large Tribes, Inter-Tribal Council of Nevada, Great Plains Tribal Chairman's Association, Rocky Mountain Tribal Leaders Council (formerly known as the Montana Wyoming Tribal Leaders Council) and the National Congress of American Indians, Universities, top Law Firms, and Civil Rights groups such as ACLU, the Lawyers Committee on Civil Rights Under Law, Indian Legal Clinic at Arizona State University, and the Native American Rights Fund to achieve our goals and to move toward equality of access to the ballot box for Native American voters.

The principle of an equal opportunity to vote, for all of our citizens, is the backbone of our democracy, and it has a cost. Native American Indians and veterans understand this only too well. Many of us have paid the price in full. The cost is not just in the amount of dollars and cents that some public officials reference while opposing equal access – even when we have offered to cover all the costs of satellite offices on American Indian Reservations, but the ultimate cost paid by members of the armed forces—for some, that cost includes their lives, and for others, it involves lifelong pain and disability.

We worked with the lead plaintiff in *Wandering Medicine vs McCulloch*, Mark Wandering Medicine, who was severely wounded while serving with the United States Marines in Vietnam. His son, a Marine serving in a tank division, was one of the first Americans to enter Iraq. We worked with the plaintiffs in *Sanchez vs Cegavske*, Ralph Burns, Jimmie James, and Johnny Williams, Jr, all veterans of our Nation's overseas conflicts in Korea and Vietnam. We have paid these costs for a long time, while serving with distinction in this country's armed forces in a higher proportion than

any other population group. During World War I, Choctaw Indians served as codetalkers in the U.S. Army. World War II's codetalkers came from the Navajo, Cherokee, Choctaw, Lakota, Meskwaki and Comanche nations. More Natives fought on the front lines. More recently, American Indians and Alaska Natives have died in Afghanistan and Iraq, paying the price for equality. Among the fallen soldiers is Corporal Antonio C. Many Hides Burnside, a member of the Blackfeet Nation and citizen of Montana who was in the 82nd Airborne Division. He died on April 6, 2012 in Afghanistan. Other recent supreme sacrifices include Marine Corporal Brett Lundstrom, a member of the Oglala Sioux Tribe killed in Iraq in 2006. Army 101st Airborne Division Private First Class Sheldon R. Hawk Eagle, from the Cheyenne River Sioux Tribe, died in Iraq in 2003. We have worked to overcome the unequal access facing Native voters with voter registration drives, with get-out-the-vote drives, with teams of lawyers and law students to protect the vote at election day voting locations, with requests for satellite offices described above, with, when necessary, litigation for which we have often had to front out of the credit lines and credit cards of friends, and by engaging in the public square and in the media.

We have, working with Tribes, been able to achieve some measure of success, but the cost in monetary resources has been too high. The opponents of equality, on the other hand, hold public office, come from both major political parties, and are able to tap into taxpayer resources to oppose equal access for Native American voters living on Indian Reservations. It is, to put it bluntly, an unfair fight that Congress can and should correct.

Our simple solution for this egregious problem revolves around the Help America Vote Act (HAVA). Congress should urge the Election Assistance Commission to make clear to States that the funds added to HAVA in 2018 by Congress can be used to improve the

administration of federal elections, and therefore can be used to fund satellite voting offices on American Indian Reservations.

Congress should additionally appropriate and earmark funding in the 2020 fiscal year appropriations for improving federal elections on tribal lands. We have previously been successful in 2014, and to the present, in persuading the South Dakota Board of Elections in utilizing HAVA funds to pay for satellite voting offices on Indian Reservations in South Dakota.

My testimony today focuses on South Dakota, but we have found identical situations across Indian Country. We have helped litigate Voting Rights Lawsuits in South Dakota (twice), Montana, Nevada, and Arizona, and most recently, we were able to develop a work-around of the anti-Indian North Dakota voter ID law that the Eighth Circuit and the Supreme Court allowed to be implemented in the 2018 election.

Before turning to my discussion of challenges faced by Native voters, I wanted to quote a decision of the United States Supreme Court that we believe has stood the test of time these last 55 years:

“Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.”

Reynolds v. Sims, 377 U.S. 533, 561-62 (1964)

Vote Denial in Indian Country

We have assisted in five voting rights lawsuits across Indian Country brought under Section 2 of the Voting Rights Act from 2012 to the

present. They are: 1) Brooks vs. Gant (Oglala Sioux, South Dakota); 2) Wandering Medicine vs. McCulloch (Northern Cheyenne, Gros Ventre, Assiniboine, Crow, Montana); 3) Poor Bear vs. Jackson County (Oglala Sioux, South Dakota); 4) Sanchez vs. Cegavske (Pyramid Lake Paiute, Walker River Paiute, Nevada); and 5) Navajo Nation et al vs. Arizona Secretary of State, Apache County, Navajo County, Coconino County (Navajo Nation, Arizona).

The Navajo Nation case is currently in litigation. All five cases that we (Four Directions) have been involved with revolve around the refusal of state and county public officials to provide satellite voting offices on American Indian Reservations in violation of Section 2 of the Voting Rights Act. These denials are properly described as vote denial claims (See Exhibit SG2 and SG4).

Sanchez vs. Cegavske Preliminary Injunction

Two-Factor Test

Federal District Court Judge Miranda Du stated in October, 2016: *“Courts evaluating a Section 2 claim generally go through a two-step analysis. First, the court determines whether the challenged voting practice imposes a disparate burden on the electoral opportunities of minority as compared to nonminority voters.*

Second, the court asks whether the burden works in tandem with historical, social, and political conditions to produce a discriminatory result.”

The Court further stated: *“In evaluating the first question, the Court must account for both the likelihood that minority voters will face a given burden and their relative ability to overcome the burden. In other words, the Court must acknowledge the reality that a burden*

that may be insignificant to one demographic may be great for another.”

Senate Factors

The Court further stated: *“In evaluating the second question (of the two-part vote denial test), courts are guided by a non-exhaustive list of factors identified by the Senate Report on the 1982 amendments to the VRA. Many of these factors are relevant to cases involving vote dilution due to the drawing of district lines. A few are also relevant in a case like this, where the claim is based on impediments to casting a ballot in the first place. Here, the relevant Senate Factors for the Court to consider are:*

[T]he extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process;

the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process.

[and]

whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group.”

The Court further determined that a round-trip distance of 32 miles to access an Election day polling location on the Pyramid Lake Paiute Reservation and that a 64 mile round-trip distance to access an early voting location violated Section 2 and required Washoe County, Nevada to place both an early voting satellite and an Election day

polling location in Nixon, Nevada, the capitol of the Pyramid Lake Paiute Tribe.

Funding

It is important to note that the Court in Sanchez vs. Cegavske did not find that Tribes and tribal citizens are required to fund equal access to the ballot box by paying counties.

Unfortunately, Section 2 is not self-enforcing and we have found that Secretaries of State and local county officials (of both major political parties) do not believe that they have any obligation under Section 2 to provide equal access to in-person voter registration locations, in-person early voting locations, and in-person Election day polling places on American Indian Reservations. In fact, even when Four Directions has offered to cover all out-of-pocket costs, local and state authorities have still refused to provide equal access. Their excuses are expansive and too numerous to cite here. The Exhibits we have provided under Brooks vs. Gant, Wandering Medicine vs. McCulloch, Poor Bear vs. Jackson County, Sanchez vs. Cegavske, and Navajo Nation vs. Arizona Secretary of State et al show these barriers raised by state and local public officials.

Four Directions has, from time to time, been able to persuade some counties to accept contributions to provide for equal access by establishing satellite voting offices on American Indian Reservations. And sometime we have been able to convince counties to provide some access without contributions. We have successfully done so without litigation in: 1) Shannon County, South Dakota 2004, 2008, 2010 (albeit with a public dispute in 2010); 2) Todd County, South Dakota 2004, 2008, 2010, 2012, 2014, 2016, and 2018; 3) Buffalo County, South Dakota 2004 2008, 2010, 2012; 4) Becker County, Mahnomen County, Beltrami County, Itaska County, and Cass County – all in Minnesota in 2014.

Too often, though, where we have been unable to find financial resources for counties, they simply refuse to establish satellite voting offices the next time around. It was the abject failure by Shannon and Fall River County, South Dakota to provide satellite voting offices on the Pine Ridge Indian Reservation for 2012 that led us to assist Oglala Sioux Tribal Members bring the Brooks vs. Gant litigation in 2012.

This same failure is shown in Minnesota in 2016 and 2018. When Four Directions did not offer funding, the Minnesota counties of Becker, Mahnomen, Beltrami, Itaska and Cass did not establish satellite voting offices on the White Earth Nation, Red Lake Nation, and Leech Lake Band of Ojibwa in either 2016 or 2018.

And I would be remiss not to highlight our partnership with the Standing Rock Sioux Tribe in pursuing HAVA funding for potential satellite voting offices on the southern portion of Standing Rock and in developing the Fail Safe workaround of the discriminatory North Dakota voter ID Law on the northern portion of Standing Rock (See Standing Rock Sioux Tribe Exhibits).

I would further point out that Standing Rock Chairman Faith made a written request of North Dakota Secretary of State Jaeger to establish early voting on Standing Rock – which was available in Fargo, Bismarck, Manda, Grand Forks, and Minot, North Dakota -on October 18, 2018 (See Exhibit SRST4). Secretary Jaeger declined the request. This declination is one more reason for Congress to act by providing HAVA funding for Indian Country.

Help America Vote Act Funding (HAVA)

Congress can act to ensure that equal access to the ballot box for Indian Country is established as a matter of fact –as opposed to the

matter of law which Section dictates but cannot enforce outside of expensive and protracted litigation.

First, Congress should make clear to the Election Assistance Commission and to Secretaries of State that the 2018 HAVA funding provided by Congress can be used for the improvement of federal elections as per Title II, Section 251 of HAVA (See Exhibit SD14, page 12). At least one state official, former Arizona Secretary of State, has wrongly claimed that the 2018 HAVA funding could not be used for establishing in-person voter registration and in-person early voting satellite offices on the Navajo Nation (See Exhibit NN1, page 20).

Second, Congress should appropriate additional HAVA funds for the upcoming 2020 fiscal year and earmark those funds for in-person equal access to the ballot box for Native voters living on tribal lands. We (Four Directions) have shown in *Brooks vs. Gant*, *Wandering Medicine vs. McCulloch*, *Sanchez vs. Cegavske*, and will show in *Navajo Nation vs. Arizona Secretary of State et al* that this work is inexpensive. We estimate that just \$20 million per election cycle in HAVA funding would likely provide the financial resources so that every state and local jurisdiction can meet the standards described by Judge Miranda Du in *Sanchez vs. Cegavske* regarding in person early voting and Election day polling locations and meet the likely similar standard for in-person voter registration locations.

We (Four Directions) believe that should Congress act to provide this small level of HAVA funding for Indian Country, it will do as much or more to increase equal access for Native voters than reversal of the wrongly decided *Shelby County* decision by the Roberts Court. Thank you again for inviting me to speak before the Committee today. We appreciate the opportunity to provide this information to Congress.

Chairwoman FUDGE. Thank you very, very much. I see your hat, your Navy hat. Thank you so much, sir, for your service.

Mr. DAVIS.

Mr. DAVIS. Sir, thank you for your testimony. I appreciate your interest in HAVA and the Election Assistance Commission. That is under our Committee's jurisdiction. You know, this is an opportunity for us to learn, to listen.

You mentioned HAVA funds would be preferable to help establish more early-voting sites. In Sioux County, for example, how many early-voting sites are there? Because I am just trying to compare to my home State.

