

# Public Comments

Montana Districting and Apportionment Commission  
Comments received between 12 p.m. and 11:59 p.m. on February 10, 2023

Distributed electronically February 11, 2023

**Sherley, Laura**

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**From:** MDAC <contact@mtredistricting.gov>  
**Sent:** Friday, February 10, 2023 2:51 PM  
**To:** Districting  
**Subject:** MDAC Comment from: Noreen Breeding

From: Noreen Breeding rog7nor@gmail.com  
Residence: Bozeman

Message:

Tentative Commission Plan-3 is the best map and should be retained as the final map. There is a reason that a redistricting commission independent from the Legislature was established. Partisan meddling in the process is a disservice to citizens. TCP-3 is based on considerable citizen input and is therefore the most representative map.

The Rural Gallatin/Park County amendment and Gallatin amendment proposed by Stusek are missing many district numbers as are therefore unusable.

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This e-mail was sent from a contact form on MDAC (<https://mtredistricting.gov>)

## Sherley, Laura

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**From:** Jacqueline De Leon <JDeLeon@narf.org>  
**Sent:** Friday, February 10, 2023 2:50 PM  
**To:** districting@mt.gov; maylinn.smith@mtleg.gov; jeff.essmann@mtleg.gov; joe.lamson@mtleg.gov; dan.stusek@mtleg.gov; kendra.miller@mtleg.gov  
**Cc:** Wesley Furlong; Michael Carter  
**Subject:** [EXTERNAL] NARF Testimony Submission  
**Attachments:** NARF Montana Redistricting Testimony 02-10-23.pdf

Dear Commissioners,

Thank you for the opportunity to contribute to this thorough process. Attached is what I believe will be our final testimony. NARF's testimony will either be provided by myself or my colleague Michael Carter live during today's hearing. We are available to answer any questions and are happy to follow up via email as well.

Sincerely,  
Jacqueline De León



**Native American Rights Fund  
1506 Broadway  
Boulder, CO 80302  
303-447-8760  
Fax: 303-443-7776**

February 10, 2023

Maylinn Smith, Presiding Officer  
Commissioner Essmann  
Commissioner Lamson  
Commissioner Miller  
Commissioner Stusek  
Montana Districting and Apportionment Commission  
P.O. Box 201706  
Helena, MT 59620  
districting@mt.gov

Dear Commissioners:

Thank you for the opportunity to testify. The Native American Rights Fund gives this testimony to express our strong disapproval of the Legislature’s proposed changes to the Commission’s redistricting plan, and to encourage the Commission to adopt Commission Plan 3. We appreciate that this process has been open and to recap for ease of administrative record: we previously submitted written testimony to the Commission on June 22, September 8, and September 19. On September 19, we provided oral testimony and were asked several questions from the Commission that were addressed in our September 19 written testimony. On December 21, we provided oral testimony supporting the Commission’s proposed House and Senate district plan. This written testimony addresses the Legislature’s request to make specific changes to districts 41 and 42, as expressed in section 7(i) of Senate Joint Resolution No. 8 (“SJ 8”). SJ 8 would violate the Voting Rights Act (“VRA”) by unlawfully diluting the votes of Native Americans living on and near the Crow and Northern Cheyenne reservations.

The Commission’s Plan 3 properly and legally provides the requisite six (6) majority-minority House districts, which combine to form three (3) majority-minority Senate districts. As opposed to what is stated in SJ 8, District 42 is compact and would easily withstand any compactness challenge. SJ 8 requests changes to districts 41 and 42, which, if adopted, would result in flagrant violations of the Voting Rights Act. First, SJ 8’s proposed changes to remove the area around Billings from District 42 would lower the district’s Native Voting Age Population by

about twenty (20) percentage points. Removing this portion of District 42 would require adding a substantial population of almost all white voters into the District. It seems clear that the legislature wants to alter District 42 not out of compactness concerns, but out of concerns with the number of Native Americans in the District. As expected, the performance analysis of the Legislature's proposed district shows the Native-preferred candidate losing 100% of statewide elections over the past six (6) years in such a district. This would create a clear violation of the VRA, both by the reduction of minority voters well below the majority population of the district, and by the creation of a district that performs abysmally for the Native-preferred candidates.

