

Comments Accompanying the Senate Minority Caucus Map 9/17/2021

The attached map is submitted for your consideration for adoption from the Senate Minority Caucus for the purposes of providing further guidance on helping construct a fair and fully constitutional map that seeks to provide the greatest level of individual voter protection while also meeting the state's constitutional obligation. This is not to be construed as an endorsement by the Caucus of any particular lines – the map is offered as an example of how a map might meet the constitutional requirements that are before the Board in the strictest manner possible. We would request that it be adopted for consideration by the Board and for public comment as it presents maps and plans to the public.

Map construction began with the acquiring of software and the development of test maps based on rough estimates provided by the Alaska Department of Labor. Once census data was received, ideal Borough populations were determined and, using the ideal district divisor (18,335), it was determined how much relative control over districts organized areas of the state might have. From there maps were constructed out from Boroughs with an eye toward socioeconomic integration, ensuring contiguity and seeking compactness. Following development of the initial map a number of anomalies appeared. In Southeast it was determined that, at the very least, the Yakutat Borough must be included to help level population loss. Cordova, Kodiak, Valdez, Interior villages and the Richardson highway appeared to represent a mixing zone of Interior and Prince William Sound interests that was not dissimilar to difficulties faced by other Boards in year's past. Rural populations in Northwest, Western, and Southwestern Alaska appeared stable, while populations in Anchorage and Mat Su required additional numbers to round up districts from outside of their jurisdictions, while Fairbanks and Kenai appeared to need to shed population to other districts to ensure fair and equitable representation for the populace in their jurisdictions.

Once a map was developed using our state's constitutional criteria, it was then further developed to reduce overall deviations to the lowest possible level to meet the stricter one person one vote standards (deviations) established by Alaska Courts: "Newly available technological advances will often make it practicable to achieve deviations substantially below the ten percent federal threshold, particularly in urban areas. **Accordingly, article VI, section 6 will in many cases be stricter than the federal threshold.**" (*In re 2001 Redistricting Cases*, 44 P.3d at 146) our emphasis).

Considerations then of the map against the Federal Voting Rights Act were conducted to the best of our ability, though, as the Board has experienced with the same software, there were difficulties in determining the exact Alaska Native and other minority group counts. Nonetheless, this map does create from the limited data we have been provided, 8 Districts with minority populations in excess of 50% and an additional 7 with minority populations in excess of 45%. We believe 4 of the districts in this map have majority Alaska Native populations while at least one additional district likely has an Alaska Native population in excess of 40%. At

this time adjustments were also made to try and accommodate traditional groupings of Alaska natives and ANCSA Corporation Boundaries.

This map was then previewed and adjusted by members of the Caucus through throughout the process and other members of the Legislature – including some members of the Majority were provided previews of these maps on their request. Some of their suggestions have also been incorporated in this final submission, underscoring that, despite this map being generated by the minority caucus, it was done so with a decidedly non-partisan intent. We are seeking fairness and constitutionality in this process.

During presentation of this map there was concerned raised by the Chairman of the Board as to why we were not “endorsing” this map. We wish to reiterate that we are taking no position on any particular map, but we are attempting to provide a map that meets all criteria established by the constitution, federal law, and court decisions. It is ultimately the Board’s responsibility to draw a map that meets this criteria. We would appreciate a map that met those criteria as well as we believe this one does, but that, ultimately remains the Board’s decision. For your deliberations – and for those of the public – we believe this map offers a strong template from which to begin that process.

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Some salient points to consider with this map:

1) Low overall deviation and the role of Deering

While this map shows a “plan” deviation of 3.14% - significantly lower than most plan deviations you are likely to see - this is accomplished solely by moving the Electoral Precinct of Deering (pop. 193) out of the Northwest Arctic Borough (the NWAB is part of District 40 in this map) to the Bering Straits/Yukon district (District 39 in this map). If this change to the plan is not made, the plan reverts to a 4.77% deviation, which remains remarkably low.

- a. That latter deviation (4.77%) is determined as a result of the overpopulation of District 40 (+2.67%), which remains the highest positive deviation of all of the districts in this map, while the under populating of District 39 (-2.10%), lets it become the highest negative deviation of the districts in this map if Deering is retained in the NWAB. Regardless, if Deering precinct is retained by the Northwest Arctic Borough, the deviations for both districts are still each under 3% (+/-). In either case, under either version of this map, Deering would have the same Senate representation.

2) Low deviations without subverting other constitutional considerations

I would call your attention to the matrix attached as it truly **underscores the low deviations possible for each district**, described in more detail below. Given the noted exception in (1) above, this map matches all other expected borough representation based on their populations relative to the overall population of the state, and meets or exceeds all other prior deviation standards set by prior courts. (“A municipality should not be made to contribute so much of its population to districts centered elsewhere

that it *is deprived of representation which is justified by its population.*" *Hickel v. Southeast Conference*, 846 P.2d 38, 53 (Alaska 1993)" our emphasis.)

- a. The Fairbanks NorthStar Borough (FNSB) is provided a full 5 districts, **with a combined Fairbanks overall deviation of .11%**. The excess population (equivalent to 22% of a district) is combined with many Doyon and Ahtna region villages and areas of the Unorganized Borough, as well as Cordova, Nenana, and other communities for a 6th district that also falls within that minimal deviation. Consequently, the FNSB is only broken once, as is appropriate to ensure the maximum opportunity to meet a one person one vote standard, which is why we consider deviations in the first place. No city within the FNSB is split unnecessarily. Fairbanks City is contained within two house seats and one Senate seat, as it is presently. North Pole is also fully contained in a House seat. **No individual House district from District 1 through District 6 has a deviation from the mean in excess of .09%**. Districts 1 and 2 are paired as Senate District A; 3 and 4 are paired as Senate District B; Districts 5 and 6 are paired as Senate District C.
- b. Only one Mat Su District breaks the Borough. This is District 12. Otherwise the Mat Su fully contains 5 House seats and 84% of an additional House seat. District 12 adds the full Denali Borough and communities along the Eastside of the Borough that are connected through the Glenn and Richardson Highways, rounding up the 6th Mat Su district. The Borough also has 2 full Senate seats and the vast majority of votes for a third, which is identical to its proportion of the state's overall population. The **deviation between Districts 7-12 overall is .25%**. **No District from 7 through 12, has a greater than .24% deviation**. The cities of Palmer, Wasilla, and Houston are fully contained in House districts in this map. Districts 7 and 8 are paired as Senate District D; Districts 9 and 10 are paired as Senate District E; 11 and 12 are paired as Senate District F.
- c. The Anchorage Municipality also is only broken once – District 28 – at Whittier and carrying south to lightly populated portions of the Kenai Peninsula Borough (KPB) and outer Sterling. The KPB has an excess population of 20% over the mean. That excess is shared here with Anchorage for the most part, ensuring strict adherence to one person one vote. (in this scenario the shared district, District 28, is a 0% deviation district). The Court has also found that combining North Kenai with Anchorage is acceptable and constitutional ("House District 32 is socio-economically integrated because communities within the Municipality of Anchorage are socio-economically integrated as a matter of law, **and we have previously upheld a district combining the northern Kenai peninsula with Anchorage.**" *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1091 (Alaska 2002)" our emphasis.)

The Municipality has 15 full districts and 88% of a 16th district within its municipal boundary. **No district in Anchorage exceeds a deviation of .11% and the overall Anchorage deviation including all 16 districts is .18%.** In Anchorage, Eagle River and Chugiak are represented with two House Districts and one Senate District – only requiring additional population from the east end of JBER, and **these House districts and the Senate district have a 0% deviation.** The technology has allowed for the creation of districts within these 16 that are separated collectively by 33 votes overall (highest to lowest). (“Newly available technological advances will often make it practicable to achieve deviations substantially below the ten percent federal threshold, particularly in urban areas. Accordingly, article VI, section 6 will in many cases be stricter than the federal threshold.” *(In re 2001 Redistricting Cases*, 44 P.3d at 146). Districts 13 and 14 are paired as Senate District G; Districts 15 and 16 are paired as Senate District H; Districts 17 and 18 are paired as Senate District I; Districts 19 and 20 are paired as Senate District J; Districts 21 and 22 are paired as Senate District K; Districts 23 and 24 are paired as Senate District L; Districts 25 and 26 are paired as Senate District M; Districts 27 and 28 are paired as Senate District N.

- d. The Kenai Peninsula Borough is broken twice to address the excess 20% population. There are three fully contained house districts within the Borough which are slightly overpopulated – **by less than 1.5%.** This is one of three areas where geography and the rural nature of part of the Borough has led to moving outside of a .5 +/- deviation (though not required, this is a goal increasingly in the reach of the technology). The break to the North has been noted. The break to District 32 incorporates the predominately Alaskan Native villages on the west side of the Inlet (Tyonek), and south of Kachemak Bay (Nanwalek and Port Graham). **The three fully included Kenai Districts are separated by less than 5 persons.** Districts 29 and 30 are paired as Senate District O; Districts 31 and 32 are paired as Senate District P.
- e. District 32 has traded Cordova (to District 6) and Whittier (District 28) for Valdez to ensure that this rural district continues to have a coastal focus. **This district has a .27% deviation.**
- f. Southeast is significantly different in this map than the Board maps as **all four districts, with the addition of the full Yakutat Borough, are nearly identical in size with an internal variation between District 33 – 36 of .17% – spreading the regional deficit between them and not exceeding a statewide deviation of 1.52%.** This map ensures that the Juneau Douglas Borough has one full house seat and combines the second House seat with the Haines and Skagway Boroughs – just as it presently does. One other item to keep in mind here extrapolates from the decision in the 1993 court decision, where compactness was the issue. The court found: “"corridors" of land that extend to include a populated area, but not the less-populated land around it, may run afoul of the

compactness requirement. ***Likewise, appendages attached to otherwise compact areas may violate the requirement of compact districting.*** *Hickel v. Southeast Conference*, 846 P.2d 38, 45-46 (Alaska 1993)” (our emphasis). This coupled with the consideration that all boroughs are already determined to be socioeconomically coordinated as determined in *Hickel v. Southeast Conference* and in the *in re 2001 Redistricting Cases* decision, suggests that the division of the Juneau Borough in this map is likely stronger than that in the Board’s proposed maps.

While this map adjusts boundaries on Prince of Wales Island to balance population, it does so without breaking city boundaries and does not unnecessarily violate the Ketchikan Gateway Borough. **Nor does it have widely varied populations between plus and minus deviations which, given that this map can be drawn, is more likely to meet a higher constitutional bar.** In testimony there was reference to separating Saxman from Ketchikan, which other maps do, but this map does not. We did want to call attention to the Board these relevant comments from the court in *Hickel v. Southeast*: “Saxman, part of the Borough, is more socio-economically integrated with the City of Ketchikan than it is with other Native communities of the Southeast islands.” *Hickel v. Southeast Conference*, 846 P.2d 38, 51 (Alaska 1993). Districts 33 and 34 are paired as Senate District Q; Districts 35 and 36 are paired as Senate District R.