Mr. SEMANS. Zero.

Mr. DAVIS. So zero early-voting locations?

Mr. SEMANS. Well, in Sioux County, there—Sioux County is the only county that has a reservation directly on it, so they—

Mr. DAVIS. And there is no—not even at the courthouse, the county courthouse?

Mr. SEMANS. That is what I was getting at. They do have in-person absentee voting. Now, there is a big difference there.

And, matter of fact, as an example, in 2018, we had a Native lady go there and ask to vote early because other counties had early voting, and they told her, "No, you can't, because we don't have early voting." We asked her to ask for in-person absentee voting, and they said, "Sure, you can do it right now. Here. Take it home." We said, "Can she do it right here?" "Well, yeah."

So there is in-person absentee voting, but there is not early voting.

Mr. DAVIS. Early voting. Okay. So there is not a standard State-wide. It is county by county.

Mr. SEMANS. What they did is they allowed the counties—and this is what is confusing—not confusing, I guess; it is upsetting—is that the States turn around and give the counties the authority to create early voting or not early voting. And what is disturbing is that these counties where Indian Country is located is a protected class.

And so, by them saying it is the county's fault because they never asked, it does not excuse the State under its responsibility, as the Secretary of State being the chief election official, to require our request early voting be allowed for Tribes.

Mr. DAVIS. Have you personally talked to the Secretary of State about your concerns?

Mr. SEMANS. I gave—yes, back in October.

And then there is a 36-day law that North Dakota did that said you have to make this request prior to 36 days. Well, when we got involved in this, the 36 days passed.

We did send him a letter asking for early voting. He basically said that it is not his responsibility, it is the county's.

Mr. DAVIS. Well—

Mr. SEMANS. So, on Sunday, I sent him another letter requesting the same thing and asking him if he was in compliance with the requirements of the Help America Vote Act. He replied that, yes, he is, but the counties, again, are the ones responsible to establish these offices, which is not correct because he is the chief election officer.

And so I don't feel Section 2 of the Voting Rights Act is actually being complied with the HAVA funds being used in North Dakota.

Mr. DAVIS. Well, thank you. That is very interesting and something that we will take back to our Committee too.

There has been a lot of discussion with previous panels about your local elected leaders not coming to the Tribal areas to listen to the concerns. Have your voting officials, your Secretary of State, other officials, State-wide officials, have they come to the Tribal areas to sit down? Have you participated in any of those meetings?

Mr. SEMANS. I have, a lot, in South Dakota. But, right now, in North Dakota, the Secretary of State and me are just pen pals. So I have communicated our thoughts with them.

We have talked to the Tribes about—one of the things that I hope I can get clear is, the State laws and how they write them, the Tribes really don't have any knowledge of those laws. The Tribal Council and the Tribal leaders aren't going to know that the most densely populated counties are giving, you know, hundreds and hundreds of thousands of people more opportunity to vote than the Tribes.

And I will say that sometimes covert is more deadly than overt. The North Dakota law was an overt action, but we rallied. And you push Sioux around, we push back and we bring our numbers in. But what happens with the covert act, the covert act, when you don't know that hundreds of thousands of people have a better opportunity to vote, how do you fight that?

So, yes, we have sent letters to the Secretary of State. We are hoping that he responds and says, "You know what? We want to meet with the Tribes. We want to establish these satellite offices. We know you are a protected class, and we want to put this here."

So I hope that answers your question.

Mr. DAVIS. Sir, thank you very much for your testimony. Thank you for your service to our Nation. And thank you for your communication with your election officials.

I know the Secretary of State, in a conversation I had with him yesterday, mentioned times he has come here to listen to the concerns of the Tribal areas, and I encouraged him to continue to do that.

I appreciate the opportunity to meet you, and thanks again.

Mr. SEMANS. [Speaking in Native language.]

Chairwoman FUDGE. Thank you very much.

I am really glad that you mentioned about an energy that comes around when someone is trying to take something from you or do something to you. It is just like, in our testimony, there was a 19-year-old woman who said that she had not been involved politically at all, but she realized that someone was trying to take something from her—

Mr. SEMANS. Yes, ma'am.

Chairwoman FUDGE [continuing]. And it created the energy to get her to go and vote. I am glad that you talked about that.

And, as well, I wanted to say that I am from Cleveland, Ohio. I live in a county that has one-and-a-half million people. We have one early-voting site—one.

Mr. SEMANS. My sister may have voted for you. She lives in Cleveland.

Chairwoman FUDGE. I hope so. We have a pretty good-sized Native American population, as a matter of fact, in Ohio, in my area.

But we have one early-voting site for one-and-a-half million people. So it doesn't just happen here; it happens all over the country. I think here it happens more often, but we are going to Ohio next week to talk about the same kinds of things. I don't understand why it is difficult for people to understand that if you have one-and-a-half million people and you only have one early-voting site there is something wrong with that.

I agree with you, I think that we should look at how we can find the resources to put in place these satellites that you are talking about and that really is what HAVA was established to do. We are going to go back and take a look at that as well.

I know that you didn't give all of your testimony, but if you would like to just take a few minutes to tell me what it is you think that we can and should be doing, I would appreciate hearing it from you.

Mr. SEMANS. Well, you know, I listened to the panels that testified before, and, you know, they were speaking from their heart and they were speaking from experience.

Section 2 needs to stay in place. Section 2 is basically what we utilize to ensure that HAVA is actually interpreted and the funds are distributed correctly. We use Section 2 in South Dakota, Section 2 in Montana, and Section 2 in Nevada. We are basically right now working with the Navajo Nation using Section 2 in a voting rights complaint and so it is very important.

Here is how I explain things: if there are five ways to vote, don't give Native Americans three and say we are even. If there are five ways to vote, every citizen should have that opportunity, whether it is in Cleveland, whether it is in, you know, the barrios. Every citizen should have those same exact rights. And the only way you are going to do it is by establishing these mirror satellite offices within the communities.

The other thing I would also recommend is that we need to take and have election officials work with communities to get more people of color to be election judges and election poll watchers. The voter suppression does not have to be a mile away and does not have to be a law. It could be 3 feet, the length of the table, when you are coming up to vote. And we have found that where we have had our Natives as election officials, more people will come, because they are not going to be embarrassed, they are not going to be turned away, and it is a friendly atmosphere. Our people are friendly people. And so it doesn't matter what color you are; when you come in, you are going to be treated with respect.

Most importantly is, at least in Indian Country, even directing \$20 million, which is a drop in the bucket, to increase HAVA funds or at least identify HAVA funds to be used in States with large Native populations and work with the EAC so that they can get the message out. Because although it is in the HAVA law, it is up to the interpretation of the Secretary of State that decides that, "Oh, no, this isn't really enhancing or bettering, you know, voting rights. We are going to put it into buying machines."

But if we can get EAC to work with the House and issue a statement saying that this money can be utilized under the Help Amer-

ica Vote Act to establish these types of in-person satellite offices, the only thing that is going to happen is that the backbone of democracy is going to be given a brace because people are going to vote.

Chairwoman FUDGE. Well, I thank you first for your patriotism and your service to this Nation, but I also appreciate your passion for the service to your people. I think it is very, very important that you continue the fight. We are going to continue to fight with you, because no matter the party, we all believe that everyone should have a right to vote. We just sometimes differ on how it should be done.

I thank you, and I thank all the people who were witnesses here today. The testimony has been very valuable. We are going to be in touch once we put our report together.

I am going to thank you all again. I want to thank, of course, Standing Rock Sioux Tribal Council for hosting us; the chairman and all of those who have been with us as well today; again, our law enforcement; our staffs; and everyone who made this possible today.

Without objection, the Subcommittee now stands adjourned. Thank you so much.

[Whereupon, at 12:24 p.m., the Subcommittee was adjourned.]

ALVIN A. JAEGER
 SECRETARY OF STATE
 HOME PAGE www.nd.gov/sos



PHONE (701) 328-2900
 FAX (701) 328-2992
 E-MAIL sos@nd.gov

SECRETARY OF STATE
 STATE OF NORTH DAKOTA
 600 EAST BOULEVARD AVENUE DEPT 108
 BISMARCK ND 58505-0500

April 24, 2019

**Response from the North Dakota Secretary of State's Office
 Field Hearing of the Elections Subcommittee
 Standing Rock Sioux Tribal Offices**

North Dakota would like to submit this information into the record in response to some of the issues discussed during the congressional hearing held by the House Administration Committee's Subcommittee on Elections on Tuesday, April 16, 2019.

Introduction

For over sixty-five years, North Dakota residents have voted without the burden of registration. All North Dakota residents are permitted to vote simply by establishing the basic qualifications to vote when desiring to vote.

North Dakota's Constitution sets forth the three basic qualifications to vote. An individual must be (1) a citizen of the United States, (2) who is at least eighteen years of age, and (3) a North Dakota resident. N.D. Const. Art. II, § 1; see also N.D. Cent. Code § 16.1-01-04. North Dakota defines residency for purposes of voting as having "resided in the precinct at least thirty days immediately preceding any election." N.D. Cent. Code § 16.1-01-04(1)(c).

The means by which North Dakota determines U.S. citizenry, age, and North Dakota residency is by having an individual "provide a valid form of identification [ID] to the proper election official" that contains the individual's "[l]egal name; . . . [c]urrent residential street address in North Dakota; and . . . [d]ate of birth." Id. § 16.1-01-04.1(2). The two primary forms of valid ID are: "(1) A driver's license or nondriver's identification card issued by the North Dakota department of transportation; or (2) An official form of identification issued by a tribal government to a tribal member residing in this state." Id. § 16.1-01-04.1(3). Both a North Dakota driver's license and a nondriver's identification card can be used to determine whether the holder is a citizen of the United States. See N.D. Cent. Code §§ 39-06-03.1(2) & (3); 39-06-07.1; 39-06-14(5). Similarly, tribal IDs are only issued to enrolled members of federally recognized tribes and thus an individual's possession of one also establishes U.S. citizenry. See Indian Citizenship Act of 1924, Pub. L. No. 175, 43 Stat. 253 (1924); 8 U.S.C. § 1401(b).

If an ID is not current or is missing required information (i.e., current residential street address), the voter can present an election official with certain documents that provide the missing or outdated information. Those supplemental documents are "(1) A current

utility bill; (2) A current bank statement; (3) A check issued by a federal, state, or local government; (4) A paycheck; or (5) A document issued by a federal, state, or local government." N.D. Cent. Code § 16.1-01-04.1(3)(b). This list of supplemental documents is identical to the list of documents an elector without ID can use to register to vote under the Help America Vote Act (HAVA). See 52 U.S.C. § 21083(b)(2)(A)(i).

Establishing an elector's current residential street address is vital not only to verify the elector's basic qualifications to vote, but also to provide the elector with the proper ballot. Ballots must be specifically tailored for many different local elections, such as district and municipal judges, county commissioners and state's attorneys, city mayors and council members and alderpersons, school boards, water authorities, diversion conservancies, park boards, ambulance district boards, vector control district boards, and library boards. Precinct and precinct part boundary lines are drawn because of a change from one jurisdictional area to another. As a result, if the precinct or precinct part lines separate the two sides of the street, neighbors living across the street from one another must cast different ballots with different contests included on each.

The Removal of Poll Worker Vouching

It was suggested during the hearing that, in legislation passed in 2013, North Dakota suppressed the ability of Native Americans to vote by removing poll worker vouching as an option to establish a voter's qualifications. The elimination of poll worker vouching was not intended to suppress minority voting, but to ensure that the same standards of eligibility were applied equally to all voters in the State. Recently, North Dakota has faced unique challenges in ensuring the integrity of its elections due to a more mobile, diverse, and transient population. In the six years preceding the November 2016 general election, for example, North Dakota is estimated to have gained 85,000 residents, equivalent to the 2010 populations of Bismarck and Mandan. Kevin Iverson, North Dakota Demographics Conference Breakout: Changing Demographics at 12 (March 27, 2017) (found at www.commerce.nd.gov/uploads/8/17/DemoConf_Iverson.pdf).