Second, SJ 8 seeks to revert House District 41 back to the version of that district proposed by House District Proposal 4 ("HDP 4"). This proposed change would lower to Native American Voting Age Population so that District 41 would essentially become a toss-up district for the Native-preferred candidate, raising the VRA compliance concerns that we expressed in our September 19, 2022 testimony regarding HDP 4.

Finally, the Senate District that would be derived from the changes that SJ 8 would make to House Districts 41 and 42 would result in the Native American preferred candidate losing 80% of the statewide elections conducted over the past six (6) years in such a district. This Senate District would be a far cry from VRA compliance, which requires the Native-preferred candidate to usually be able to win.

We once again encourage the Commission follow the requirements of the VRA, the Montana Constitution, and the Commission's own redistricting guidelines by adopting Commission Plan 3 and rejecting the Legislature's recommendations in SJ 8 as they pertain to House Districts 41 and 42.

As always, we are available to address any questions the Commission may have. If there are questions that would require additional follow-up, we would be happy to respond to those questions in writing. Thank you for the opportunity to provide feedback on this process.

## Sherley, Laura

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**From:** Jacqueline De Leon <JDeLeon@narf.org>  
**Sent:** Friday, February 10, 2023 11:31 PM  
**To:** districting@mt.gov; maylinn.smith@mtleg.gov; jeff.essmann@mtleg.gov; Juneau, Denise; dan.stusek@mtleg.gov; kendra.miller@mtleg.gov  
**Cc:** Wesley Furlong; Michael Carter  
**Subject:** [EXTERNAL] RE: NARF Testimony Submission  
**Attachments:** NARF Montana Redistricting Testimony 02-11-23.pdf; NARF Montana Redistricting Testimony 02-10-23.pdf

Dear Commissioners,

As requested here is a more detailed analysis that supports our oral and written testimony (which is also attached). If you have additional questions please let us know. Thank you again for the opportunity to testify.

Sincerely,  
Jacqueline De León

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**From:** Jacqueline De Leon  
**Sent:** Friday, February 10, 2023 2:50 PM  
**To:** districting@mt.gov; maylinn.smith@mtleg.gov; jeff.essmann@mtleg.gov; joe.lamson@mtleg.gov; dan.stusek@mtleg.gov; kendra.miller@mtleg.gov  
**Cc:** Wesley Furlong <wfurlong@narf.org>; Michael Carter <Carter@narf.org>  
**Subject:** NARF Testimony Submission

Dear Commissioners,

Thank you for the opportunity to contribute to this thorough process. Attached is what I believe will be our final testimony. NARF's testimony will either be provided by myself or my colleague Michael Carter live during today's hearing. We are available to answer any questions and are happy to follow up via email as well.

Sincerely,  
Jacqueline De León



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Boulder, CO 80302  
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February 11, 2023

Maylinn Smith, Presiding Officer  
Commissioner Essmann  
Commissioner Juneau  
Commissioner Miller  
Commissioner Stusek  
Montana Districting and Apportionment Commission  
P.O. Box 201706  
Helena, MT 59620  
districting@mt.gov

Dear Commissioners:

On February 10, the Native American Rights Fund provided written and oral testimony to the Commission, expressing opposition to the changes proposed by the Legislature to House Districts 41, 42 and Senate District 21. Our testimony noted the Voting Rights Act (“VRA”) violations that would result by following the Legislature’s proposal for these districts. As requested, below is a more detailed analysis.

We have created a map based on the Legislature’s proposal, changing House District 41 to the version proposed in HDP-4, and removing the Billings portion from House District 42 (a demonstrative map can be found here: <https://davesredistricting.org/maps#viewmap::031e0a39-a910-42e5-895f-20ab2e115425>). It should be noted that the Legislature’s proposal does not specify exactly how House District 42 should be drawn, but our evaluation has shown that removing the Billings portion of the district would make it impossible to draw a majority-minority house district in this area and would reduce the overall Native population by approximately 20 percent. This loss of Native population cannot be recouped.

Below is a summary of the performance analysis for the demonstrative map based on the proposals by the Legislature, to show how candidates would have performed in each district in the past 10 statewide general elections over the past 6 years. The Native American candidate of choice is labeled as “NAPC” and the white preferred candidate is labeled as “WPC.” To determine the Native American preferred candidate or the white preferred candidate each

election precinct voting patterns are evaluated to determine whether racially polarized voting exists between Native American voters and white voters. The racially polarized voting analysis requires specialized training and involves complex data evaluation which we employed an outside expert to conduct. Though not possible to share the racially polarized voting data in this overview testimony, we are confident in our conclusions for each election where the Native American candidate of choice is identified. These conclusions can be replicated by any expert conducting the same analysis.