- g. Finally, Districts 37, 38, 39, and 40, also fall well within the allowable deviation and are **significantly more balanced in population than the wider deviations proposed in the Board maps.** This map continues to associate these districts with their Hub communities, does not violate borough boundaries, endeavor to follow the Yukon and Kuskokwim rivers and even follow some ANCSA boundaries. Individual District Deviations here do not exceed +/- 1.62% if Deering is included in District 39, and +/-4.77% if it remains in District 40. Districts 37 and 38 are paired as Senate District S; Districts 39 and 40 are paired as Senate District T.

3) **Maintaining Borough and thus socioeconomic integrity as well as ensuring excess populations are treated appropriately**

By retaining rural and other borough and the Municipality of Anchorage integrity as much as possible, and ensuring cities are intact - and only going beyond boroughs to address excess populations and ensuring that districts are as equal in population as possible - **socioeconomic standards are adhered to at or above those recognized in court decisions in prior reapportionment processes.** For example, creating maps which contain five full districts in the FNSB, such as the Board’s map or an earlier concept presented before the Board’s map by other parties, does not:

- a. provide FNSB an opportunity to realize its full influence vis-à-vis the state’s population as a whole;
- b. unnecessarily reduces the impact of the individual voter in FNSB while;

- c. increasing the vote power of voters in other areas of the state at the FNSB's expense. ("[W]here possible, **all of a municipality's excess population should go to one other district** in order to maximize effective representation of the excess group." *In re 2001 Redistricting Cases*, 44 P.3d 141, 147 n.16 (Alaska 2002))

Based on findings in *In re 2001 Redistricting Cases* and *Hickel*, it is our belief that what the Board has proposed in FNSB invites litigation as our map shows that this is not necessary. The map we are presenting shows at least one path to resolving those issues. This ensures that each borough receives a legislative delegation commiserate to its relative population. As identified in *Hickel*: "We thus hold that the configuration dividing the Mat-Su Borough among five districts is invalid. The Governor's plan unfairly dilutes the proportional representation the residents of the Mat-Su Borough are guaranteed. **A municipality should not be made to contribute so much of its population to districts centered elsewhere that it is deprived of representation which is justified by its population.** *Hickel v. Southeast Conference*, 846 P.2d 38, 53 (Alaska 1993))

4) **Compactness is met**

While compactness is difficult to address in Alaska – in particular in far flung, low population rural areas, and especially with the odd census blocks Alaska has been gifted with, this map is likely substantially compact both in comparison to past plans implemented by the state, as well as by the plans presented by the Board already. Though it is important to recognize that **declaring** it so is not the same as the court's determination, upon review, if it **is** so.

In particular, this map shows that, with current technology, within the urban and what might be termed the semi-urban areas (organized boroughs that retain a strong rural component), this map shows that relatively compact and certainly population equal districts can be drawn. Between districts 1 and 28 the total overall deviation is within .35% and within each borough and the Municipality, excepting the oddities of city boundary shapes, relatively compact districts are clearly able to be drawn that do not compromise population deviations or socioeconomic integrity. This map meets those expectations.

5) **Contiguity is met both at the House and Senate District levels**

This map maintains contiguity between all House Districts and offers a numerical pairing for Senate Districts in sequence, though we were unable to show it on the map due to technical issues (House Districts 1 and 2 comprise Senate District A, House Districts 3 and 4 comprise Senate District B, and so on through the sequence.) The numbers were established to meet the constitutional requirement that a map be produced showing all districts. The Board's maps did not offer Senate Districts while preparing our map, nor can Senate Districts be assumed by reviewing the sequential numbers on the Board maps as some are not contiguous. This has impaired our Caucus' ability to comment on those maps in regard to Senate Districts. Nonetheless, we offer a map that includes Senate pairings as we have discussed above and attached below, that also fall within the

acceptable deviations, are socioeconomically integrated, meet compactness as much as practicable, and are contiguous, meeting or exceeding the constitutional standards adopted by prior courts.

This map is designed for the Board to use as a tool to help guide its efforts to the highest possible constitutional standard. **It has been our experience over three different reapportionment cycles, that the court seeks to meet or exceed prior standards and has, over those thirty years tightened them, not loosened them.** This map anticipates that this process will continue and shows one way you might meet those standards and reduce potential litigation with a thorough map. This map changes current Caucus member districts, in some cases dramatically. This map was reviewed by our Caucus members, as well as members of the Majority Caucus. We did not seek partisan advantage in this process, nor did we look at underlying political performance when constructing this map, outside of our own experience with such matters. No political overlays were used, but members of both parties were consulted with their advice as to relationships and particulars of their districts. Nonetheless, this map is solely a product of the Minority Caucus and review by others should not constitute endorsement. Incumbency was not considered because incumbents are not essential to this process - the people of Alaska are. Rather, responding to the identified Board issues identified in public meetings prior to the promulgation of the Board's maps, and review of the Board's maps, has prompted this presentation and submittal. We believe this approach offers the Board and the public a strong template to work from that will withstand constitutional scrutiny and lead to a fair map.

What is important to this process is each individual Alaskans ability to know their vote will count. A fair map is the least they deserve.

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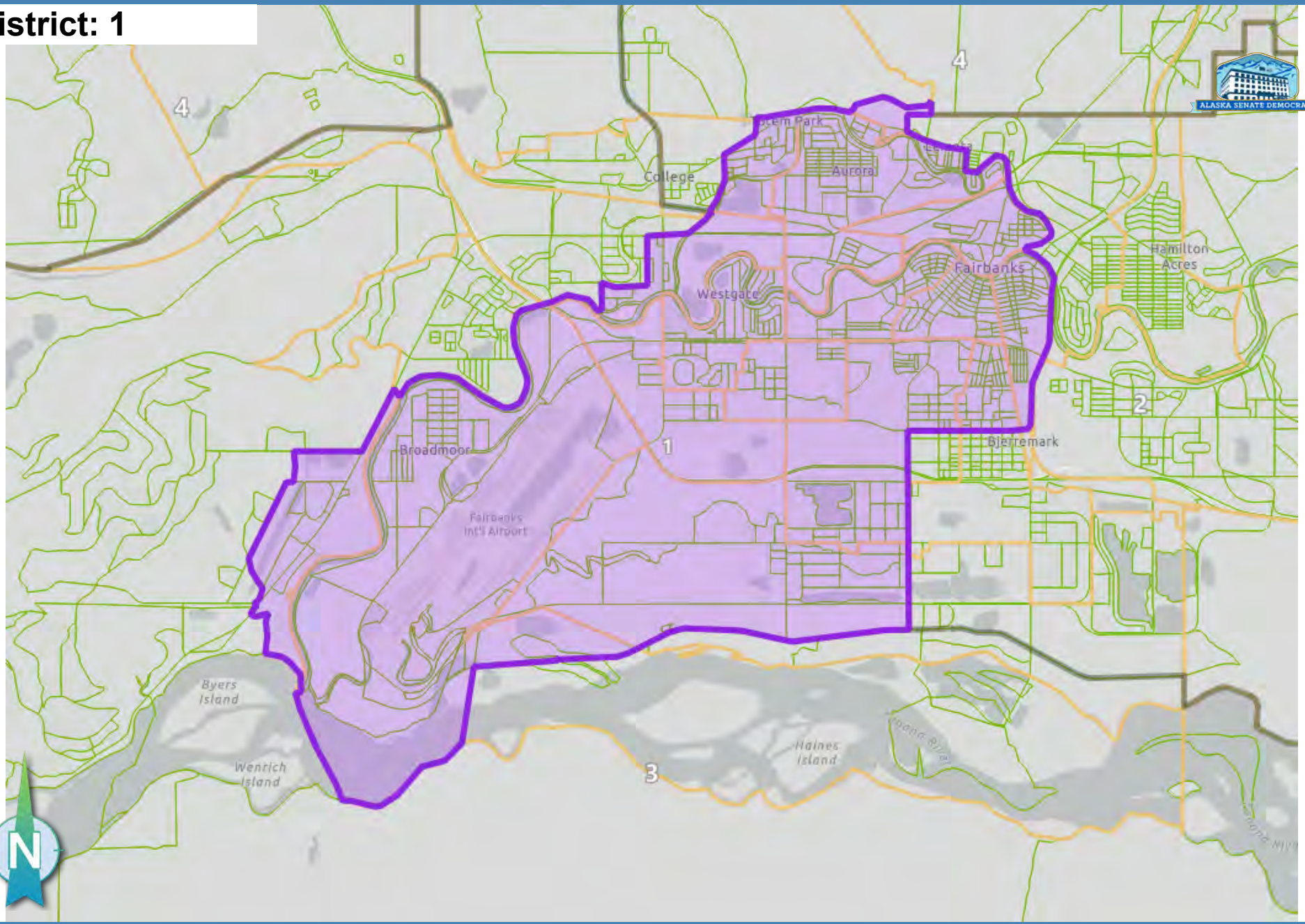
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District: 1