Significantly, this net gain of 85,000 does not account for thousands of others who would have come to the state, established a residence for at least thirty days, but then left. Between 2011 and 2016, North Dakota led the nation in the average annual rate of net gain from migration. Id. at 22.

North Dakota's population is becoming more diverse as well. Between April 1, 2010 and July 1, 2015, North Dakota experienced an estimated change of 13% in its population by race and ethnicity, with a 123% increase in its Black population, a 49% increase in its Asian population, a 78% increase in its Pacific Islander population, and a 99% increase in its Hispanic population. Id. at 42.

Prior to 2013, North Dakota permitted poll workers to vouch for eligible voters because the poll clerks generally knew who were and were not eligible voters in their precincts. Despite that fact, the practice of permitting poll workers to vouch for certain voters was not a common practice among North Dakota counties because of the fear of an appearance of favoritism by poll workers. Given the increase in North Dakota's changing

demographics, the continued use of poll worker vouching raises the possibility of claims of discrimination when poll workers can identify and vouch for their long-time Caucasian neighbors, but cannot vouch for the Black, Asian, Hispanic, or other minority individuals who have recently moved to North Dakota due to the State's ever-increasing diversity.

North Dakota wants to give equal respect and equal treatment to all of its citizens, without showing favoritism to those who may be well-known in a community over those who may be new and have a different background or ethnicity.

The Residential Address Requirement

It was suggested during the hearing that the residential address requirement of North Dakota's voter ID laws was adopted following the close United States Senate race in 2012. That is inaccurate. The residential address requirement has been a part of North Dakota's election law since statehood. Prior to 1951, when North Dakota still required voter registration, a residential address was required on a voter's registration form. When North Dakota first required voter ID in 2003, years before the 2012 election, the ID was required to show a voter's residential address. There were no substantive changes in North Dakota's residential address requirements following the 2012 election.

Use of Inconsistent Addressing Systems

It was suggested during the hearing that North Dakota uses different addressing systems that result in unequal treatment of Native Americans. Since 1993, however, state law has required the rural addressing plans to conform to the modified Burkle addressing plan. N.D. Cent. Code § 57-40.6-10(1)(d). This system was created by Kornard Burkle who was the emergency coordinator for Stark County in North Dakota.

For anyone who does not know their 911 address, including the residents of Sioux County and other counties where Native Americans reside, the address can be determined by contacting the county 911 coordinator in each county, sometimes with a simple phone call. The contact information for 911 Coordinators can be found at <https://www.ndaco.org/cod/browse-by-position/#/position/911%20Coordinator> on the North Dakota Association of County's website.

With respect to specific testimony regarding street names and uniform addressing for the Turtle Mountain Band of Chippewa tribe, the records of the Rolette County 911 Coordinator and County Auditor show that the tribe and the county entered into a Memorandum of Understanding (MOU) whereby the tribe agreed that the county would be responsible for creating the addresses for the entire county, including those streets, homes, and businesses on tribal lands. It is also worth noting that the Tribal ID Application form (found at <https://tmchippewa.com/wp-content/uploads/Tribal-ID-App.pdf>) requires a mailing and a physical address to determine the tribal voting district in which the member resides.

The costs of Tribal IDs During the 2018 Election

It was suggested during the hearing that the Standing Rock Tribal Government, MHA Nation, and Spirit Lake Nation spent tribal funds to print tribal IDs for members prior to the 2018 general election, and lost income to print those IDs. A tribal ID, however, is not the only ID that Native Americans can use to vote in the State. North Dakota provides state-issued IDs to Native Americans free of charge that can be used to vote. Any Native American in the state could have chosen this free option. Just as the tribes chose to bear the cost of printing free tribal IDs prior to the 2018 election, North Dakota bears the cost and loses the income that could be generated by fees for state-issued IDs. North Dakota has no control over a tribe's decision whether or not to charge its members for a photo ID that can be used for voting.

North Dakota law gives Native Americans many options for voting beyond the use of a photo ID issued by their tribe. In fact, North Dakota enlarges the voting rights of Native Americans by giving them more options to vote than the options extended to other North Dakota citizens who do not have the ability to obtain tribal IDs. While all citizens including Native Americans can obtain free state-issued IDs, only Native Americans can obtain and use tribal IDs. In addition, Native Americans can vote using two different forms of tribal IDs. Because North Dakota does not require photo ID for voting, Native Americans can also vote by using a non-photo ID issued by the tribe, which need consist of nothing more than an official letter from their tribal government setting forth the individual's basic qualifications to vote, i.e., legal name, date of birth, and current residential address in North Dakota. Information about the voting options was published to all voters of the state, including Native Americans, through posting Voting Basics for North Dakota (found at <https://vip.sos.nd.gov/civics101.aspx?ptlhPKID=126&ptlPKID=7>) on Vote.ND.Gov and with direct communications to tribal leaders in the State.

Daniel Finn, who works for the Standing Rock Tribal Government, ran a Go-Fund-Me campaign (found at <https://www.gofundme.com/helpStandingRockvoters>) to raise money to make sure that every tribal member who wanted a photo tribal ID (and chose not to obtain either a non-photo tribal ID or a free state-issued ID) would have one prior to the 2018 election. That effort raised \$238,625 from 5,359 people over a 6-month period. The testimony presented at the hearing indicated that Standing Rock spent \$500 to print IDs and lost \$2,430 in income prior to the 2018 election.

Use of PO Boxes to Vote

It was suggested during the hearing that North Dakota is suppressing Native American voting by not permitting Native Americans to use P.O. Boxes as proof of their state residency. It was further suggested that North Dakota adopted this prohibition as part of a new law in 2017. That suggestion is inaccurate. North Dakota law has never permitted voters to use a P.O. Box as proof of their state residency. Nonresidents can maintain P.O. Box mailing addresses in North Dakota. Indeed, even citizens from other countries can maintain P.O. Box mailing addresses in North Dakota. Permitting individuals to vote with proof of nothing more than a P.O. Box mailing address would essentially eviscerate the integrity of North Dakota's unique non-registration election system, and dilute the

votes of those state citizens, including Native Americans, who are eligible to vote in state elections, by permitting the votes of nonresidents and noncitizens to be cast in North Dakota elections.

It was suggested that residential mail service does not extend to all parts of tribal lands. However, every individual has a mailing address and a residential address. Sometimes they are the same and sometimes they are different because of where the individual picks up his or her mail. The fact that these addresses are sometimes different does not prevent a qualified elector from voting by showing proof of their residential address in order to provide a qualified voter with a ballot that corresponds with the location of their residence rather than the arbitrary location of a P.O. Box.

Data Sharing Between Tribes and the Secretary of State

Dating back to 2011, North Dakota has repeatedly made offers, and would like this record to reflect that the State is again extending the offer, to each tribal Council to enter into a data sharing agreement between each respective tribe and the Secretary of State so that when a tribal member moves to a new residence, all that would be necessary is for the individual to notify the tribal office of this new address. This address change would be used by the Secretary of State to update the voter's record and place the record within the correct precinct for voting. We have not received a positive response to our request, but we will continue to ask since it would be such a wonderful benefit to tribal members who desire to vote.

Federal Government Setting Rules for Tribal Voting for Federal Offices

It was suggested during the hearing that some tribal members do not prefer to vote for the offices of President, Senator, and Member of Congress via state election. However, the requirement for the states to administer these elections comes from Articles I and II of the Constitution of the United States.

Election Administration Options Available

It was suggested during the hearing that North Dakota law provides unequal access to the ballot, including early voting precincts, for Native Americans. However, North Dakota law provides for election administration options that are at the discretion of the board of county commissioners for each county of the state. Each Native American residing in the state is also a resident of a county as well as the tribal lands. With input from the residents of a county, the board of county commissioners may implement:

- Traditional polling places for precinct voting. (See N.D. Cent. Code Ch. 16.1-04)
- Vote centers in which a voter from any precinct within the county may vote at the polling place most convenient to the voter. This isn't even an option in many states.
- Mail ballot voting, in which every active voter (those who have voted anytime within the past two election cycles) must be sent an application to receive their ballot by mail and there must be at least one polling place open on election day. Inactive voters may also apply for a ballot through any one of the myriad of options available to obtain the application, including via a utility to help the voter complete the form (found at <https://vip.sos.nd.gov/absentee/Default.aspx>) designed to work on any

smartphone, tablet, or computer. (See N.D. Cent. Code Ch. 16.1-11.1) This is not an option in many states.

Regardless of the election administration method determined by the county to be implemented, any voter may vote by absentee prior to election day. The voter may do this by mail or in person at the office of the county auditor in the 40 days leading up to an election. In some states, an excuse for why an individual cannot vote on election day is still necessary, but not in North Dakota. (See N.D. Cent. Code § 16.1-07-01)

North Dakota law also allows each county, through the board of county commissioners, to decide if early voting locations would be of value to the residents. This is not an option in many states. (See N.D. Cent. Code § 16.1-07-15)

Finally, it was stated that voting in a "chicken coop" is unacceptable. However, the polling place information (found at <https://vip.sos.nd.gov/Precincts.aspx?eid=303>) shows that none of the polling places in North Dakota were in chicken coops and all of them are required to be in compliance with the Americans with Disabilities Act.

Public Hearings

It was suggested during the hearing that polling places on tribal lands were closed in Dunn County and McKenzie County without consulting the respective tribe in those counties. However, five public meetings were conducted in McKenzie County prior to the board of county commissioners making the switch to voting by mail. The public who attended these hearings were in support of the change. One of the hearings was to take place at the tribal office on prior arrangement with the tribe, but the building was locked when they arrived to hold the meeting, and no one showed up to let them in. The meeting occurred outside of the doors to the facility. Similar public hearings were held in Dunn County with similar support for the change to vote by mail. Additionally, all active and inactive voters were sent a notice in the mail about the change to vote by mail in Dunn County. All citizens of those respective counties, including all Native American citizens, were free to attend the meetings to share their views.

Filling Vacancies for Legislative Offices

It was suggested during the hearing that vacancies in certain legislative offices, specifically Legislative District 4, were filled inappropriately in recent years.

- In 2016, Bill Oliver was elected to District 4 along with his GOP running mate over a long-serving incumbent Kenton Onstad who had served from 2001 – 2015.
- Bill Oliver resigned his seat on October 30, 2018, and the seat was legitimately filled by the District 4 Republicans according to N.D. Cent. Code § 16.1-13-10(1).
- That same section of law, in subsection 2, would have allowed the voters of the district to petition for a special election to fill the vacancy if the vacancy had not occurred with less than 828 days remaining in the term of office for the individual resigning. Therefore, it was state law prohibited the special election from occurring in this situation and not the actions of a political party.
- This law has been utilized in Districts by both political parties since it was adopted.