For House District 42, the NACP won 0 out of 10 elections, a clearly unacceptable result. For Senate District 21, the NACP only won 2 out of 10 elections, unquestionably violating the VRA. And for House District 41, the NACP won 7 out of 10 elections. However, closer inspection shows that in 4 of those 7 elections, the NACP won by less than 2 points, moving House District 41 from a safe Native preferred district to squarely a toss-up district. Given the significant Native population in District 41, manipulating the boundaries from a safe district to a toss up would unacceptably dilute Native voting strength and, when the district failed to perform for the Native candidate, would immediately give rise to a VRA challenge.

As stated in our prior testimony, adopting the Legislature's recommendations for these districts would diminish the ability for the Northern Cheyenne and Crow to elect candidates of their choice in violation of the VRA. We once again reiterate our recommendation that the Commission adopt its Plan 3. Thank you for considering this testimony.



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**House District 42 Performance Analysis:**

<b>Sec. of State 2020</b>	Votes	% Margin
NAPC	1,882	-32.6%
WPC	3,707	

<b>Governor 2020</b>	Votes	% Margin
NAPC	1,914	-28.4%
WPC	3,520	

<b>AG 2020</b>	Votes	% Margin
NAPC	1,892	-32.4%
WPC	3,713	

<b>President 2020</b>	Votes	% Margin
NAPC	1,814	-33.6%
WPC	3,718	

<b>U.S. Senate 2020</b>	Votes	% Margin
NAPC	2,046	-27.6%
WPC	3,610	

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<b>Auditor 2020</b>	Votes	% Margin
NAPC	1,844	-29.4%
WPC	3,487	

<b>Senator 2018</b>	Votes	% Margin
NAPC	2,381	-3.5%
WPC	2,557	

<b>A.G. 2016</b>	Votes	% Margin
NAPC	1,459	-40.6%
WPC	3,455	

<b>President 2016</b>	Votes	% Margin
NAPC	1,594	-28.4%
WPC	2,993	

<b>Governor 2016</b>	Votes	% Margin
NAPC	2,403	-1.4%
WPC	2,473	

**House District 41 Performance Analysis:**

<b>Sec. of State 2020</b>	Votes	% Margin
NAPC	1,833	0.8%
WPC	1,807	

<b>Governor 2020</b>	Votes	% Margin
NAPC	1,804	1.4%
WPC	1,750	

<b>AG 2020</b>	Votes	% Margin
NAPC	1,830	0.2%
WPC	1,823	

<b>President 2020</b>	Votes	% Margin
NAPC	1,775	-1.6%
WPC	1,834	

<b>U.S. Senate 2020</b>	Votes	% Margin
NAPC	1,918	3.8%
WPC	1,781	

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<b>Auditor 2020</b>	Votes	% Margin
NAPC	1,781	1.7%
WPC	1,719	

<b>Senator 2018</b>	Votes	% Margin
NAPC	2,102	23%
WPC	1,302	

<b>A.G. 2016</b>	Votes	% Margin
NAPC	1,376	-18.8%
WPC	2,010	

<b>President 2016</b>	Votes	% Margin
NAPC	1,495	-4.5%
WPC	1,644	

<b>Governor 2016</b>	Votes	% Margin
NAPC	1,832	8.8%
WPC	1,527	

**Senate District 21 Performance Analysis:**

<b>Sec. of State 2020</b>	Votes	% Margin
NAPC	3,715	-19.5%
WPC	5,514	

<b>Governor 2020</b>	Votes	% Margin
NAPC	3,718	-16.6%
WPC	5,270	

<b>AG 2020</b>	Votes	% Margin
NAPC	3,722	-19.6%
WPC	5,536	

<b>President 2020</b>	Votes	% Margin
NAPC	3,589	-21%
WPC	5,552	

<b>U.S. Senate 2020</b>	Votes	% Margin
NAPC	3,965	-15.3%
WPC	5,391	

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<b>Auditor 2020</b>	Votes	% Margin
NAPC	3,625	-17.1%
WPC	5,206	