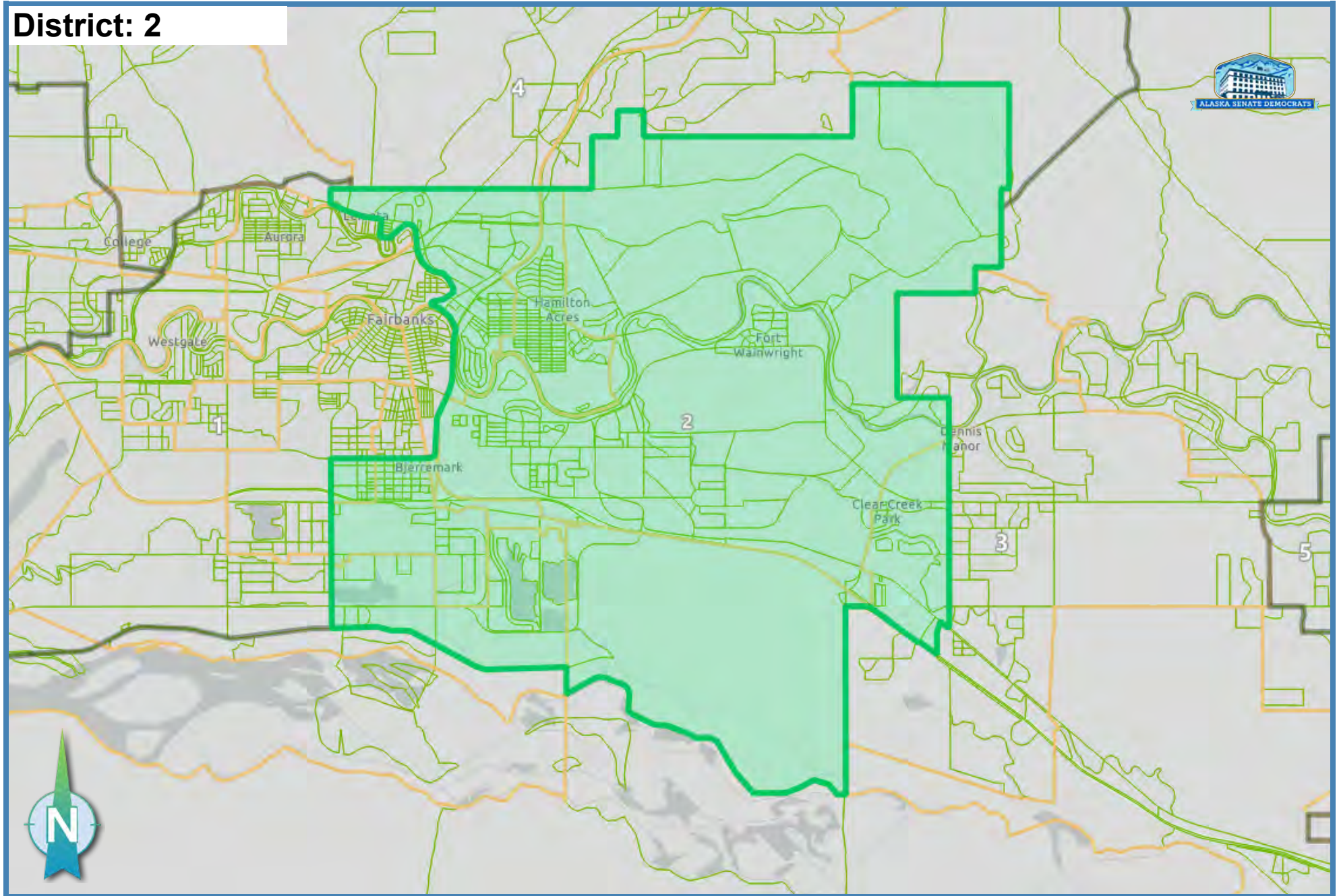


Ideal Population: 18,335

Deviation: 0.01 %

Total Population: 18,336

District: 2

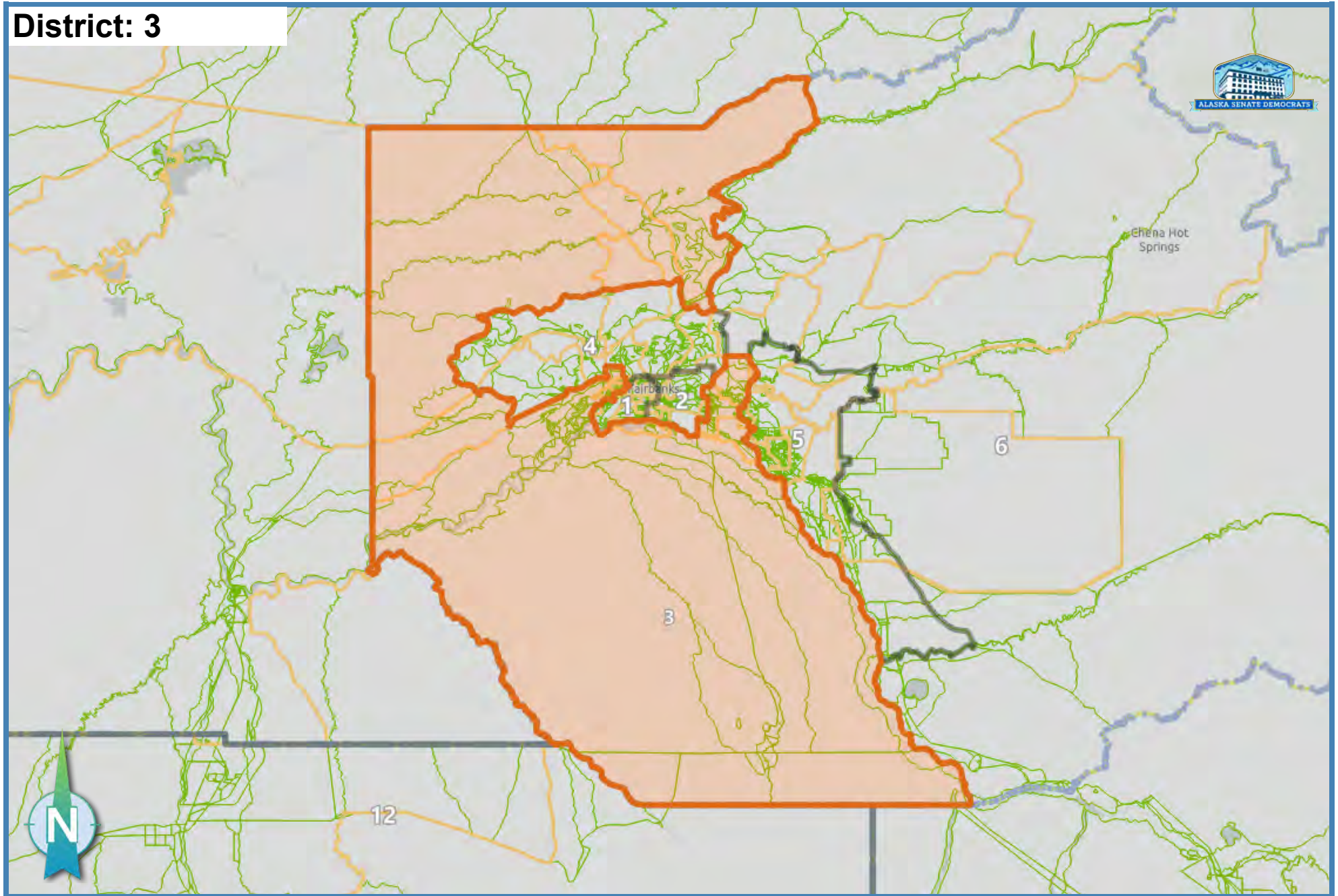


Ideal Population: 18,335

Deviation: -0.02 %

Total Population: 18,331

District: 3

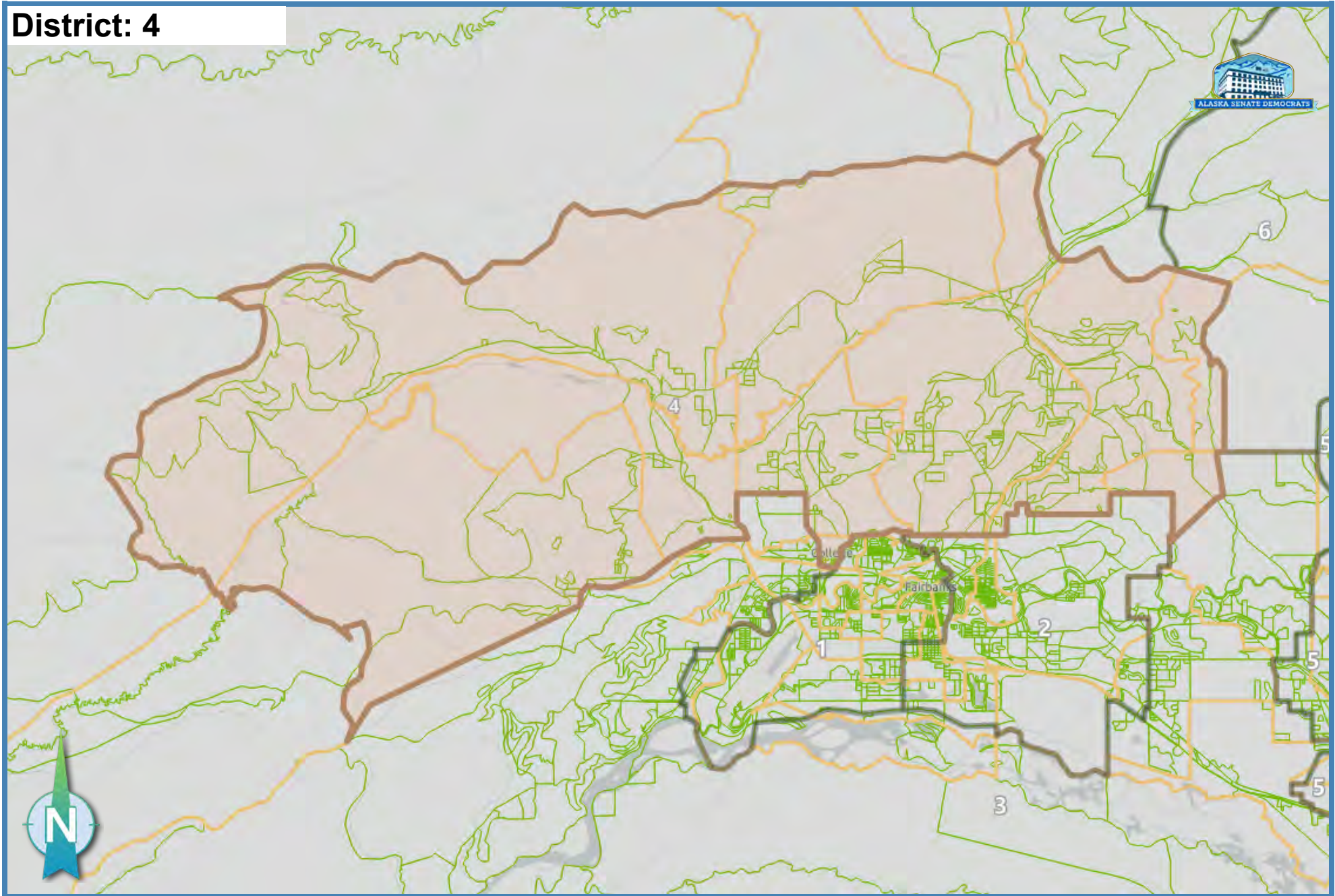


Ideal Population: 18,335

Deviation: 0.00 %

Total Population: 18,334

District: 4