Reorganization of Legislative Districts Every Ten Years

It was suggested during the hearing that the tribes have not been included in the redistricting of the legislative districts that occurs every ten years. The following is recorded in the state's Constitution and law regarding how this is accomplished:

- N.D. Cent. Code § 54-03-01.5 lists the legislative redistricting requirements, which include that all "legislative districts must be as nearly equal in population as is practicable."
- Article IV of the North Dakota Constitution specifies the parameters of defining the legislative districts.
- Currently, the district with the least population is District 29 with 13,629 residents and the district with the greatest population is District 16 with 14,897 residents. (See <https://vip.sos.nd.gov/pdfs/Portals/leg-dist-stats.pdf>)
- Since each legislative district has between 13,600 and 14,900 residents and no tribe has that large of population living on its tribal lands to merit its own legislative district, each tribe is combined within a single district.
- All qualified electors have the same rights to run for legislative office in the district in which they reside.
- The state's Constitution and law both provide for the options for districts to be subdivided into subdistricts, but that is not the current practice. Contrary to any suggestions otherwise that occurred at the hearing, there are currently no subdistricts within the State.
- Redistricting is decided by the full legislature every ten years after the census. This is an open process that is available to every member of the public to attend and provide comments, including tribal members.

Population Statistics of Each Tribe and Relation to Legislative Districts

- According to the information maintained on the North Dakota Indian Affairs Commission website (found at <http://indianaffairs.nd.gov/>), the following population numbers are given for each tribe:
 - MHA Nation – 5,915 living on the reservation
 - Sisseton Wahpeton Oyate Nation – 15,000 living on the reservation with the vast majority of land and tribal population living in South Dakota and only 51 tribal members living in the two counties of North Dakota where tribal lands are located.
 - Spirit Lake Nation – 4,500 living on the reservation
 - Standing Rock Sioux Tribe – 15,568 living on the reservation and 3,492 live on tribal lands within North Dakota. (From the Population Statistics on North Dakota Legislative Council's website found at https://www.legis.nd.gov/files/district-maps/Statistics/population_statistics_district_31.pdf.)
 - Turtle Mountain Band of Chippewa – 9,710 living on the reservation
- It has been and continues to be the practice of the legislature when drawing the boundaries of the districts to include all the lands of a given tribe into a single district. This is done to make sure the voice of these tribes can be as loud as is possible in the North Dakota legislature. Therefore:

- MHA Nation: District 4
 - Map: <https://www.legis.nd.gov/districts/2013-2022/district-4>
 - Population Statistics: https://www.legis.nd.gov/files/district-maps/Statistics/population_statistics_district_04.pdf
- Sisseton Wahpeton Oyate Nation: District 26
 - Map: <https://www.legis.nd.gov/districts/2013-2022/district-26>
 - Population Statistics: https://www.legis.nd.gov/files/district-maps/Statistics/population_statistics_district_26.pdf
- Spirit Lake Nation: District 23
 - Map: <https://www.legis.nd.gov/districts/2013-2022/district-23>
 - Population Statistics: https://www.legis.nd.gov/files/district-maps/Statistics/population_statistics_district_23.pdf
- Standing Rock Sioux Tribe: District 31
 - Map: <https://www.legis.nd.gov/districts/2013-2022/district-31>
 - Population Statistics: https://www.legis.nd.gov/files/district-maps/Statistics/population_statistics_district_31.pdf
- Turtle Mountain Band of Chippewa: District 9
 - Map: <https://www.legis.nd.gov/districts/2013-2022/district-9>
 - Population Statistics: https://www.legis.nd.gov/files/district-maps/Statistics/population_statistics_district_09.pdf

Last-minute Rush Claims to Obtain a Valid ID for Voting

It was suggested during the hearing that tribes located in North Dakota were forced to make last-minute efforts to ensure all tribal members had tribal IDs. This suggests that North Dakota made changes to its laws regarding the use of P.O. Boxes, and its residential address requirements, shortly before the 2018 election. However, the current version of the North Dakota voter ID law (found at <https://www.legis.nd.gov/assembly/65-2017/session-laws/documents/ELECT.pdf#CHAPTER152>) was filed with the Secretary of State on April 25, 2017 and went into effect on August 1, 2017. This means that all voters of the state had a full 15 months from the effective date of the legislation to obtain the necessary ID if they did not already have one. More importantly, the voter ID law passed in 2017 did not change any voting requirements that related to the use of P.O. Boxes or any substantive changes to the requirement that an ID list a residential address. The voter ID laws requiring that an ID used for voting list a residential address were first enacted in the 2003 Legislative Session. Thus, any claim that recent changes to North Dakota law forced Native American tribes to make last-minute efforts to comply with them is inaccurate.

Voter Turnout High for a Midterm

This table shows the 2008 through 2018 General Election voter turnout percentages for the State's 53 counties. The highlighted cells are the counties that include tribal lands.

	2018	2016	2014	2012	2010	2008
County	Percent Turnout	Percent Turnout	Percent Turnout	Percent Turnout	Percent Turnout	Percent Turnout
Adams	63.06%	64.31%	56.50%	69.51%	65.70%	69.77%
Barnes	59.73%	61.46%	50.20%	63.73%	56.12%	67.37%
Benson	50.47%	45.97%	33.21%	48.99%	39.31%	52.96%
Billings	75.19%	83.56%	72.85%	86.33%	76.08%	80.09%
Bottineau	64.83%	67.61%	54.19%	69.35%	58.66%	70.02%
Bowman	69.99%	73.82%	59.27%	71.58%	62.11%	71.90%
Burke	61.48%	62.09%	53.95%	65.06%	53.97%	65.67%
Burleigh	64.27%	69.67%	54.98%	67.72%	52.76%	70.23%
Cass	56.65%	62.88%	44.40%	62.03%	43.47%	66.89%
Cavalier	67.93%	67.72%	57.94%	66.68%	62.62%	72.28%
Dickey	59.55%	61.91%	52.00%	62.86%	50.26%	63.96%
Divide	67.92%	65.18%	57.67%	66.89%	56.37%	70.32%
Dunn	62.48%	66.93%	54.66%	70.58%	60.73%	67.40%
Eddy	71.17%	68.22%	59.31%	61.99%	56.39%	62.68%
Emmons	70.57%	73.57%	60.60%	68.06%	58.96%	69.11%
Foster	66.06%	67.06%	62.20%	64.70%	58.21%	64.13%
Golden Valley	64.72%	69.58%	57.13%	71.67%	61.36%	71.56%
Grand Forks	50.35%	55.00%	38.49%	56.32%	38.46%	59.80%
Grant	68.51%	73.65%	65.41%	75.44%	61.83%	70.05%
Griggs	68.96%	68.73%	65.74%	70.04%	59.03%	68.89%
Hettinger	67.41%	64.51%	58.81%	68.11%	61.02%	70.06%
Kidder	67.40%	73.90%	61.39%	70.81%	67.42%	68.16%
LaMoure	65.25%	67.26%	60.13%	68.90%	68.10%	70.53%
Logan	66.97%	72.60%	65.55%	70.13%	64.80%	70.45%
McHenry	57.96%	63.08%	52.91%	64.08%	58.72%	61.54%
McIntosh	69.61%	65.61%	63.65%	69.15%	65.44%	69.90%
McKenzie	48.20%	60.82%	44.57%	67.39%	50.44%	66.90%
McLean	67.02%	72.59%	59.97%	68.22%	59.81%	72.22%
Mercer	62.38%	70.00%	56.78%	67.99%	59.45%	72.50%
Morton	64.02%	70.26%	53.16%	64.97%	49.82%	69.00%
Mountrail	51.48%	56.91%	37.43%	56.24%	44.49%	63.26%
Nelson	70.64%	71.85%	59.48%	67.27%	61.37%	68.44%
Oliver	67.55%	72.09%	59.58%	71.49%	70.22%	78.28%
Pembina	53.86%	57.10%	48.19%	57.45%	45.89%	56.64%
Pierce	60.48%	61.95%	55.39%	64.11%	62.42%	68.23%

	2018	2016	2014	2012	2010	2008
County	Percent Turnout	Percent Turnout	Percent Turnout	Percent Turnout	Percent Turnout	Percent Turnout
Ramsey	58.29%	60.79%	47.32%	56.53%	48.92%	56.13%
Ransom	57.31%	57.56%	47.88%	59.17%	45.04%	55.78%
Renville	64.18%	65.44%	54.62%	66.44%	60.39%	76.79%
Richland	57.55%	59.68%	47.24%	60.46%	45.94%	60.61%
Rolette	53.05%	39.84%	32.63%	48.68%	44.80%	51.23%
Sargent	66.85%	66.52%	55.70%	68.68%	53.35%	63.64%
Sheridan	73.22%	73.79%	66.79%	75.97%	75.00%	73.80%
Sioux	53.34%	45.51%	25.92%	42.89%	30.16%	52.92%
Slope	62.76%	74.24%	64.08%	80.28%	63.28%	79.40%
Stark	55.11%	54.34%	44.05%	59.51%	43.56%	64.24%
Steele	64.97%	67.10%	57.68%	68.05%	66.30%	73.96%
Stutsman	58.32%	61.49%	46.71%	57.64%	48.09%	61.04%
Towner	64.33%	66.28%	57.07%	66.21%	58.10%	66.22%
Traill	61.13%	64.05%	49.96%	62.22%	50.73%	65.66%
Walsh	55.02%	56.27%	47.53%	60.69%	49.35%	58.93%
Ward	46.18%	52.00%	38.92%	52.41%	44.49%	60.77%
Wells	71.13%	71.93%	62.29%	69.90%	66.11%	71.26%
Williams	46.97%	54.16%	34.77%	52.77%	40.78%	63.38%
TOTALS	57.04%	61.29%	46.81%	61.16%	47.90%	64.89%

The General Election held in November of 2018 was a midterm election, which is an election that typically has a lower percentage turnout than what occurs in presidential elections. A typical midterm election would see less than fifty percent of the eligible voters casting a ballot whereas the typical turnout for a presidential election is sixty to sixty-five percent. The fifty-seven percent turnout from the 2018 General election was ten percentage points higher than a typical midterm and it was almost that of the presidential elections. This was true for all voters, including the Native American population. This is a statistic to be celebrated because it means that voters are making their voices heard at the ballot box.

Conclusion

Within North Dakota's unique non-registration system, the State's voter ID laws serve the primary and important purpose of ensuring that all those who vote in state elections have the basic qualifications to vote – age, state residency, and state and federal citizenship. This is not only to prevent voter fraud, as is often stated by some as the only reason for voter ID in North Dakota, but also to ensure and protect the integrity and right of all North Dakotans to cast valid votes undiluted by the votes of those who do not establish the basic qualifications to vote, and to ensure that the proper ballot can be provided to each qualified elector. The perception that there were changes to North Dakota's residential address requirements following the 2012 Senate Race, or more recently in 2017, are simply inaccurate. The need for a residential address for voting has been a reality since

North Dakota became a state in 1889, and the requirement that an ID list a residential address has been in place since 2003. It is not a new requirement as so many in the media have mistakenly reported.

In other states, determining these same qualifications occurs at the time the individual registers to vote. If the residents of those states do not register, they are prevented from voting. This obstacle does not occur in North Dakota because of the simple fact that we don't have voter registration but provide our qualifications in the form of an ID when we vote. In other states with voter registration, if the voter moves to a new residence, he or she must also reregister in order to be able to vote in the precinct of that new residence. In North Dakota, all that is required for voting is a simple update of the individual's ID with the new address.

The Secretary of State would like to commend the tribes for organizing their tribal members to be able to vote in the same way political parties, committees, organizations, and candidates work to make sure that those who want to vote do so. The efforts put forward produced a record turnout of voters for a midterm election. This is a very good thing since all qualified electors are encouraged to vote.

The tribal governments in North Dakota made the choice to provide at no cost the same tribal IDs for which they would normally charge a fee. This was a decision completely up to each tribe to make. The fact that the tribes would now like the state or the federal government to reimburse them for their costs and lost revenue is unwarranted since the state and federal government had no control over those decisions or the costs incurred. In fact, state law does not dictate what a tribal ID must like, only what it must contain. What the state can control is its ongoing decision to provide a free non-driver's ID card to anyone 18 or older who does not have a driver's license to be used to vote.