<b>Senator 2018</b>	Votes	% Margin
NAPC	4,483	7.3%
WPC	3,859	

<b>A.G. 2016</b>	Votes	% Margin
NAPC	2,835	-31.7%
WPC	5,465	

<b>President 2016</b>	Votes	% Margin
NAPC	3,089	-18.8%
WPC	4,637	

<b>Governor 2016</b>	Votes	% Margin
NAPC	4,235	2.8%
WPC	4,000	



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February 10, 2023

Maylinn Smith, Presiding Officer  
Commissioner Essmann  
Commissioner Lamson  
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Montana Districting and Apportionment Commission  
P.O. Box 201706  
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We once again encourage the Commission follow the requirements of the VRA, the Montana Constitution, and the Commission's own redistricting guidelines by adopting Commission Plan 3 and rejecting the Legislature's recommendations in SJ 8 as they pertain to House Districts 41 and 42.

As always, we are available to address any questions the Commission may have. If there are questions that would require additional follow-up, we would be happy to respond to those questions in writing. Thank you for the opportunity to provide feedback on this process.

**Sherley, Laura**

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**From:** MDAC <contact@mtredistricting.gov>  
**Sent:** Friday, February 10, 2023 7:22 PM  
**To:** Districting  
**Subject:** MDAC Comment from: Mark Radzwion

From: Mark Radzwion mwradz@gmail.com  
Residence: Troy MT

Message:

I have said it before and will repeat it once again! Republicans have been duly elected to a super majority in Helena. We are not California. Elections have consequences! Per Article II of the US Constitution, the State Legislature has power over state elections and thereby redistricting. Period, end of story, repeat the line. I believe this 'Montana Districting and Apportionment Commission' should be acting in an advisory role only. Recommendations only! Final decision authority remains with the Legislature, per the Constitution.

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This e-mail was sent from a contact form on MDAC (<https://mtredistricting.gov>)

**Sherley, Laura**

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**From:** Alex Smith <alex.smith@fortpecktribes.net>  
**Sent:** Friday, February 10, 2023 12:08 PM  
**To:** Districting  
**Subject:** Fort Peck Tribes Testimony



[Fort Peck Testimony.docx](#)

Tribal Executive Board Member Alexander Smith  
(602) 904-0573

*'This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.*

*Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the Fort Peck Tribes.*

*Finally, the recipient should check this email and any attachments for the presence of viruses. The FPT accepts no liability for any damage caused by any virus transmitted by this email.'*

Fort Peck is here to testify in support of the proposed Commission Map 3. Fort Peck has been represented in the legislature by Native Americans and we wish for that to continue. Native American representation in the state government is important to facilitating the relationship between the state and the tribes, and provides a valuable, often overlooked, perspective to the legislature when it performs its work for Montana.

The Fort Peck tribal members should continue to have the opportunity to be represented by the candidates of their choice. In the proposed map, Fort Peck is joined with Fort Belknap in HD 31 and Senate District 16 and we support this. Fort Peck and Fort Belknap have many family and cultural ties. We have been paired with Fort Belknap for a long time. Pairing us together to ensure strong Native representation is important and we strongly support it.

We also want to make note that we oppose the Legislature changing the map to Districts 41 and 42 and Senate District 21, getting rid of the Northern Cheyenne and Crow representation. Strong Native representation in the state is important because our representatives band together to have our perspectives heard. Diminishing the overall tribal representation impacts Fort Peck and we strongly oppose.

Thank you.



**Sherley, Laura**

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**From:** MDAC <contact@mtredistricting.gov>  
**Sent:** Friday, February 10, 2023 2:28 PM  
**To:** Districting  
**Subject:** MDAC Comment from: Brad Tschida

From: Brad Tschida brad@tschida.org  
Residence: Missoula, MT

Message:

The MDAC would alleviate a significant number of questions and concerns regarding the appearance of partisanship if they simply adhered to the legal guidance provided for redistricting: compact, contiguous, equal in population (to comply with federal voter rights laws) and not drawn to favor a particular party. The current map appears to violate many of the required elements.

Every Montana voter interested in fair adherence to legal prescriptions would have no issue with such practicality and impartiality.