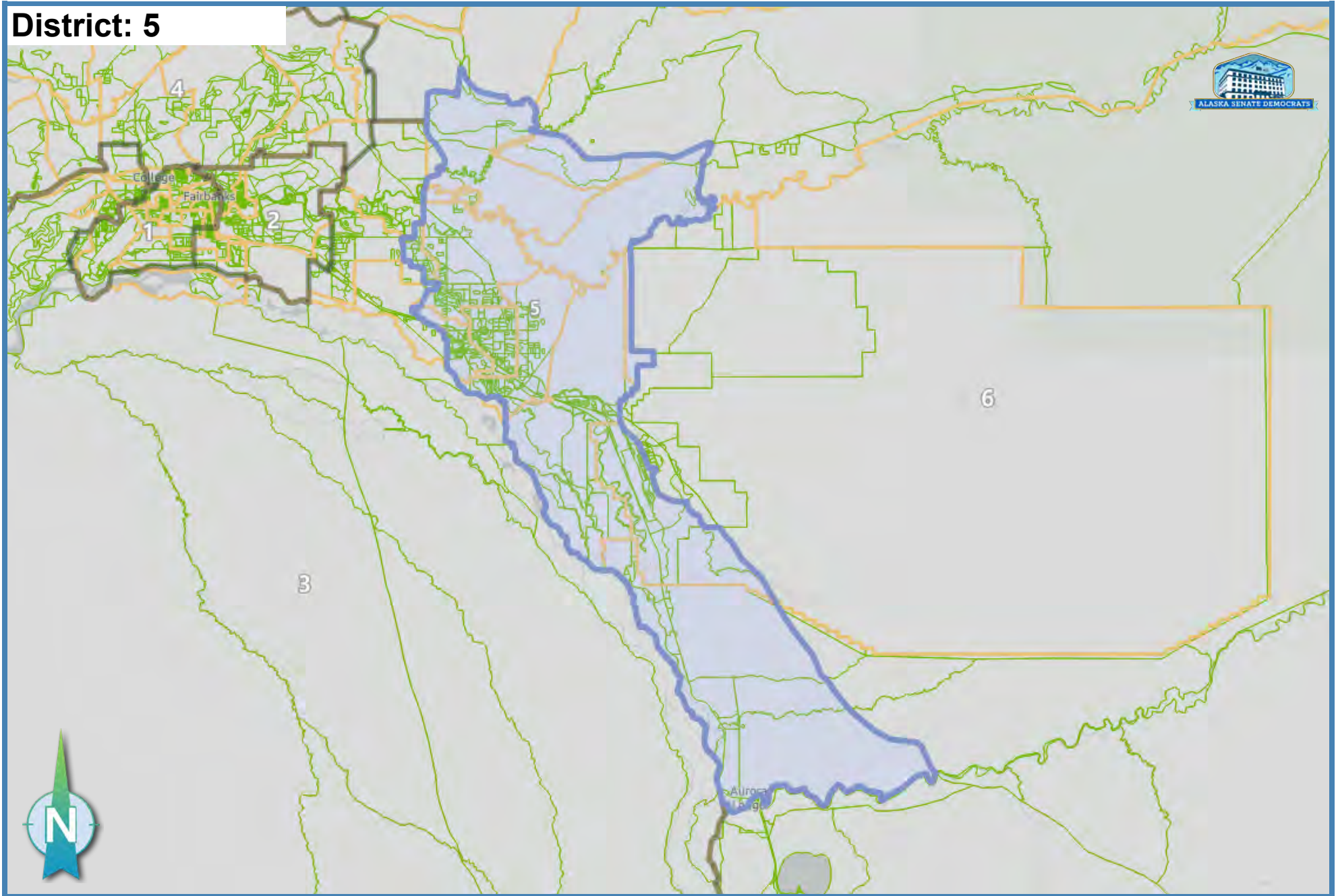


Ideal Population: 18,335

Deviation: 0.09 %

Total Population: 18,351

District: 5

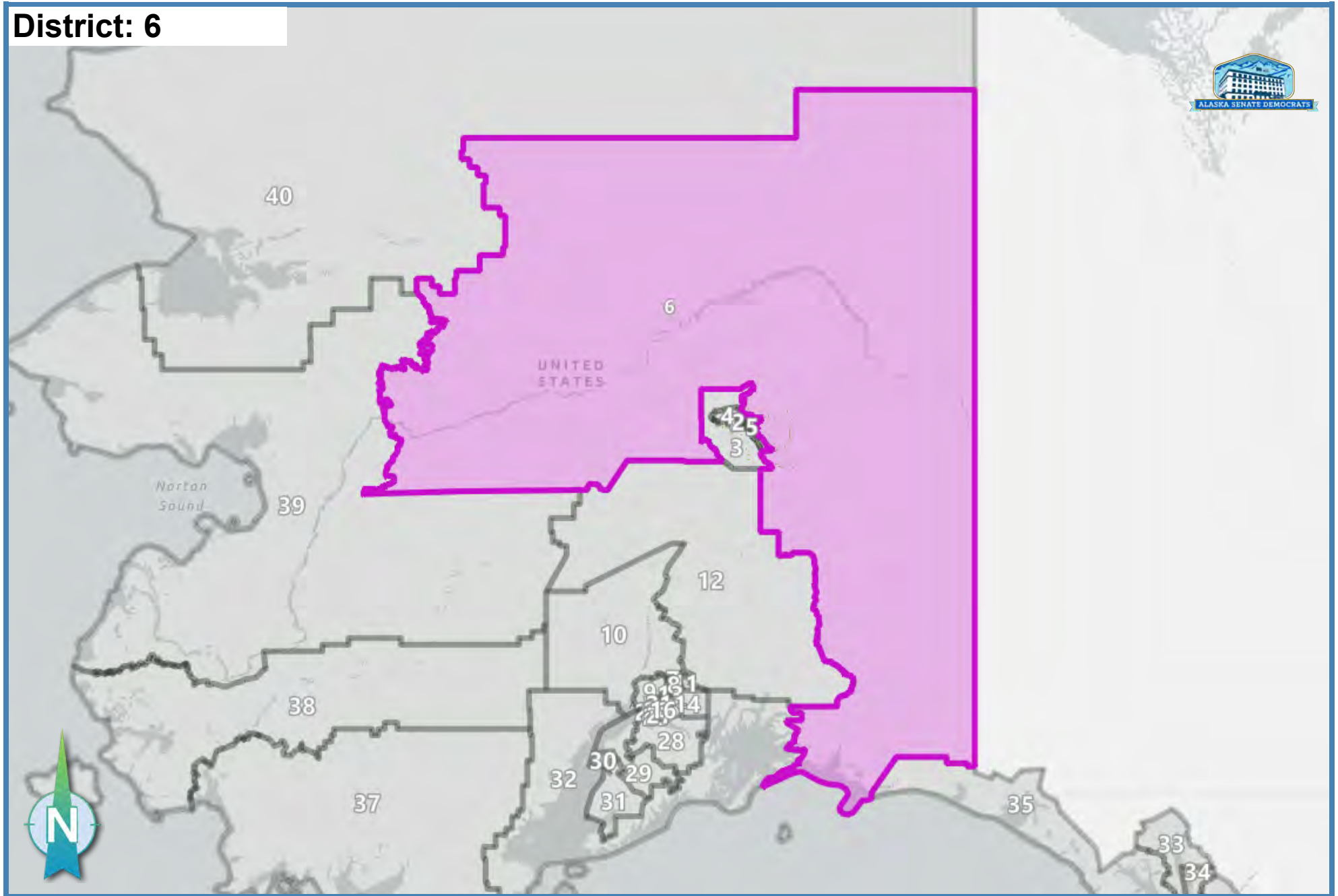


Ideal Population: 18,335

Deviation: 0.01 %

Total Population: 18,337

District: 6

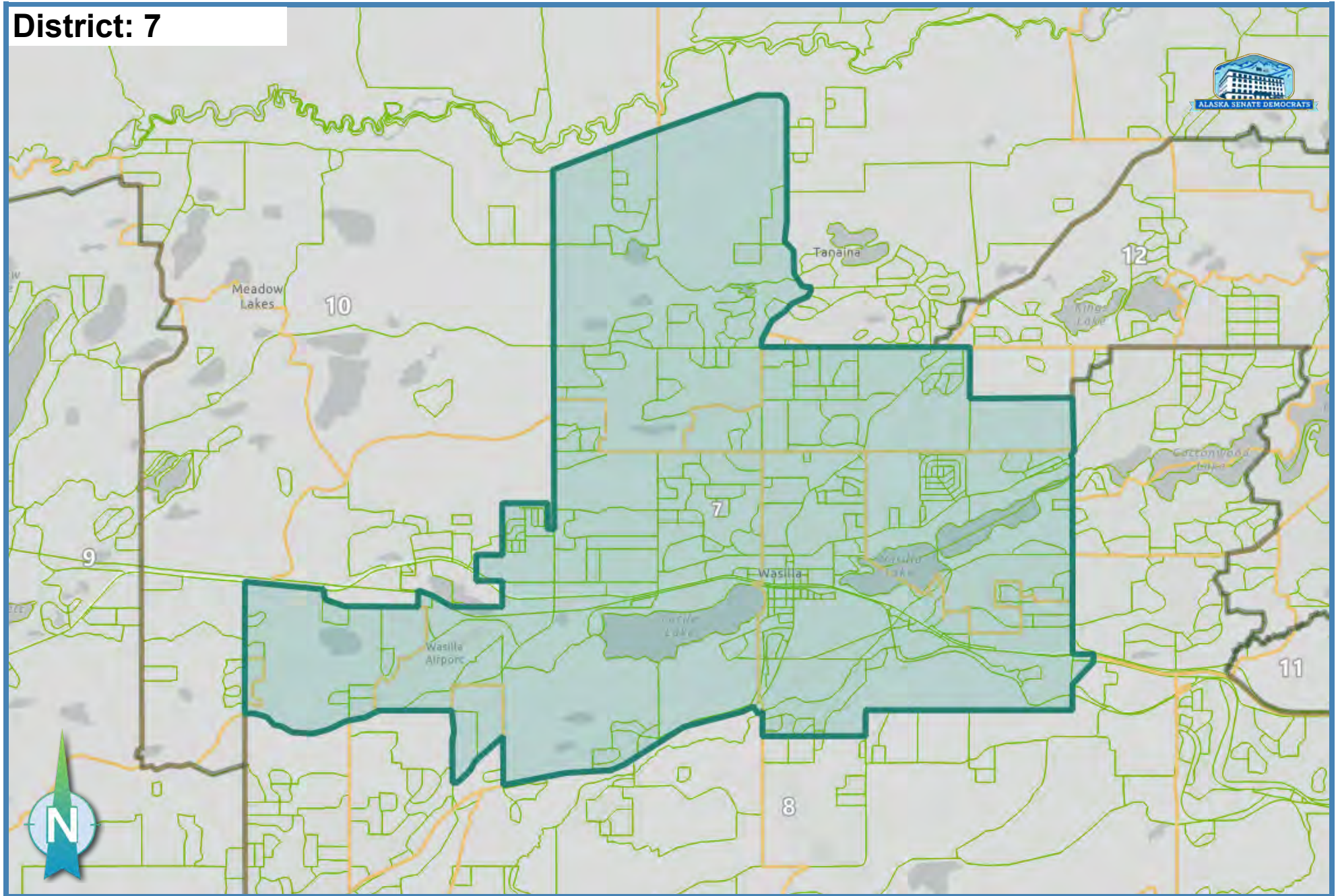


Ideal Population: 18,335

Deviation: -0.01 %

Total Population: 18,333

District: 7