The information provided to everyone in North Dakota, especially the tribal leaders many times and ultimately in an open letter sent to each leader on September 28, 2018 (found at <https://vip.sos.nd.gov/pdfs/Portals/VotingInformationforTribalMembers.pdf>) stating, "Tribal government issued identification (including those issued by BIA for a tribe located in North Dakota, any other tribal agency or entity, or any other document that sets forth the tribal member's name, date of birth, and current North Dakota residential address) qualifies for voting." This means that a tribe providing the name of the individual, his or her date of birth, and residential address would be sufficient for voting purposes. This has consistently been the understanding of this office since the question first came up in May of 2014 and was confirmed by an order of the federal court.

The fact that the tribes all provided regular photo IDs to their members who did not have them, although unnecessary, was a great benefit to those members who received them. Those IDs are valuable to them for so many great things such as access to tribal health care and other human services in addition to providing basic qualifications when voting.

North Dakota's election officials encourage a continuing dialog with the tribes within the State to make sure everyone's voices can be heard at the ballot box.



NORTH DAKOTA NATIVE VOTE

PO Box 226 Bismarck, North Dakota 58503

www.ndnativevote.org

Committee on House Administration
Elections Counsel

April 18, 2019

To whom it may concern,

My name is Nicole Donaghy, I'm an enrolled citizen of Standing Rock Sioux Tribe, located in the south central area of North Dakota. I am currently the Field Director of North Dakota Native vote, and in previous capacity was one of many organizers on the ground during the 2018 election. I was one of the many organizers, canvassers, and advocates on the ground during the 2018 election.

North Dakota claims the rich cultural history of the Indigenous people who have lived here since time immemorial. Yet, when the tribal nations of North Dakota engage in the political discourse, barriers are created to limit the amount of power that our people are allowed. Legislation is written with the seeming intent to prevent us from acting.

Since 2013, there have been several changes to North Dakota's voter laws. In 2013, North Dakota Legislature passed House Bill 1332 to remove voter affidavits. In 2015, they passed HB 1333 which requires voters to have a ND identification card issued 30 days before the election. 2017, North Dakota Legislature passed House Bill 1369, which wrote in to law the requirement that all voters identification cards must contain the voters name, birthday and a 'current residential street address.'

U.S. District Judge Daniel Hovland's ruling to uphold the voter identification laws less than one week before the election, made voter education efforts even more important and overwhelmingly disproportionately burdened Native American voters.

Making contact with voters in remote, rural communities, that inhabit homes that often contain more than one family, was a challenge. To contact these residences, you must know the location, since many homes are located on roads that aren't identified by GPS applications.

In order to get tribal identification cards up to date with the state requirement, many tribal citizens needed to update their identification cards with a verified physical address. To verify a home address, citizens were told to go to the County 911 coordinator. The process was not as simple as prescribed due to the limited capacity of small county offices.

With the output of many on the ground organizers, voter turnout was nearly doubled over the 2014 midterm elections.

In my own capacity, I had less than one month to organize and run a voter education program. I travelled around three thousand miles within North Dakota, and worked over 250 hours in less



NORTH DAKOTA NATIVE VOTE

PO Box 226 Bismarck, North Dakota 58503

www.ndnativevote.org

than 30 days to educate tribal citizens on the detrimental effect of North Dakota's voter identification laws. We employed many tactics to ensure voters knew what they had to do to be able to vote. Tribal governments, grassroots groups, and non-government organizations came together to ensure that the tribes had their guaranteed right to vote.

We held concerts, community dinners, community canvass, and attended local events to educate tribal citizens.

Voter turnout for 2018 midterm election set an all-time high for a midterm election in North Dakota. The previous record for a midterm election was set in 2014 with over 255,000 voters out of 545,000 eligible voters (46.8%). 2018 midterms turned out over 330,000 voters out of 579,621 eligible voters (57.04%). North Dakota tribes were given excessive media attention, and local rhetoric spurred an outpouring of non-native voters to get to the polls in response to the expected tribal turnout.

Tribal precincts numbers varied significantly from the previous midterm election.

2014 Midterm Elections	Ballots cast	Eligible Voters	Turnout percent
Standing Rock	694	2677	25.92%
Spirit Lake	1488	4480	33.21%
Turtle Mountain	3119	9559	32.62
Fort Berthold (approx.)	1686		
Total	<u>6987</u>		
 2018 Midterm Elections			
Standing Rock	1468	2752	53.34%
Spirit Lake	2292	4541	50.47%
Turtle Mountain	5116	9643	53.05%
Fort Berthold (approx.)	2915		
Total	<u>11791</u>		

The voter identification laws are still in effect, and tribal citizens are forced to adhere to state laws that are burdensome and detrimental to those living on reservations though states have no jurisdiction. Organizing and educating communities to counteract the disenfranchisement and suppression of tribal voters proved to be the only way to ensure that the Native vote was counted. Tribes and allies did the seemingly impossible to reach and mobilize a record numbers of voters, those efforts should not be discounted. The reasoning for tribes, impoverished communities, and communities of color that are forced to in to crisis response should be examined and scrutinized. Our people have inhabited these lands for centuries, our citizens have fought and died for this country, and we still have to fight for our basic rights that are guaranteed to every citizen in the United States. It should not be this way.



NORTH DAKOTA NATIVE VOTE

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www.ndnativevote.org

I've attached an informational flow chart that we distributed across Standing Rock to answer questions and lessen confusion about how citizens can exercise their right to vote. I hope the diagram helps illustrate the difficulties needed to be overcome by our people in the 2018 election.

Thank you for your time and for your attention on this matter. Please contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, which appears to read "Nicole Donaghy". The signature is fluid and cursive.

Nicole Donaghy
North Dakota Native Vote
Field Director

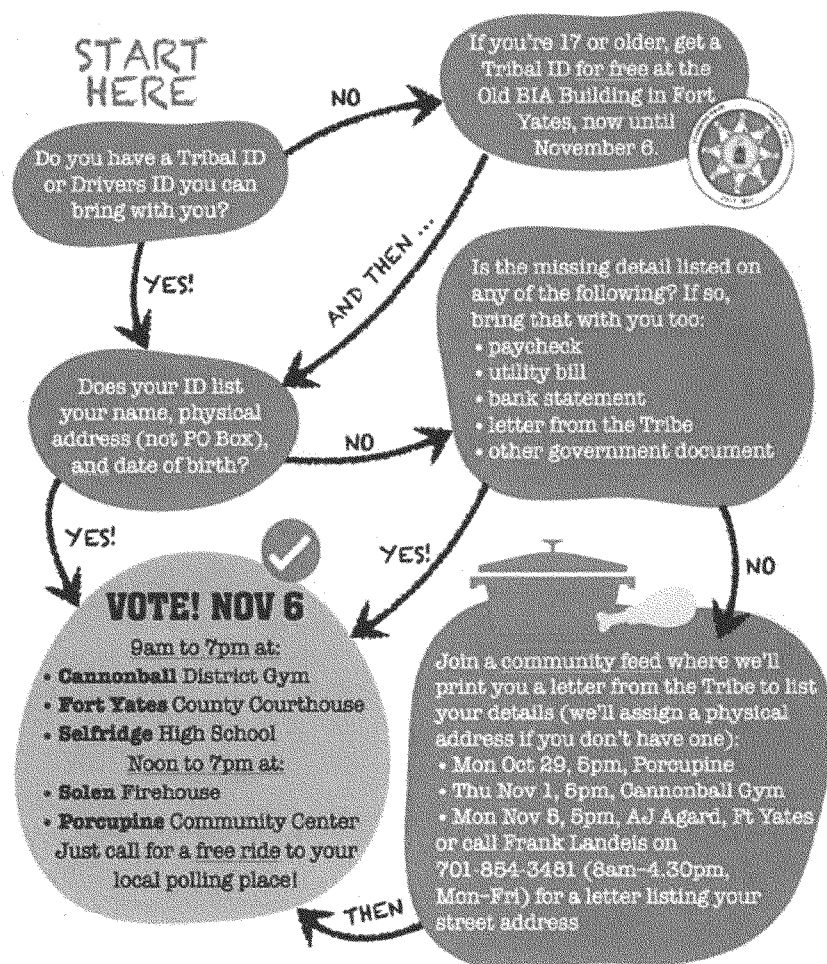


NORTH DAKOTA NATIVE VOTE

PO Box 226 Bismarck, North Dakota 58503

www.ndnativevote.org

VOTING AT STANDING ROCK, ND



FOR HELP AND RIDES CALL 701-854-VOTE (8683)

Paid for by Western Native Voice





Sioux Nation of Indians

Dahcoteh-Nakota-Lakota

Sioux Country

Treaty of 1868

Declaratory Statement

By International Law

***Reaffirming Independence As A Treaty Nation
And Sovereign Powers Of Authority In Sioux Country***

***By Original Sovereignty Being Original Inhabitants Of The Lands And Soil Of Sioux Country,
And Reaffirming These Inherent Rights By The Treaty Of 1868 Through The Treaty Nation Name***

Sioux Nation of Indians

**The Following Tribal Names, And Territorial Numbers Are The Various Sioux Tribal Governmental Branches And Their
Representatives, Which Comprise The Territories Within The Lawful Jurisdictional Boundary Lines Of**