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This e-mail was sent from a contact form on MDAC (<https://mtredistricting.gov>)

## Sherley, Laura

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**From:** MDAC <contact@mtredistricting.gov>  
**Sent:** Friday, February 10, 2023 11: 53 PM  
**To:** Districting  
**Subject:** MDAC Comment from: Mary Westwood

From: Mary Westwood mew528110@aol.com  
Residence: Billings. MT

Message:

Having reviewed the requests made in SJ8 and the proposed amendments suggested therein, I would urge the Districting and Apportionment Commission to review and adopt any of the bipartisan changes from SJ8 that can be easily made without any disturbance to the existing fine work of the Commission. No changes should be made that cause havoc in the most important criteria of population equality in each house district (one person, one vote) and of the avoidance of favoring one particular party over another.

This last criteria, which is one of the main reasons the wise Constitutional Convention set up this Commission, seems to have fallen by the wayside as the Republican Majority in this current Legislature seeks to hold on to power and to perpetuate their mythical urban/rural divide and engender fear of "outsiders" moving in to some communities. People they consider outsiders apparently should not be entitled to a vote or to representation in the State Legislature.

On Friday, I listened to the discussion of possible amendments to the map by all four Commissioners. In reviewing Mr. Essmann's and Mr. Stusek's maps, I find many unacceptable population deviations, and districts which are clearly not compact and contiguous have been proposed in their documents. As I am quite familiar with Eastern Montana, this clearly is a disservice to the fine people living there and should not be allowed.

I also am concerned about the mention of meetings of less than a quorum of Commissioners. You are supposed to and have been working together and apart at all times and in all ways possible to do the best for Montana citizens, and anyone suggesting you have done otherwise is not paying attention or clearly is just trying to cause trouble. This has been one of the most open and transparent districting experiences I have had in the three times I have observed this process. And the Republican legislators who said they didn't have time to know what was going on should admit they are willfully ignorant or are trying to appear to be ignorant.

I do want to thank Commissioner Stusek for increasing the amount of correspondence I receive from Senator Daines. I still have never met the man or been allowed to know when he is in town, but it is fascinating to read his reasons for why he is still my do-nothing Senator, who often tries to claim credit for things others do. My good Republican parents taught me what to call that kind of politician and how to find better representation.

Thank you to all you Commissioners for you diligent and exhaustive work in bring my beloved state and its people back into balance on the political front. All I want is for my neighbors to talk civilly to each other, recognize our shared values and move forward into the future as one people, united in our love for this beautiful place and its wonderful and unique residents.

Best regards to all of you, Mary Westwood

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This e-mail was sent from a contact form on MDAC (<https://mtredistricting.gov>)

Madame Chair, Members of the Commission,

My name is Pat Smith. I am testifying today as Board Chair of Western Native Voice.

As a member of the last Redistricting Commission, I would first like to thank all of the Commissioners--and Commission staff--for all the hard work you all have put into this Redistricting Plan. It's a lot of work!

WNV testifies in favor of the Commission's Plan 3, and requests that this Commission reject the Legislature's recommendations to redraw the Crow and Northern Cheyenne House Districts, HD 42 and HD 41.

The Montana federal courts have declared, numerous times, that the State of Montana has a documented history of discrimination against American Indians and Indian voters.

WNV's core mission is to ensure that this history does not repeat itself in Montana:  
--that Indian voter suppression laws do not get enacted *again* OR  
--that legislative redistricting plans do not get drawn that unlawfully dilute the Native vote *for a decade*.

Last fall, after a full trial, a state judge in Billings ruled--in a 199-page opinion--that the 2021 Legislature passed laws that unconstitutionally burden Native voters. Judge Moses struck down those laws on numerous constitutional grounds.

Unfortunately, this shameful history **is** repeating itself, **again**. The 2023 Legislature has made recommendations to you that would cause HD 42 and SD 21 to be flipped from *majority-minority* districts to *majority white* districts, and to weaken HD 41 to a toss-up district.

For two decades the Crow and Northern Cheyenne communities have rightfully enjoyed fair and equal representation at the Legislature. The Commission's Plan 3 allows this lawful practice to continue, and we support it.

As our attorneys, the Native American Rights Fund, has advised: the Legislature's recommendations to gut HD 42 and SD 21, and weaken HD 41, is a violation of the Voting Rights Act. We strongly urge you to comply with the Commission's mandatory criteria, to comply with the Voting Rights Act.

Thank you.