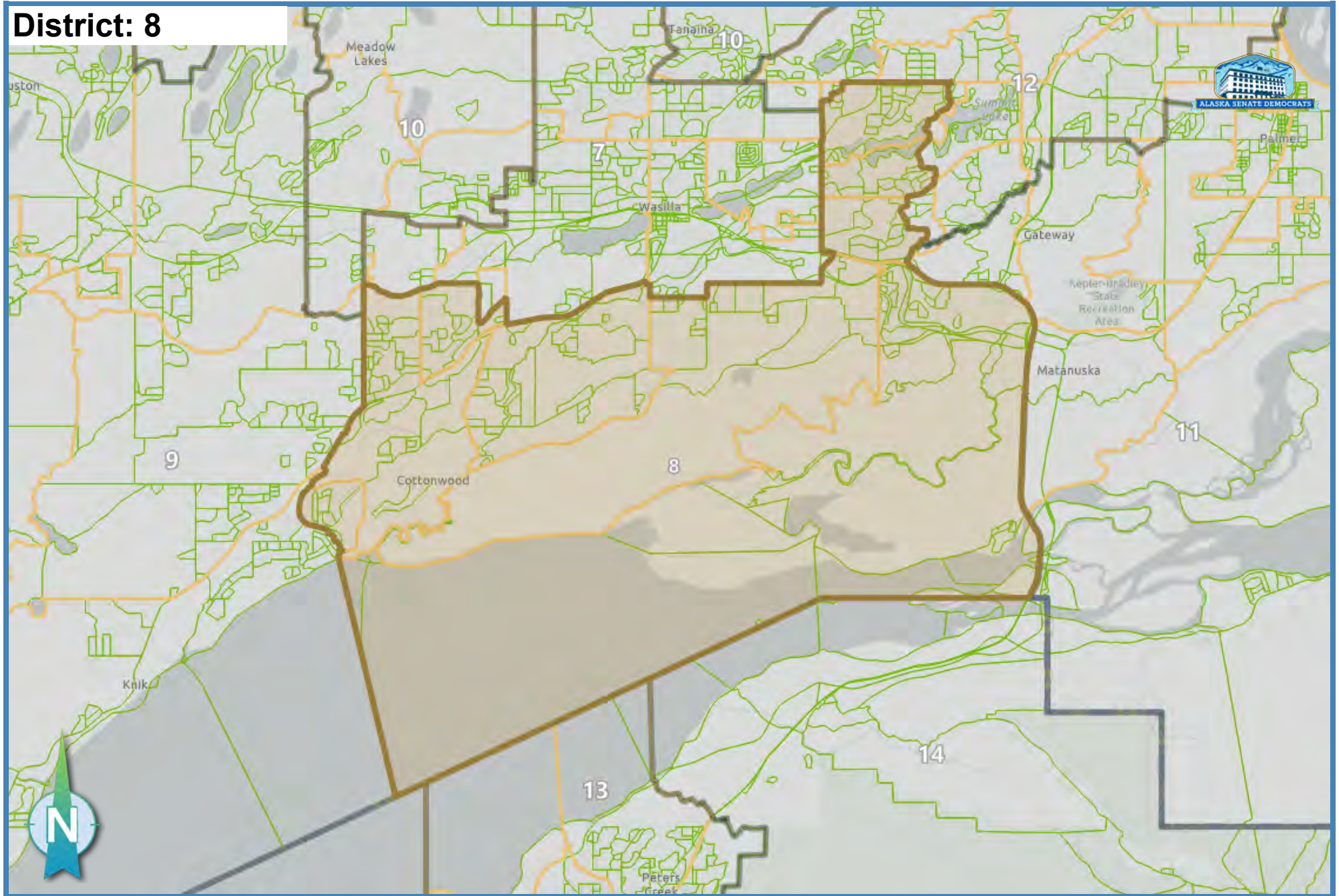


Ideal Population: 18,335

Deviation: -0.24 %

Total Population: 18,291

District: 8

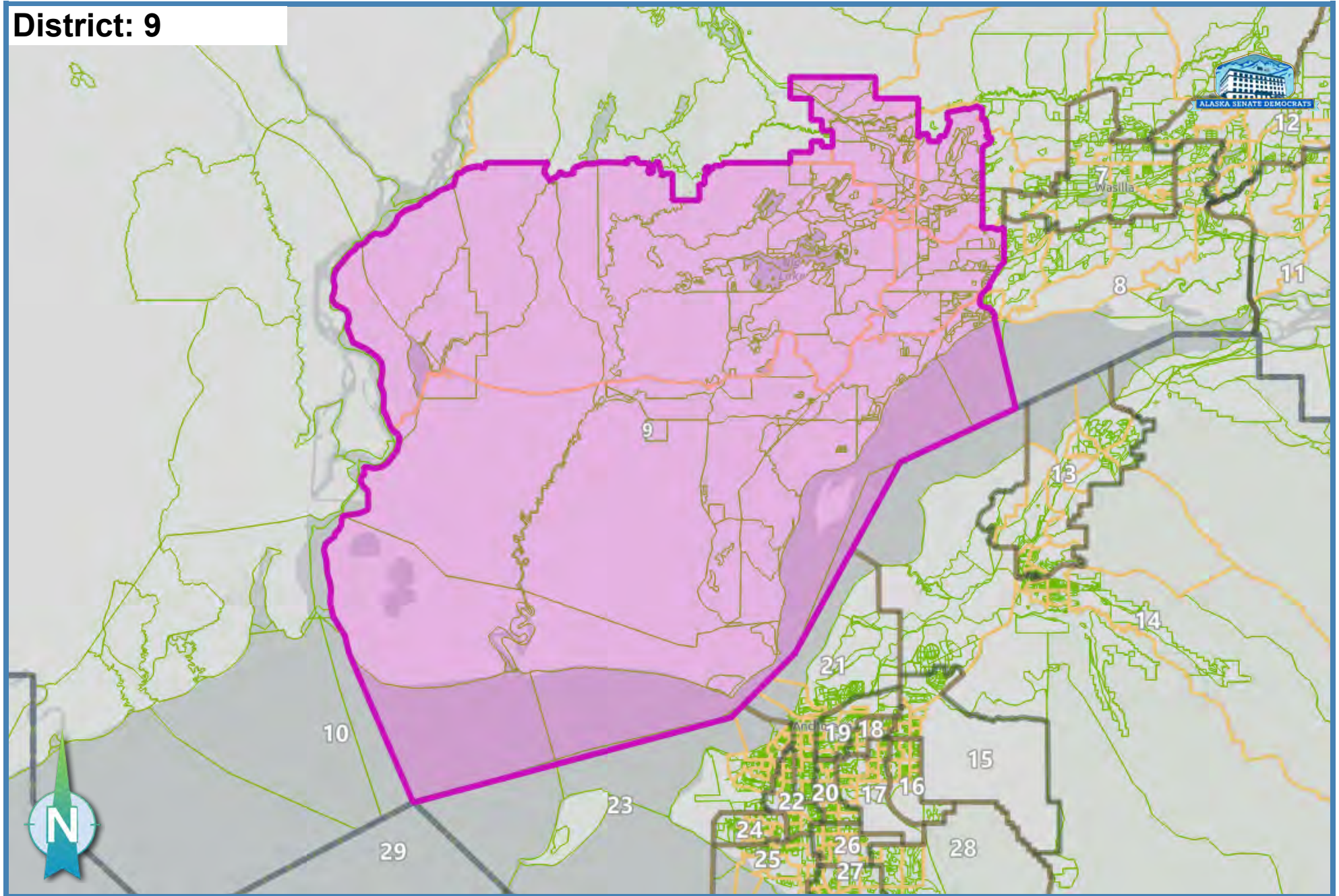


Ideal Population: 18,335

Deviation: 0.01 %

Total Population: 18,336

District: 9

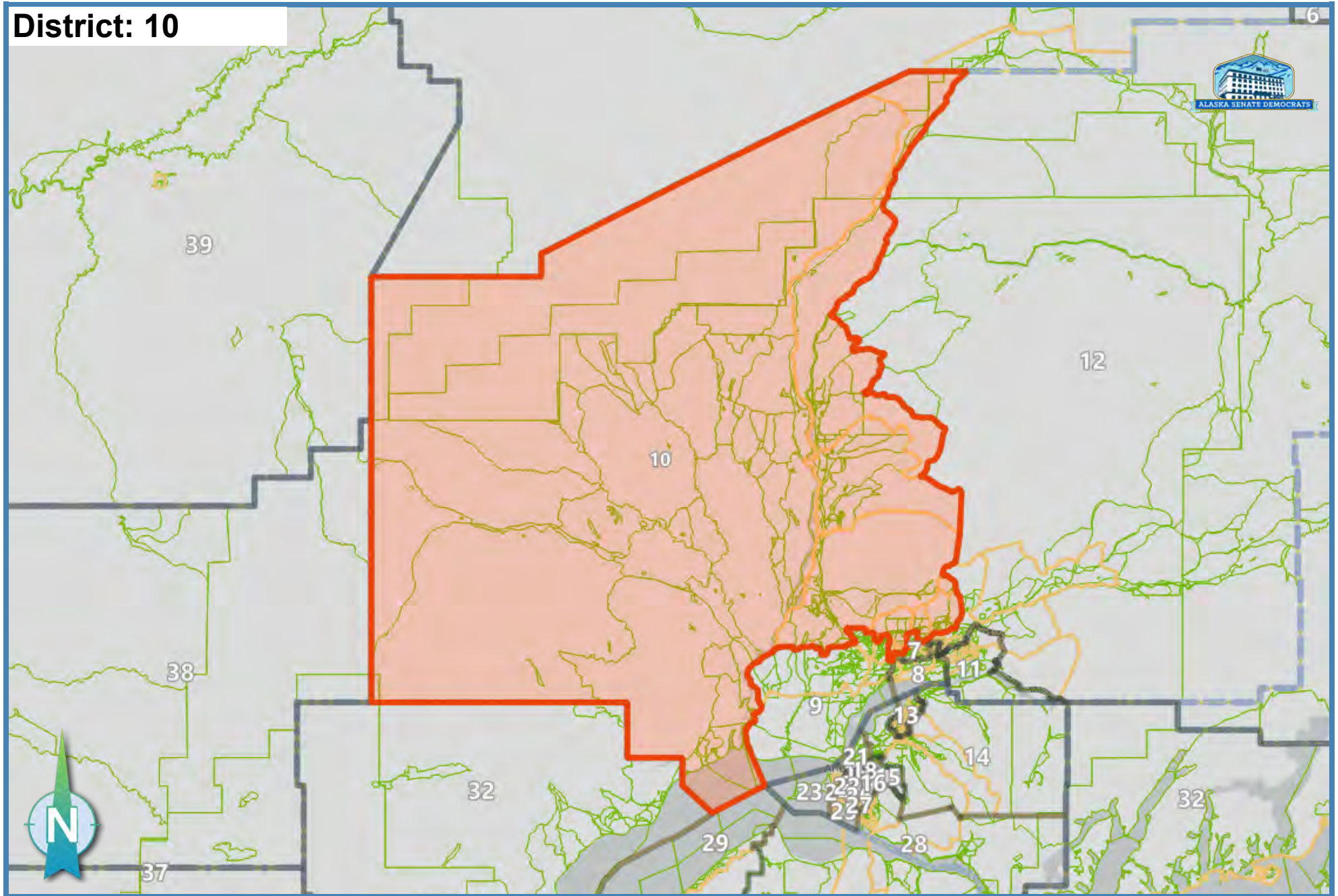


Ideal Population: 18,335

Deviation: -0.11 %

Total Population: 18,314

District: 10

