

Statement of Nicole Donaghy Regarding H.B. 1373
Executive Director of North Dakota Native Vote
March 19, 2021
Senate Government and Veterans Affairs Committee

Mr. Chairman and members of the Senate Government and Veterans Affairs Committee, my name is Nicole Donaghy, I am an enrolled citizen of Standing Rock Sioux Tribe, and I am the Executive Director of North Dakota Native Vote. I am testifying today in opposition to H.B. 1373.

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

Native American voters in North Dakota use early voting. Early voting helps to account for the numerous barriers Native voters face in participating in elections. It increases the opportunities for voting for Native Americans who often have difficulty getting to their polling place on Election Day. As shown in the litigation over the voter ID bill, in *Brakebill v. Jaeger*, many Native Americans do not have residential addresses. This also means that Native Americans have less access to mail and therefore cannot easily vote by mail. Instead, Native Americans rely on in-person voting. But Native Americans also have to travel to their polling places and many do not have transportation. Native Americans rely on early voting to arrange rides and get to the polls. Early voting fosters participation and increases turnout by Native voters. Reducing the number of early voting days by nearly half will make it harder for Native Americans to vote. Also, when the number of days in which citizens can vote is reduced, it results in more voters voting on Election Day, which can result in longer lines at the polls on Election Day.

We are further concerned that the restriction on early voting in H.B. 1373 might cause it to be invalidated by a court. For example, in *North Carolina State Conference of NAACP v. McCrory*, the court found that discriminatory intent motivated the enactment of a law that reduced the number of early voting days, when it was examined in the context of the state's racial discrimination in voting, the sequence of events leading up to passage of the law, the legislative history, and the law's disproportionate impact on minorities. 831 F.3d 204 (4th Cir. 2016). Unfortunately, North Dakota has had a troubled history of laws that disenfranchise Native Americans. Coupled with the other bills that have been introduced this session that would also restrict access for Native voters – HB 1289, HB 1312, and SB 2160 – introduction of this bill suggests discriminatory intent like that found in *McCrory*.

As I have done before, I again implore you to begin crafting laws that take into account the hardships faced by Native communities. Ignoring those hardships to the detriment of Native voters is unconstitutional and fails the obligations each of you have to serve all of your constituents fairly and equitably.

We strongly oppose adoption of H.B. 1373.