Sioux Country

**Map Area No. 74
Medawakanton Band (Sioux)**

**Map Area No. 75
Eastern or Mississippi Sioux**

**Map Area No. 76
Yankton (Sioux)**

**Map Area No. 77
Sisseton And Wahpeton Bands (Sioux)**

**Map Area No. 78
Sisseton (Sioux)**

**Map Area No. 79
Teton And Yanktonai (Sioux)**

**Map Area No. 80
Yanton (Sioux)**

**Map Area No. 81
Sioux (Dahcoteh) Nation**

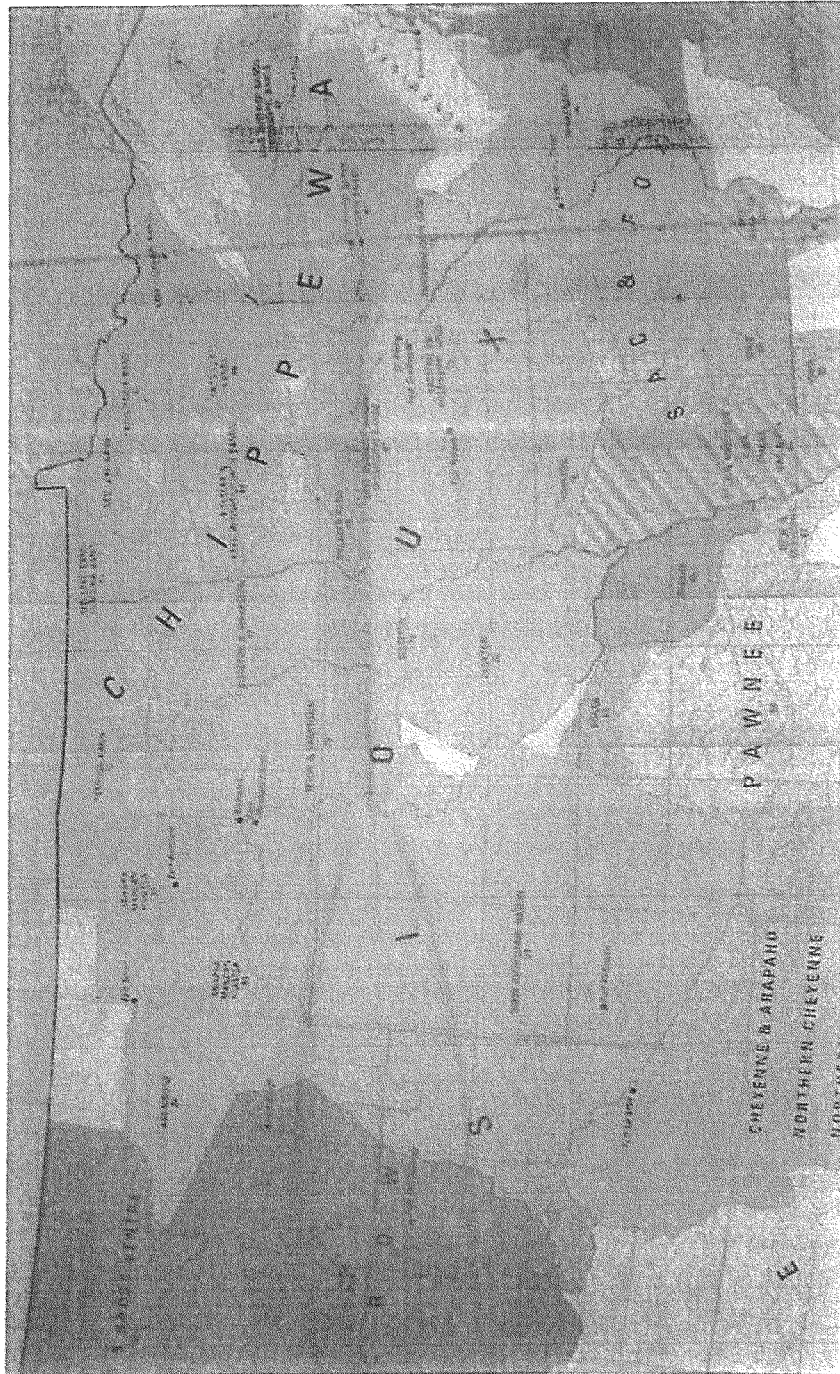
**Map Areas For Oglala And Lakota Territories In
Sioux Country To Be Designated By The Oglala
And Lakota People And Recorded By The
Government Of Sioux Nation of Indians.**

For Verification Purposes Please Contact:

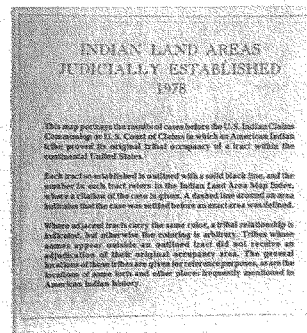
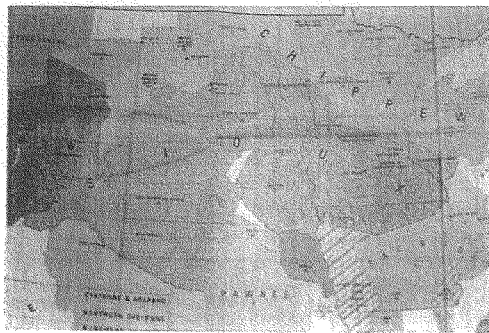
Official Government Website Address

www.siouxcountry.org

e-mail: government@siouxcountry.org



INDIAN LAND AREAS JUDICIALLY ESTABLISHED






LIBRARY OF CONGRESS

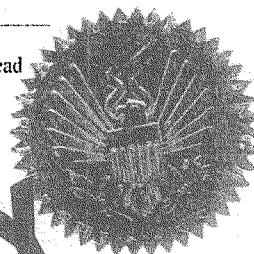
Office of Business Enterprises
Duplication Services Section

THIS IS TO CERTIFY that the collections of the Library of Congress contain a publication entitled **INDIAN AFFAIRS. LAWS AND TREATIES, VOL. II**, and that the attached photocopies - the title page, and pages 998 through 1007 on which appears *Articles of a treaty made and concluded by and between Lieutenant-General William T. Sherman, General William S. Harney, General Alfred H. Terry, General C.C. Augur, J.B. Henderson, Nathaniel G. Taylor, John B. Sanborn, and Samuel F. Tappan, duly appointed commissioners on the part of the United States, and the different bands of the Sioux Nation of Indians, by their chiefs and head-men, whose names are hereto subscribed, they being duly authorized to act in the premises.* April 29, 1868 - are a true representation from that work.

IN WITNESS WHEREOF, the seal of the Library of Congress is affixed hereto on January 24, 2012.



Gregory T. Cooper
Duplication Services, Section Head
Office of Business Enterprises
Library of Congress



COPY

25. **National Register of Historic Places (NRHP)** - The list maintained by the Secretary of the Interior pursuant to the National Historic Preservation Act 16 U.S.C. 470-et seq.

26. **New Cultivation** - An agricultural operation that would cultivate land that had not been cultivated or has been idle for more than five years.

27. **Oceti Sakowin** - The original Sioux tribe was made up of Seven Council Fires. Each of these Council Fires was made up of individual bands, based on kinship, dialect and geographic proximity. The Seven Council Fires are:

- (1) **Mdewakanton** - Dwellers by the Sacred Lake
- (2) **Wahpekute** - Shooters Among the Leaves
- (3) **Sisitonwan/Sisseton** - People of the Marsh
- (4) **Wahpetonwan** - Dwellers Among the Leaves
- (5) **Ihanktowan/Lower Yanktonai** - People of the End
- (6) **Ihanktowana/Upper Yanktoni** - People of the Little End
- (7) **Tetonwan** - People on the Plains

The seven bands of the Tetonwan or *Teton* group are:

- (1) **Hunkpapa** - Camps at the Horn (Standing Rock & Wood Mountain, Canada)
- (2) **Sicangu/Brule'** - Burnt Thigh (Rosebud & Lower Brule)
- (3) **Itazipo/Sans Arc** - Without Bows (Cheyenne River)
- (4) **Sihasapa** - Blackfeet (Cheyenne River & Standing Rock)
- (5) **Oglala** - Scatters His Own (Pine Ridge)
- (6) **Oohenumpa** - Two Kettles (Cheyenne River)
- (7) **Mniconjou** Planters by the River (Cheyenne River)

28. **Oceti Sakowin Member** - An individual enrolled member of a federally recognized tribe of Oceti Sakowin.

**Testimony to the U.S. House Committee on House Administration,
Subcommittee on Elections
Field Hearing: Voting Rights and Election Administration in the Dakotas
Fort Yates, North Dakota
April 16, 2019
Provided by Karen K. Ehrens, member
Bismarck-Mandan (North Dakota) League of Women Voters**

Thank you for the opportunity to share with this committee evidence from North Dakota about the need for the Voting Rights Act. The Voting Rights Act must be fully restored in order to protect voters and increase access to the polls for the people of North Dakota.

The League of Women Voters was founded nearly 100 years ago in 1920 by women who understood the importance of securing voting rights for women. Since 1920, the League has been empowering voters and defending democracy, ensuring that everyone has the right, the knowledge, and the confidence to participate.

The League of Women Voters (LWV) chapters in North Dakota connect citizens with government, enhance voter participation, and work to include all voices in civil life. Our North Dakota LWV chapters facilitate and host candidate forums open to the public, assist North Dakota voters with polling place information, and provide voter information on ballot initiatives. LWV chapters in North Dakota make information about voting and its importance available across many channels of information including in person, in writing, on social media, over cable access channels, and streamed online in order to make access as broadly available as possible.

The 116th Congress has a significant opportunity to ensure civil rights and voting rights. The opportunity to strengthen the Voting Rights Act by creating a new formula that would trigger preclearance of any changes to voting laws and administrative practices is needed now more than ever. And the creation of a national notification process, that lets all voters know when changes to elections processes may occur, ensures that voters are informed prior to them showing up to the polls on Election Day.

In 1965, the Voting Rights Act (VRA) outlawed racial discrimination in voting and established procedures to protect equal access to the vote for every American citizen. Native Americans were not assured of the right to vote in the United States until the passage of this act. The VRA was subsequently reauthorized with wide bipartisan support in 1970, 1982, 1992 and 2006.

Despite a long history of support from legislators from all political parties, in 2013, the Supreme Court overturned key provisions of the VRA that triggered careful review of voting changes in political jurisdictions with a history of racial discrimination in voting processes before they could take effect. Since that decision, policy makers in states, counties, cities, and towns across the country have passed laws and adopted practices that discriminate against and disenfranchise voters of color and minorities whose first language is not English -- making it harder for them to register and more difficult to vote.

The League believes without the ill-founded decision by the Supreme Court in *Shelby v. Holder*, suppressive laws implemented or adopted between 2014-2018 would have violated the VRA. In effect, these suppressive laws shut out millions of minority voters, and have stifled the ability and protection of citizens of their right to vote. Because of these factors, there is currently no check on voter suppression.

North Dakota is one state of 35 that has tribal lands within its boundaries. There are four tribal nations with headquarters in North Dakota: Mandan, Hidatsa, Arikara Nation; Spirit Lake Nation; Standing Rock Sioux Tribe; and Turtle Mountain Band of Chippewa Indians; these four tribal nations within North Dakota span 12 counties. According to the U.S. Census Bureau, Population Estimates Program, American Indian or Alaska Native peoples comprise 5.5 percent of the population of North Dakota; approximately 55 percent of American Indians live on tribal lands.

There have been several actions in the North Dakota Legislative Assembly, the administration of laws by the North Dakota Secretary of State, and actions by the court system that have resulted in a discriminatory effect on the descendants of the people who originally inhabited North Dakota and the whole North American continent, Native Americans:

- The passage of a law, HB 1369, in the 2017 legislative assembly, that modified sections 16.1-01-04.1 and 16.1-01-04.2 of the North Dakota Century Code, relating to identification requirements for electors and identification cards;
- The less than timely implementation of the changes in the law and communication by the Secretary of State's office to voters, election officials and to tribal governments;
- The actions by the courts which let stand practices allowing tribal identification not showing residential addresses as acceptable as voter identification in the primary election as **not** acceptable as voter identification just four months later in the general election.

Survey results presented as part of court proceedings show that, in 2015:

- "Native American eligible voters in North Dakota are less likely to possess a qualifying voter ID under current North Dakota law, as compared to non-Native Americans;
- 23.5 percent of Native American eligible voters lacked an appropriate ID, compared to 12 percent of non-Native eligible voters";
- Native Americans in North Dakota are significantly less likely to possess a driver's license, the most common type of identification used at North Dakota polls;
- Native Americans lack required underlying documents to obtain an identification document that would be acceptable to vote: "among those without a valid ID, 28.9 percent do not have a birth certificate or other proof of identity required by the state, such as a passport or naturalization card; 56.7 percent do not have two documents showing a residential street address; 16.7 percent lack a social security card or W2 showing a social security number. In total, 65.6 percent of Native Americans that currently do not have a valid voter ID do not have all three types of the underlying documents they would need to obtain a voter ID."

There is no question that barriers around the requirements of a physical address presented to ascertain identification in order to vote unduly impact the communities the Voting Rights Act was designed to protect.

Restoring the VRA is necessary to ensure that our elections are free, fair, and accessible for all Americans. The problems that spurred the passage of the original Voting Rights Act of 1965 still exist. Repairing the VRA also needs to happen to address Native American voting rights.

Without continued oversight and safeguards in place to protect voters from all backgrounds, it is left to organizations like the League of Women Voters and other nonprofit voting rights groups to inform and protect voters affected by these policies and practices. Without a fully functioning Voting Rights Act, the State is able to shirk its duty to justify the changes. Congress must fulfill its obligations under the Constitution to eradicate voting discrimination by restoring the strength and effectiveness of the Voting Rights Act. The right to vote is one of the most sacred and basic rights in our country and it must be protected.