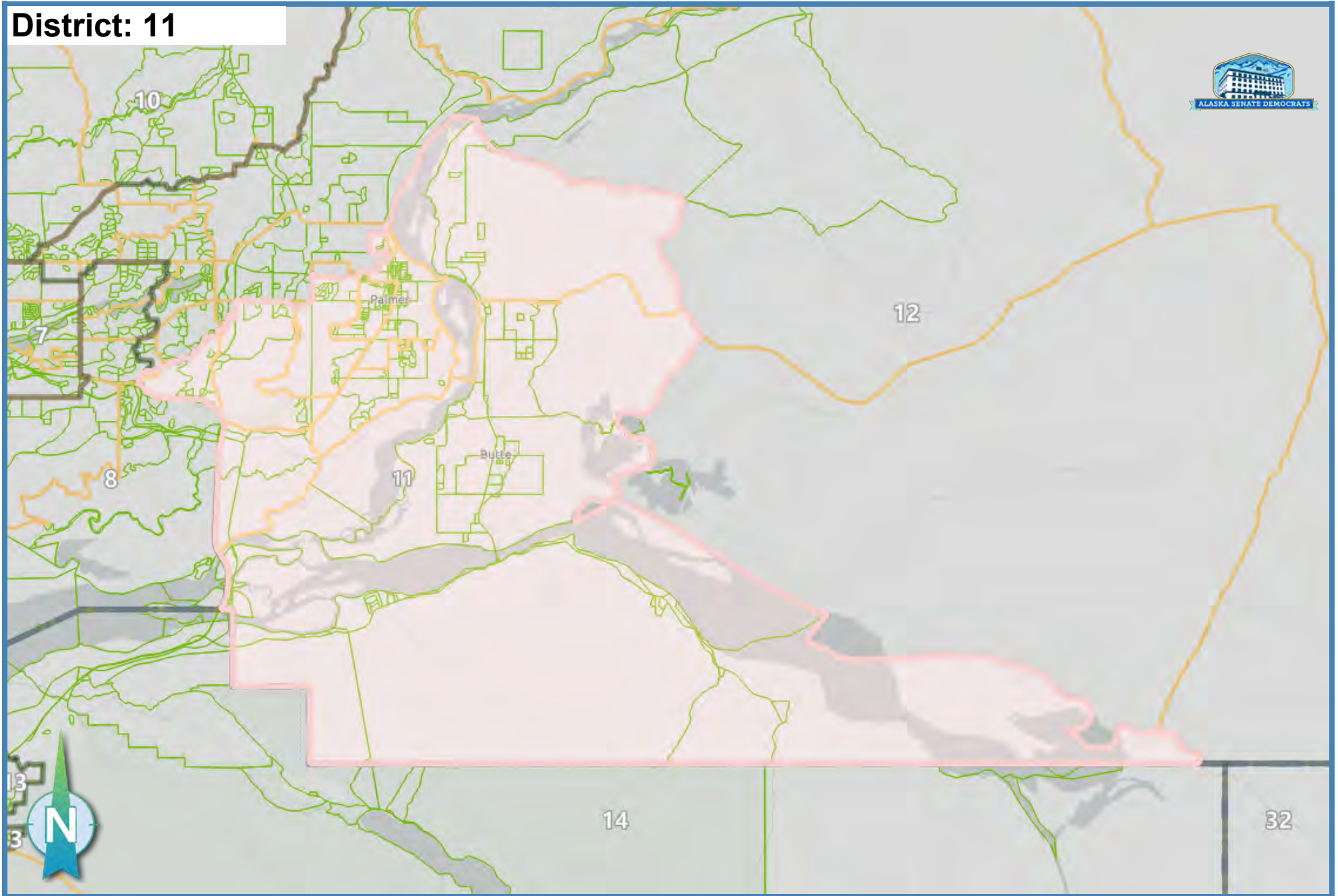


Ideal Population: 18,335

Deviation: -0.18 %

Total Population: 18,301

District: 11

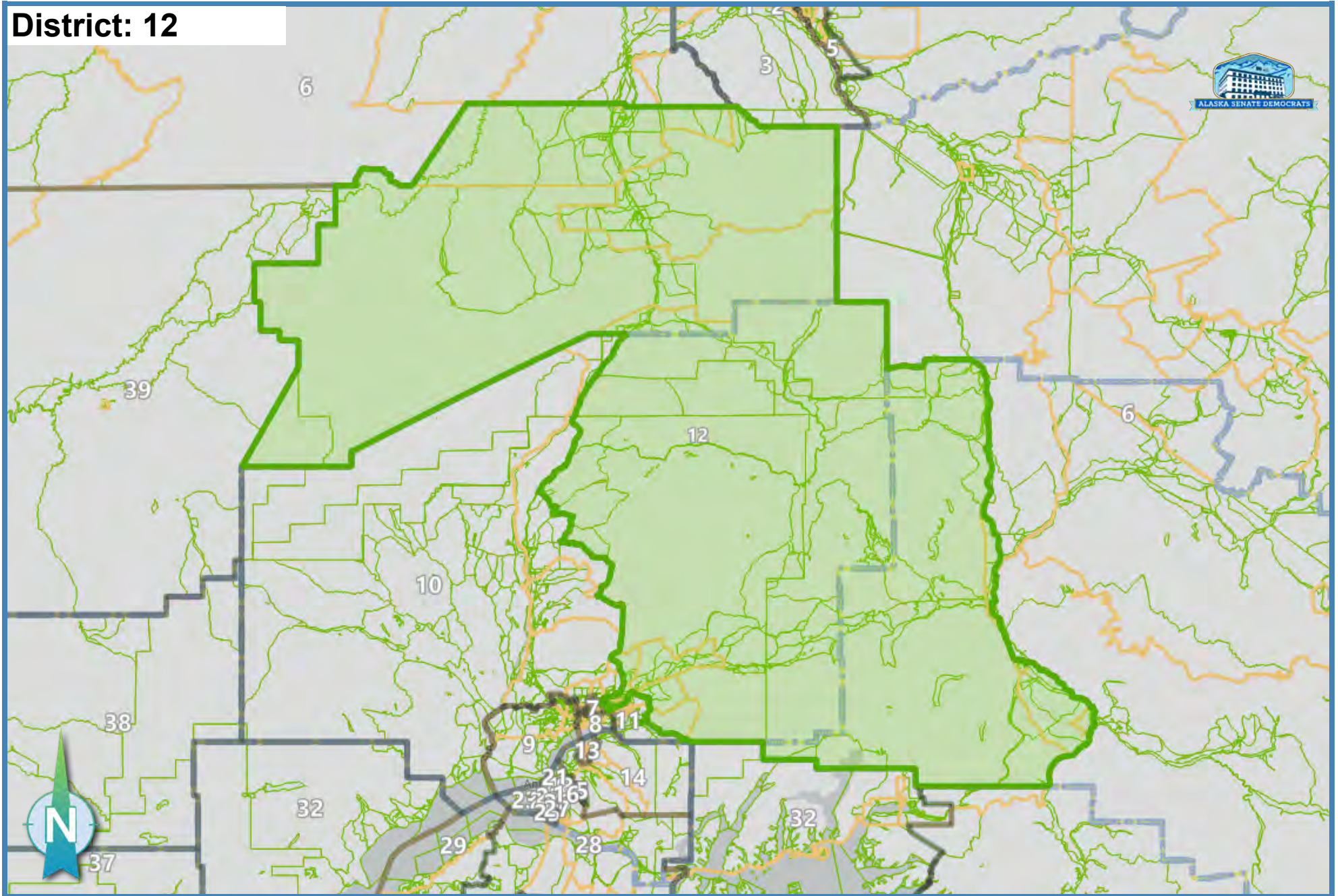


Ideal Population: 18,335

Deviation: -0.02 %

Total Population: 18,332

District: 12

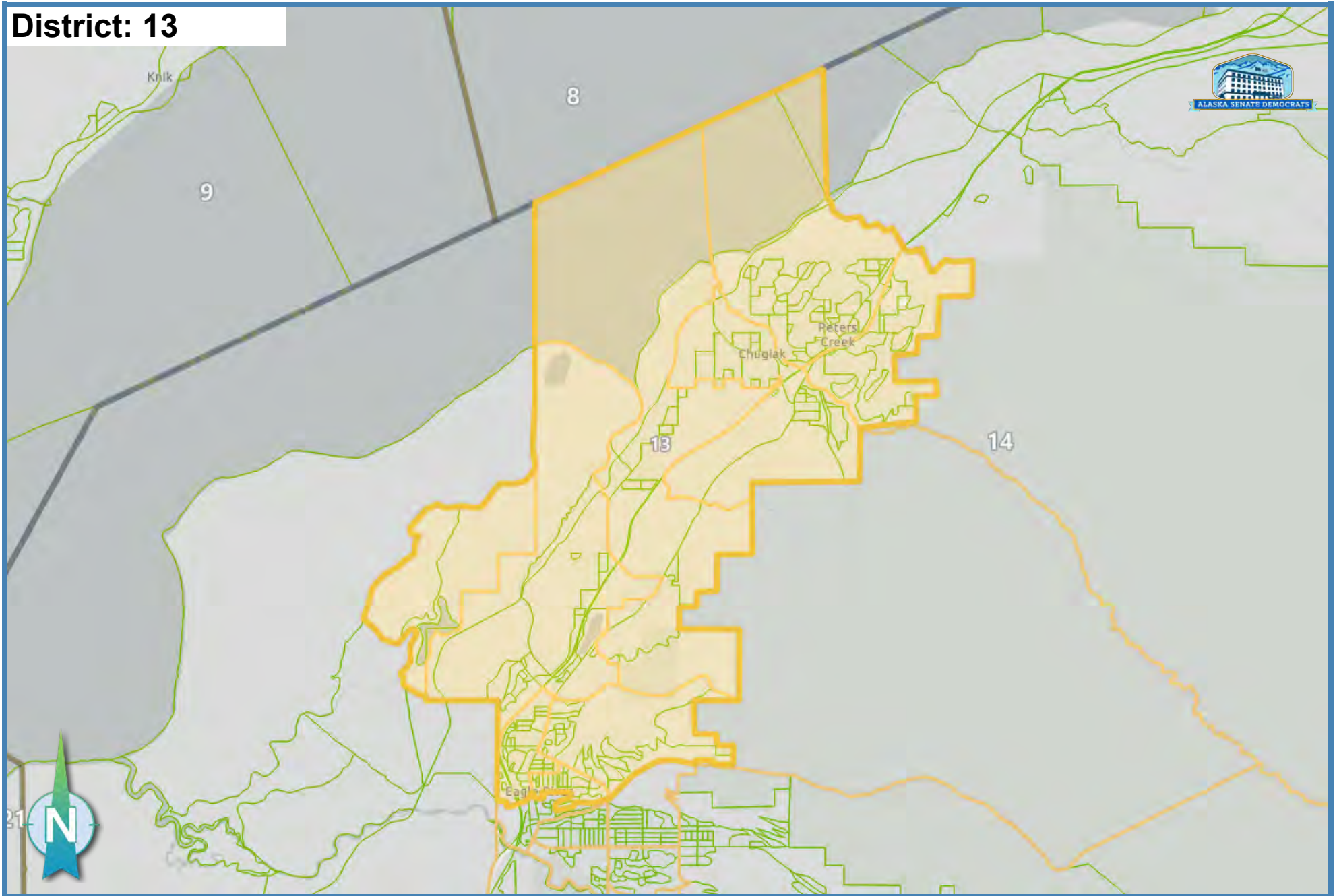


Ideal Population: 18,335

Deviation: -0.16 %

Total Population: 18,306

District: 13

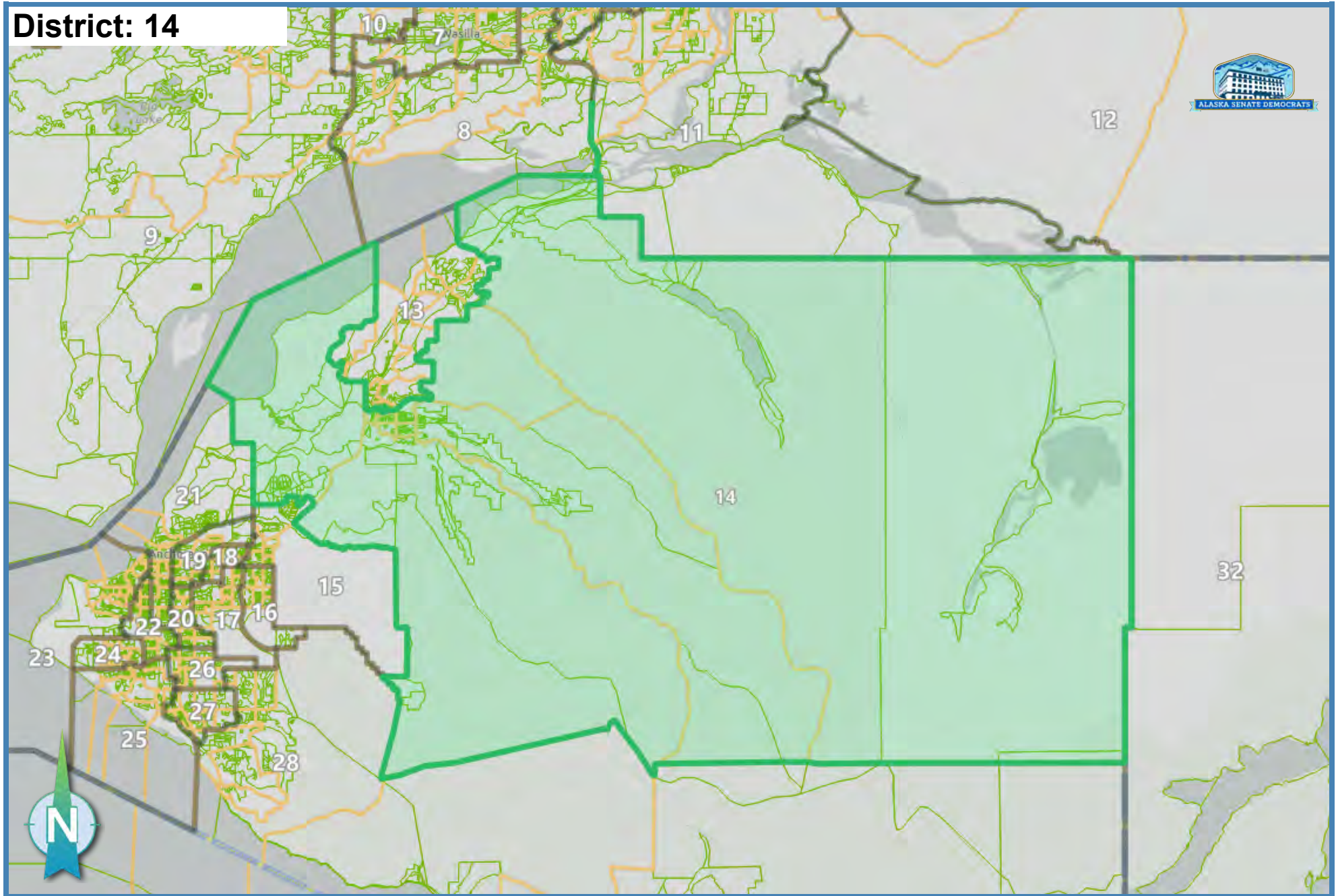


Ideal Population: 18,335

Deviation: 0.00 %

Total Population: 18,335

District: 14

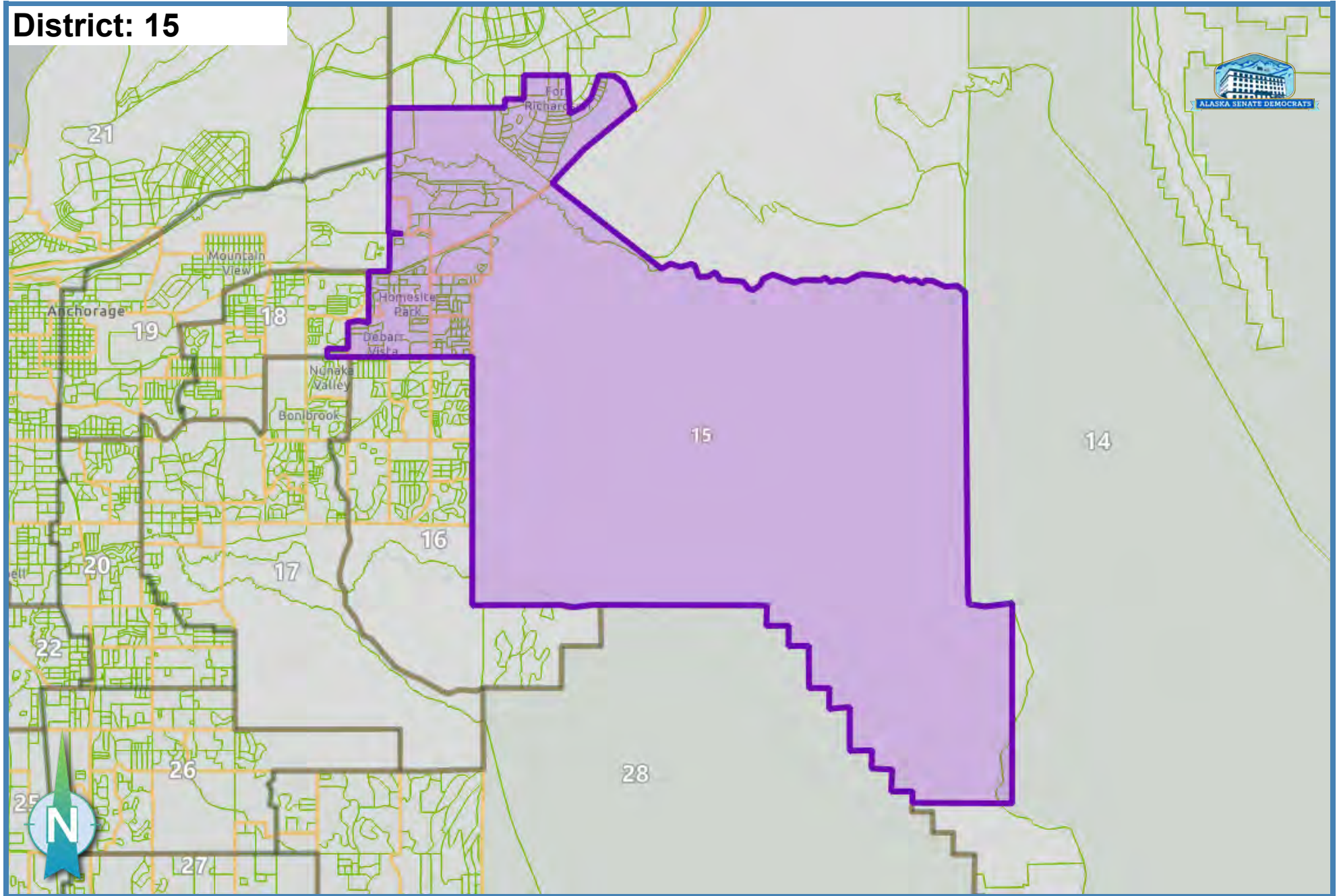


Ideal Population: 18,335

Deviation: 0.00 %

Total Population: 18,335

District: 15

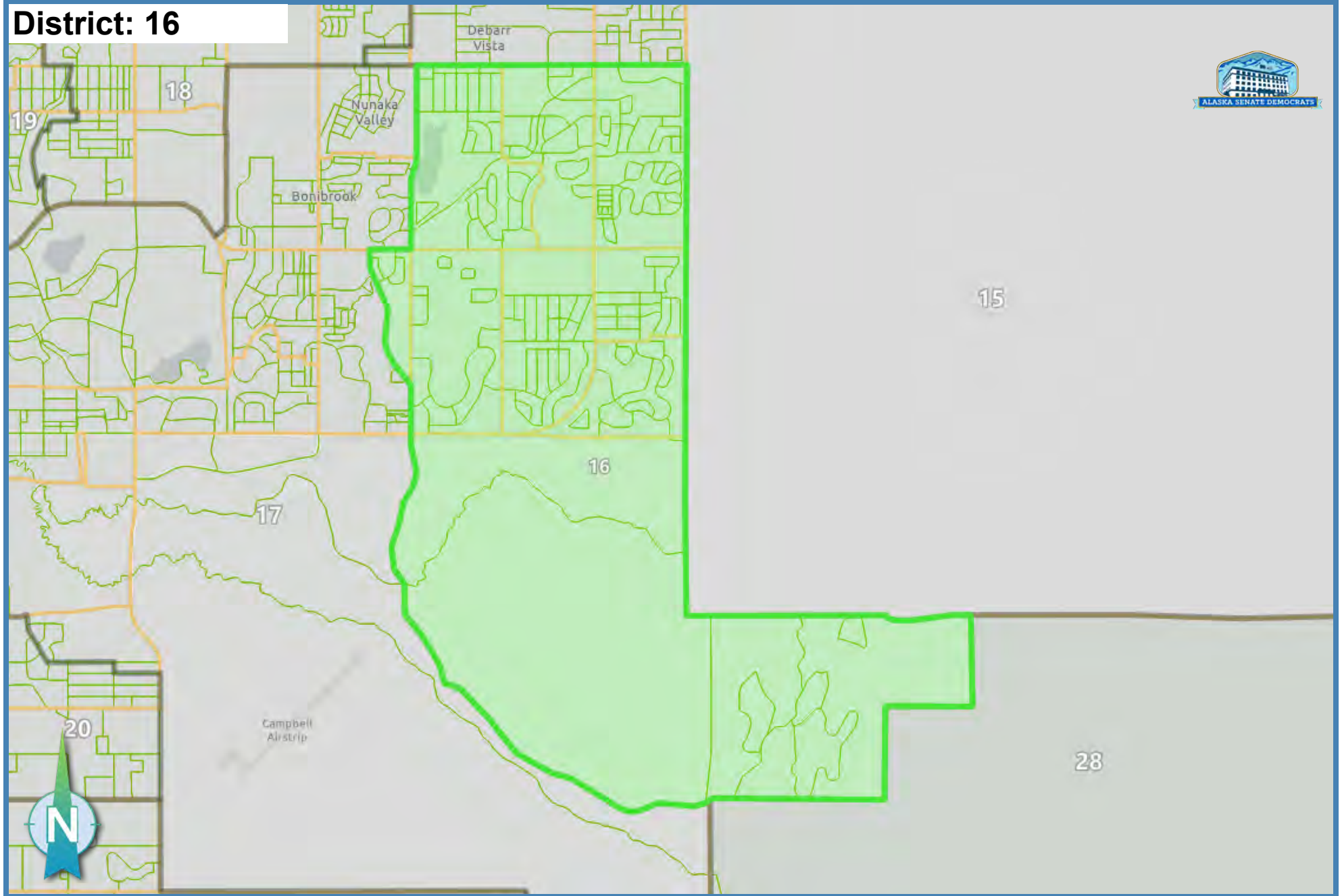


Ideal Population: 18,335

Deviation: 0.07 %

Total Population: 18,348

District: 16