The League will continue to pursue all avenues to fight for voters' rights, but we require strong action by Congress now to repair, restore, and modernize the Voting Rights Act's protections that have helped us prevent racial and language discrimination in our elections for decades. It is the duty of our government to protect the rights of voters and to encourage participation in our political system, not create barriers that prevent involvement. As it has for nearly 100 years, the League looks forward to holding our elected leaders accountable for protecting and upholding their responsibility to ensure voters have the unobstructed ability to exercise their right to vote.

Sources:

The North Dakota Indian Affairs Commission, <http://indianaffairs.nd.gov/statistics/>

Securing Indian Voting Rights, Harvard Law Review, <https://harvardlawreview.org/2016/04/securing-indian-voting-rights/>

Order granting plaintiffs' "Motion to Dissolve Preliminary Injunction" in the United States District Court for the District of North Dakota, Case 1:16-cv-00008-DLH-CSM, Judge Daniel L. Hovland, April 3, 2018 accessed at <https://www.narf.org/nill/documents/20180403brakebill-nd-voter-order.pdf>

Carol M Sawicki

League of Women Voters of North Dakota
Co-President

Lois Ivers Altenburg

League of Women Voters of North Dakota
Co-President

Testimony of Terry Yellow Fat's Quest to vote in the General Election of November 2018.

The following is a chronological quest to obtain an address for myself in order to satisfy the requirements of a new state law enacted so that we residents can vote.

As I understand this state legislation was challenged in court by the Standing Rock Sioux Tribe. However, this challenge by the tribe was not successful.

Therefore, we must abide and provide an address, not post office box, to vote. I am 70 years old and to my knowledge have never missed an election during my adult life. Up to this point, a post office box was all that was necessary.

The States of North and South Dakota do not have jurisdiction over my homeland of Standing Rock. But an insignificant law such as this has opened the door for the States to become involved in our Tribal Affairs.

Again, this legislation is not Federal Legislation but State Legislation. I can only guess at the reasoning behind requiring the residents of Standing Rock to have a street address. (Post Office Boxes were sufficient in all elections prior to this). The Dakota Access Pipeline (DAPL) demonstrations brought thousands of people to this area to protect the water. I was an active participant and proud to be a water protector. The educated estimate of the numbers present was 12,000 people. I can agree with that number. This alarmed and scared the state into fighting back. This is only one instance of how they want to keep we Native Americans at the bottom of society.

This story is only my experience. The percentage of Natives voting was much higher than it has ever been in this most recent election. There are still many many people that did not vote because of a lack of an address. But, they do have a P.O. Box.

The primary reason the percentage of Natives voting was so much higher than in the past was because of outside organizations assisting by going door to door and providing transportation to the polling sites.

Two very important reasons people will not and can not vote in these elections are:

- A) Lack of Housing -- Many Many people do not have an address because they live with relatives or friends.
- B) Many people choose not to participate in state elections. We consider ourselves a step above and separate authority than the states.

The following is my quest to have a legal address other than a Post Office Box.

1. In 2014, I renewed my driver's license. This is the first time I have ever been required to have an address listed. For lack of a street address, I created one. Because there is a street sign placed on the corner of the street beside my house, I immediately used that and gave the Motor Vehicle Department an address of 7913 West Buffalo Avenue.

Buffalo Avenue is the street sign beside my house. The number, I created, it was sufficient to get my driver's license.

2. Through word of mouth, I was told that the county sheriff was giving addresses to everyone to satisfy 911 requirements. The sheriff gave me the address: 1343 92nd Street, verbally, nothing in writing.
3. Sometime after receiving this address the U.P.S. deliver man related to me that my address was the same as the local liquor establishment located down the road from my home. I resented this as I have never had a drink of alcohol since my teenage years. I am now 70 years old. A copy of a map shows this discrepancy. The letter shows the address of the liquor establishment. The X with a circle around it is the location of my home. I don't know the address. (Attachment A)
4. Attachment B and B1 show that on November 2, 2018, I applied for and was turned down for an absentee ballot using the address that my Tribal Government issued to me. The address is : 01398 94th St SW.
5. On November 2, 2018, I received a letter from Barb Hettich, Sioux County Auditor. This was hand carried to my home. The address listed is 1392 92nd St. Again a totally different address. (Attachment C)
6. Later on November 2, 2018, attempting to vote absentee or get a correct address, I was handed another document by the Sioux County States Attorney. This, also, was signed by Barb Hettich, Sioux County Auditor that my address was 1392 92nd Street. The Sates Attorney stated that this document would allow me to vote. (Attachment D)
7. On November 6, 2018, the day of the election, it still was not clear what my residential address was. The judges or whoever the people were that sign us in to obtain a ballot wanted a copy of my Tribal Identification. I refused as this I.D. is between myself and the Tribal Government. I was finally able to vote pursuant to a court order signed by the Honorable Daniel L. Hovland, Chief Judge, U.S. District Court. (Attachment E).
8. On March 11, 2019, I renewed my driver's license. I again used the same address that I utilized in 2014. Primarily because I did not have documentation of what my address is. I did not need documentation for what was already on my previous license. Copy of my license is attached.
9. On March 30, 2019, I received a registered letter from the Sioux County Courthouse. In the envelope was a copy of the address issued to me by the Standing Rock Sioux Tribe. So this date, I still do not know what address I should list for voting purposes. This registered letter I received, I am wondering if this signifies that Sioux County recognizes the address given me by my Tribe. Again this letter came with no explanation or signed by any official from the State or County. (Attachment F)

This State of North Dakota has made it extremely difficult to satisfy our Constitutional Right to Vote.

I can predict with certainty that far fewer Native people will participate in the next election.
The State of North Dakota either does not want us to vote or has made it very cumbersome and extremely difficult.



Terry Yellow Fat
Citizen


11/1/2018

2018 General Election - Voting Information for...

attachment A

North Dakota nd.gov Official Portal for North Dakota State Government



Home | About the Office | Secretary of State Bio | Contact Us | Forms Troubleshooting | 

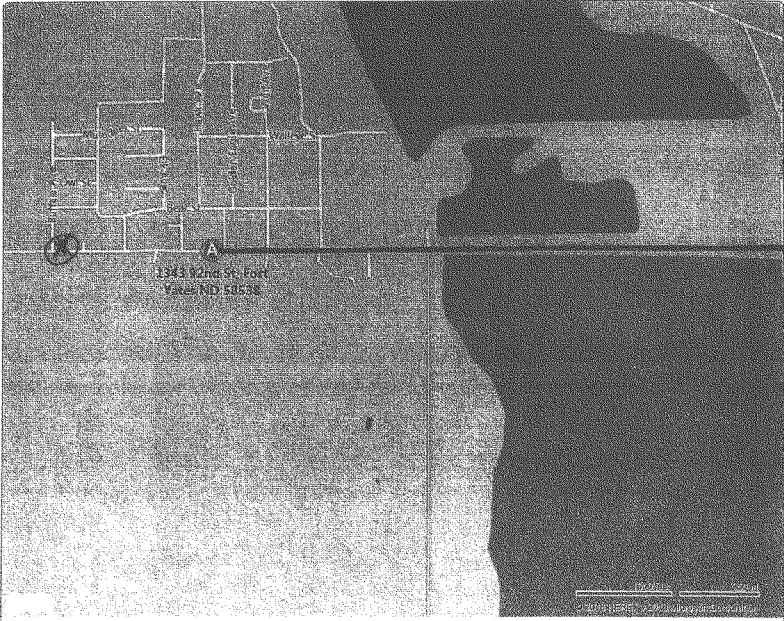
Search:

MENU

Vote.ND.Gov | My Voting Information

2018 General Election - Voting Information for...

Address:
1343 92nd St
Fort Yates ND 58538



Light traffic 1.5 mi

<https://vip.sos.nd.gov/WhereToVoteDetail.aspx?Part=43310401&tab=Map!&pkID=&plhPKID=>

1/2

allanman B



ABSENTEE/MAIL BALLOT APPLICATION
 SECRETARY OF STATE
 SFN 51468 (01-2014)

For Office Use Only
 Precinct Part

For reference, see North Dakota Century Code, Chapter 16.1-07.

Application must be for at least one of the following elections:

☐ June (Primary) Election

OR

☐ All Statewide Elections

☒ November (General) Election

☐ City Election

☐ School Election

☐ Special Election

Applicant Information: (ALL FIELDS REQUIRED)

Voter's Name: Terry yellowfat Date of Birth: [REDACTED] Daytime Telephone Number: [REDACTED] ID Number (check valid ID type below)

North Dakota ID type:

☐ Driver's License

☐ Non-driver's ID

☐ Long Term Care Certificate

☐ Student ID Certificate

☒ Tribal ID

☐ Passport or Military ID (only for voters outside the United States)

☐ Applicant Without ID*

Residential Address

City

State

ZIP Code

Ballot Delivery Address (if different from residential address)

City

State

ZIP Code

I do solemnly affirm that I have resided or will reside in the precinct, where my residential voting address is located, for at least thirty days next preceding the election and will be a qualified elector of the precinct.

Signature of Applicant

Date

Applicant Unable to Sign:

If the applicant is unable to sign the applicant's name, the applicant shall mark [X] or use the applicant's signature stamp on the application the presence of a disinterested individual. The disinterested individual shall print the name of the individual marking the "X" or using the signature stamp below the "X" or signature and shall sign the disinterested individual's own name following the printed name together with the notation "witness to the mark."

<input type="checkbox"/> Voter's Mark	Printed Name of Person Making Mark or Voter's Signature Stamp
	Signature of "Witness to the Mark"

***Applicant Without ID:**

If the applicant does not possess an approved form of identification, another qualified elector of the state may attest that the applicant is a qualified elector of that precinct by signing below and providing his or her approved North Dakota identification number.

Printed Name of Attester	Driver's / Non-driver's / Tribal ID Num
Signature of Attester	Date
	Daytime Telephone Number

Active Military and Overseas Voter:

Check ONE (if applicable):

☐ Citizen living outside of the United States

☐ Uniformed service or family member living away from the voter's residence, yet within the United States

☐ Uniformed service or family member living away from the voter's residence, yet outside the United States

If one of the check boxes above applies to you, please indicate your preferred ballot delivery method:

☐ Mail ☐ Email (provide email address):

☐ Fax (provide fax number):

Mail or Submit to the Auditor of Your County of Residence or Appropriate Election Officer

attachment B1

TRIBAL COUNCIL
(AT LARGE)

Tom Anderson

Chris White Bull

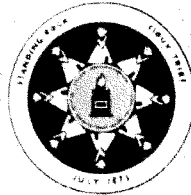
Joseph White Bull

Katy McLaughlin

Charles Walker

Dana Yellow Bear

Wayne Young
Vice Chairman



Robert Agard
Secretary

Robert Agard
Secretary

Wayne Young
Vice Chairman

Wayne Young
Vice Chairman

Delroy Dismore
Council District

Joe White Mountain
Council District

Caroline Thompson
Council District

Verrell Bostail
Council District

Samuel B. Harrison
Council District

Official Tribal Voter Identification

Date 11/02/08

04

Full Legal Name of Tribal

Member: Terence (Terry) Yellow Bear

Date of Birth: [REDACTED]

Current Residential Street Address:

01346 14th St SW

I declare the above information is correct.

/s/ [tribal member] Terence (Terry) Yellow Bear

Issued By: the Standing Rock Sioux Tribe

attachment

November 2, 2018

Mr. Terrance "Terry" Yellow Fat
PO Box 426
Fort Yates, ND 58538

Dear Mr. Yellow Fat:

The attached document is to serve as supplemental documentation that your current North Dakota residential address for voting purposes is 1392 92nd Street, Fort Yates, ND 58538. This address was supplied to my office by the 911 Coordinator for Sioux County. I ask that you bring this supplemental document with you to the polls on Election Day along with your other valid ID showing name and DOB.

If you have any questions, please contact my office. Thank you.

Sincerely,



Barb Hettich
Sioux County Auditor

Enc.

Attachment D

SUPPLEMENTAL DOCUMENT FOR VOTING

This document is being issued pursuant to Section 16.1-01-04.1(3)(b)(5) of the North Dakota Century Code.

This certifies that

1392 92nd Street, Fort Yates, ND, 58538

qualifies under North Dakota law as a voting residence for

Terrance "Terry" Yellow Fat, DOB: [REDACTED]

for purposes of voting in the

November 6, 2018

North Dakota statewide election.

This document can be used for voting purposes to supplement information that may be missing from the valid forms of identification recognized by North Dakota law.

Please bring this supplemental document with you to vote on the day of the election and present it to a poll worker at:

Precinct Fort Yates West, located at the Sioux County Courthouse. This is the polling place associated with the address noted above

along with your valid form of identification to obtain a ballot.

ISSUED BY:

Barb Hettich

Barb Hettich
Sioux County Auditor

*Received from State's Attorney
for Sioux County*

ff Hovland

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

Spirit Lake Tribe, on its own behalf and
on behalf of its members,
Dion Jackson, Kara Longie, Kim Twinn,
Terry Yellow Fat, Leslie Peltier, and
Clark Peltier,

Plaintiffs,

vs.

Alvin Jaeger, in his official capacity as
Secretary of State,

Defendant.

ORDER ADOPTING STIPULATION

Case No. 1:18-cv-222

Before the Court is the Parties' "Stipulation Regarding Individual Plaintiffs' Eligibility to Vote in November 2018 General Election" filed on November 2, 2018. See Doc. 34. The Court **ADOPTS** the Stipulation (Doc. 34) and **ORDERS** as follows: Plaintiffs Dion Jackson, Kara Longie, Kim Twinn, Terry Yellow Fat, Leslie Peltier, and Clark Peltier shall be permitted to vote in the November 6, 2018 General Election.

IT IS SO ORDERED.

Dated this 2nd day of November, 2018.

/s/ Daniel L. Hovland
Daniel L. Hovland, Chief Judge
United States District Court

Spirit Lake Tribe, on its own behalf and)
on behalf of its members,)
Dion Jackson, Kara Longie, Kim Twinn,)
Terry Yellow Fat, Leslie Peltier, and)
Clark Peltier,)

VS.

Defendant.

Case No. 1:18-cv-222

IT IS SO ORDERED.

/s/ Daniel L. Hovland
Daniel L. Hovland, Chief Judge
United States District Court

Dated this 2nd day of November, 2018.

State of North Dakota
Wayne Stenehjem
Attorney General

By: /s/ Matthew A. Sagsveen
Matthew A. Sagsveen
Solicitor General
State Bar ID No. 05613
Office of Attorney General
500 North 9th Street
Bismarck, ND 58501-4509
Telephone (701) 328-3640
Facsimile (701) 328-4300
Email masagsve@nd.gov

By: /s/ Courtney R. Titus
Courtney R. Titus
Assistant Attorney General
State Bar ID No. 08810
Office of Attorney General
500 North 9th Street
Bismarck, ND 58501-4509
Telephone (701) 328-3640
Facsimile (701) 328-4300
Email ctitus@nd.gov

Attorneys for Defendant.

ROBINS KAPLAN LLP

By: /s/ Timothy Q. Purdon
Timothy Q. Purdon
State Bar ID No. 05392
1207 West Divide Avenue
Suite 200
Bismarck, ND 58503
Telephone (701) 255-3000
Facsimile (612) 339-4181
tpurdon@robinskaplan.com

COHEN MILSTEIN SELLERS &
TOLL PLLC

By: /s/ Joseph M. Sellers
Joseph M. Sellers,
NY Bar No. 318410
1100 New York Avenue, N.W.
Suite 500, East Tower
Washington, DC 20005
Telephone (202) 408-4600
Facsimile (202) 408-4699
jsellers@cohenmilstein.com

NATIVE AMERICAN RIGHTS FUND

By: /s/ Matthew Campbell
Matthew Campbell
NM Bar No. 138207
CO Bar No. 40808
mcampbell@narf.org

By: /s/ Jacqueline De León
Jacqueline De León
CA Bar No. 288192
DC Bar No. 40808
1506 Broadway
Boulder, Colorado 80302
Telephone (303) 447-8760
jdeleon@narf.org

CAMPAIGN LEGAL CENTER

Mark P. Gaber
Danielle M. Lang
Molly Danahy
Licensed to practice in N.Y. only
supervision by Mark P. Gaber, a
member of the D.C. Bar
1411 K Street NW, Suite 1400
Washington, DC 20005
Telephone (202) 736-2200

Attorneys for Plaintiffs.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION

Spirit Lake Tribe, on its own behalf and
on behalf of its members,
Dion Jackson, Kara Longie, Kim Twinn,
Terry Yellow Fat, Leslie Peltier, and
Clark Peltier,

Plaintiffs,

vs.

Alvin Jaeger, in his official capacity as the
Secretary of State,

Defendant.

**STIPULATION REGARDING
INDIVIDUAL PLAINTIFFS'
ELIGIBILITY TO VOTE IN
NOVEMBER 2018 GENERAL
ELECTION**

Case No. 1:18-cv-00222

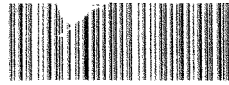
JOINT STIPULATION

1. Plaintiffs Dion Jackson, Kara Longie, Kim Twinn, Terry Yellow Fat, Leslie Peltier, and Clark Peltier will be permitted to vote in the November 6, 2018 General Election. The State of North Dakota's position is that they will be permitted to vote pursuant to the "current residential address" requirements of N.D. Cent. Code § 16.1-01-04.1.

2. The Benson County Auditor has issued supplemental documentation to plaintiffs Dion Jackson and Kara Longie that lists their current residential address, according to the State of North Dakota, for voting purposes. See Exhibits A & B attached. The State of North Dakota's position is that these letters were sent pursuant to N.D. Cent. Code § 16.1-01-04.1(3)(b)(5) and that North Dakota law permits them to vote with this supplemental documentation and their state-issued IDs. Dion Jackson and Kara Longie will be permitted to cast a ballot with this supplemental documentation and their state-issued IDs at Benson County Precinct 4 – Warwick Fire Hall, Warwick, North Dakota;

3. Defendant Jaeger will instruct the Sioux County Auditor to permit Plaintiff Kim Twinn, upon presentation of her Northern Cheyenne Tribe enrollment certificate, to cast a ballot at Sioux County Courthouse (FY East), Fort Yates, North Dakota;

ty Courthouse
ND 58538

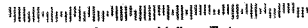


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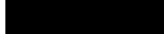
RECEIVED

27 MAR 2019 PM 1:04

US POSTAGE \$006.80



Terrence Yellow Fat



H23 0411

attachment F

5000000000



attachment F

TRIBAL COUNCIL
(AT LARGE)

Paul Archambault

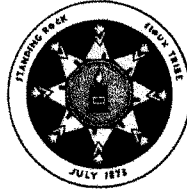
Frank White Bull

Courtney Yellow Fat

Kory McLaughlin

Charles Walker

Dana Yellow Fat

Mike Faith
ChairmanIra Taken Alive
Vice ChairmanSusan Agard
SecretaryJohn Pretty Bear
Cannonball DistrictBrandon Maui
Long Soldier DistrictWayne Looking Back
Wakpala DistrictDelray Demery
Kenel DistrictJoe White Mountain Jr.
Bear Soldier DistrictCaroline Thompson
Rock Creek DistrictVerdell Bobtail Bear
Running Antelope DistrictSamuel B. Harrison
Porcupine District

Official Tribal Voter Identification

Date 11/02/08 04Full Legal Name of Tribal
Member: Terrence (Terry) Yellow FatDate of Birth: [REDACTED]

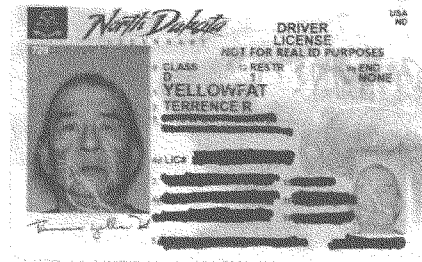
Current Residential Street Address:

01398 94th St S.W. F4

I declare the above information is correct.

/s/ [tribal member] Terrence (Terry) Yellow Fat

Issued By: the Standing Rock Sioux Tribe



Transcribed Testimony from Ms. Phyllis Young, an Elder of Standing Rock

April 16, 2019

The following has been submitted to the Subcommittee on Elections of the Committee on House Administration, on the occasion of its field hearing entitled "Voting Rights and Election Administration in the Dakotas."

Testimony:

Madame Chair Fudge and distinguished Members of this subcommittee. I thank you for this opportunity to speak to this issue.

I submit in writing our Sioux Nations Declaratory Statement which represents the mapping of Sioux Country by Judicial Decree (a historical record from the U.S. Library of Congress).

Oceti Sakowin (Sioux Nation of Indians) Treaty of 1868 have 33 treaties from 1805 at Port Sandusky, Ohio, and ending with the Treaty of April 29, 1868-State 635, ratified by Congress in Feb. 1869.

The Sioux Nation has an historic treaty relationship with the U.S. The Sioux Nation granted sovereignty to the USA in 1805.

By Article 6, 1868 Treaty, Members of Oceti Sakowin are citizens of the US. That citizenship is inextricably tied to the land. With this citizenship, we are guaranteed the same freedoms and immunities granted under American citizenship. We are dual citizens by Article 6. Oceti Sakowin retain our inherent right to Lakota birthrights and citizenship.

The State of North Dakota or County does not have jurisdiction to put addresses or create streets on lands in title to Standing Rock.

I submit our Treaty with
The USA. Records from the

PHYLLIS
REQUESTED
I START
HERE.

Madam Chair Judge and
distinguished members of this
subcommittee, I thank you
for this opportunity to speak to
this issue.

I submit in writing our
Sioux Nation Declaratory Statement
which represents the mapping
of Sioux Country by Judicial
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granted sovereignty to the US in 1805.

By

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Oleto Sakowin are ~~and~~ citizens
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is inextricably tied to the land.
With this citizenship, we are guaranteed

Treaty of
Sept 1868
21 Stat
1868
635.
ratified
by Congress
in Feb 1869.

2

the same freedoms and immunities
granted under American citizenship.

We are ~~also~~ dual citizens by
Article 4, 1868 ^{Act showing} ~~the~~ retain the
our inherent right to Lakota
birthrite and citizenship.

The State of N D or County does
not have ~~to~~ jurisdiction to put
addresses or create streets on
lands in title to Standing Rock.

The Secretary of State, Al Jaeger,
~~was~~ the incumbent and candidate
 for the Secretary of State of ND.

As the Secretary, Mr. Jaeger
 facilitated the Elections of ND.

[do not
include] In written requests for
 early voting in accordance
 with state law - September 2018;
 Open hours for Polling Places
 on 7-7 in accordance with
 State law;

RITA @ TRIBAL OFFICE

PHYLLIS YOUNG

SAID TO SEND TRANSCRIBED

DOC TO RITA FOR

PHYLLIS TO SEE

PHYLLIS YOUNG

AN ELOER OF

STANDING ROCK