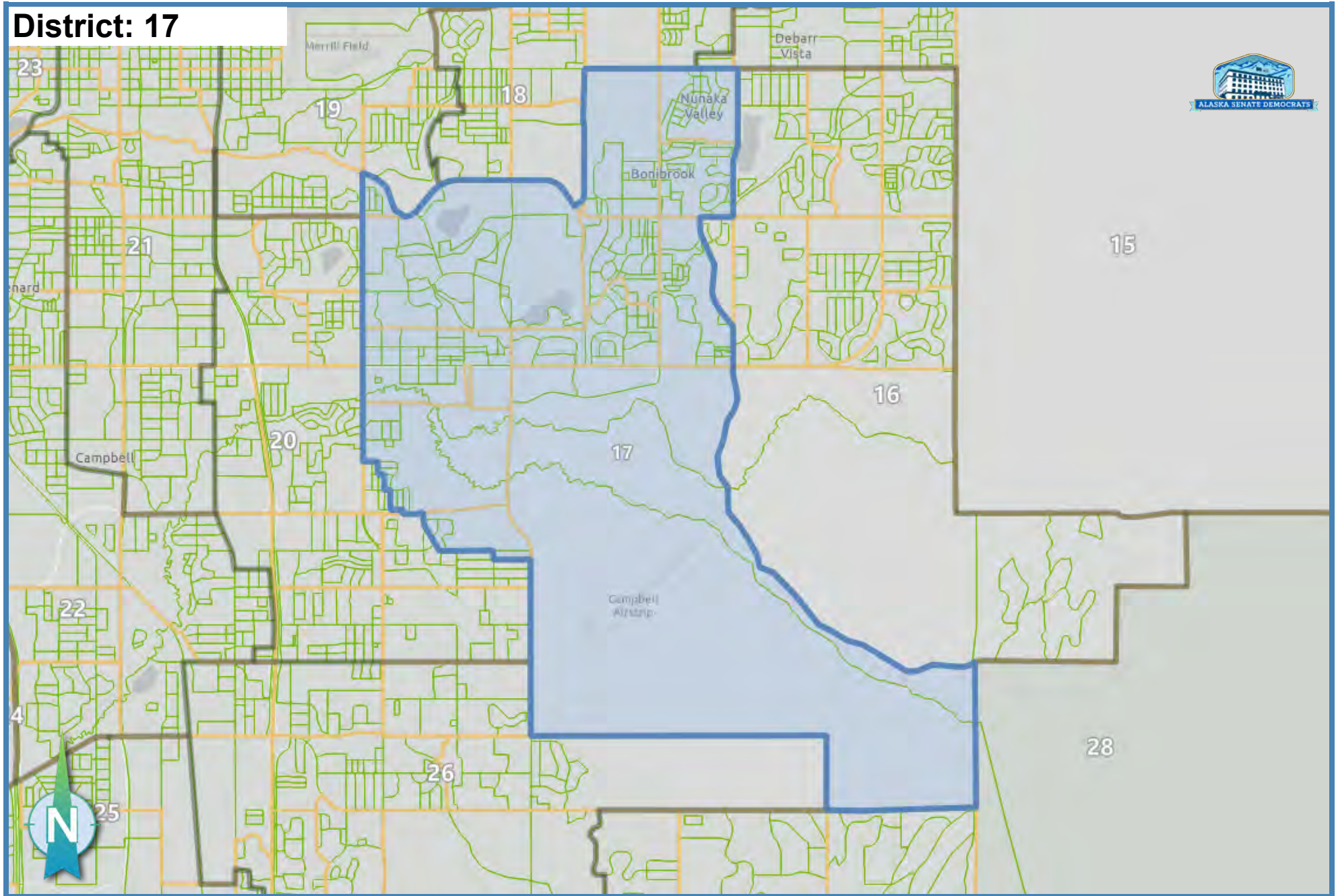


Ideal Population: 18,335

Deviation: 0.11 %

Total Population: 18,355

District: 17

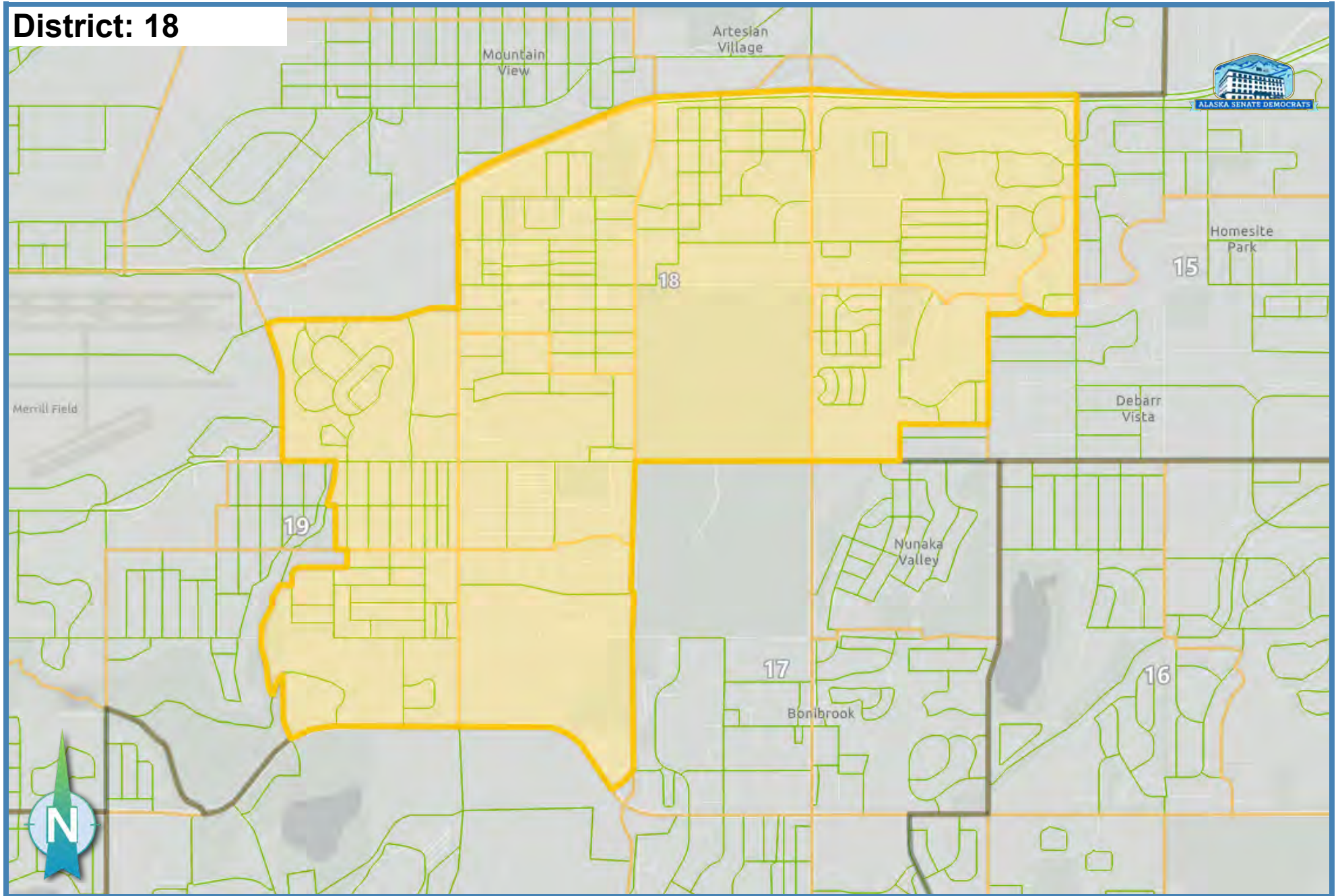


Ideal Population: 18,335

Deviation: 0.01 %

Total Population: 18,337

District: 18

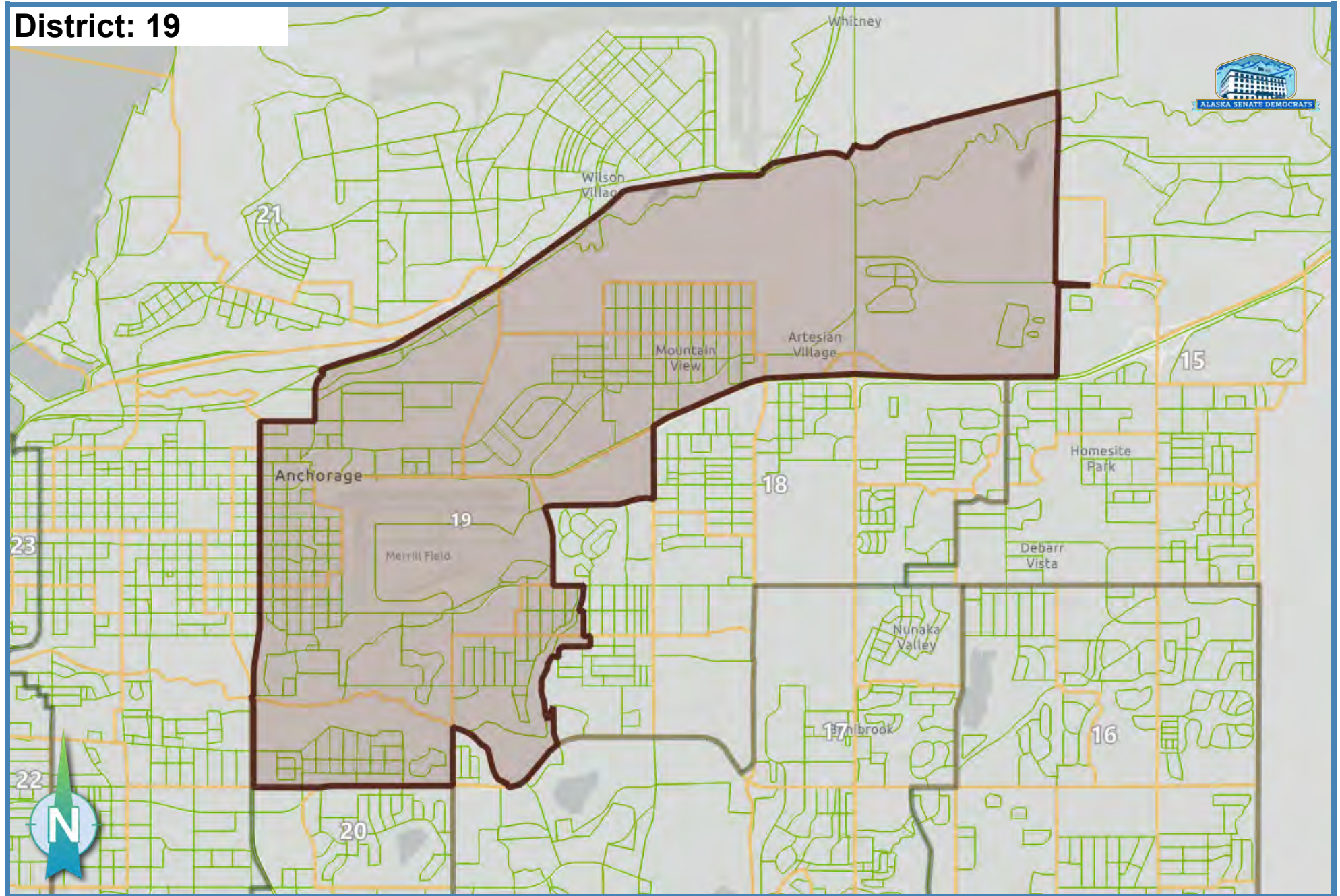


Ideal Population: 18,335

Deviation: -0.06 %

Total Population: 18,323

District: 19

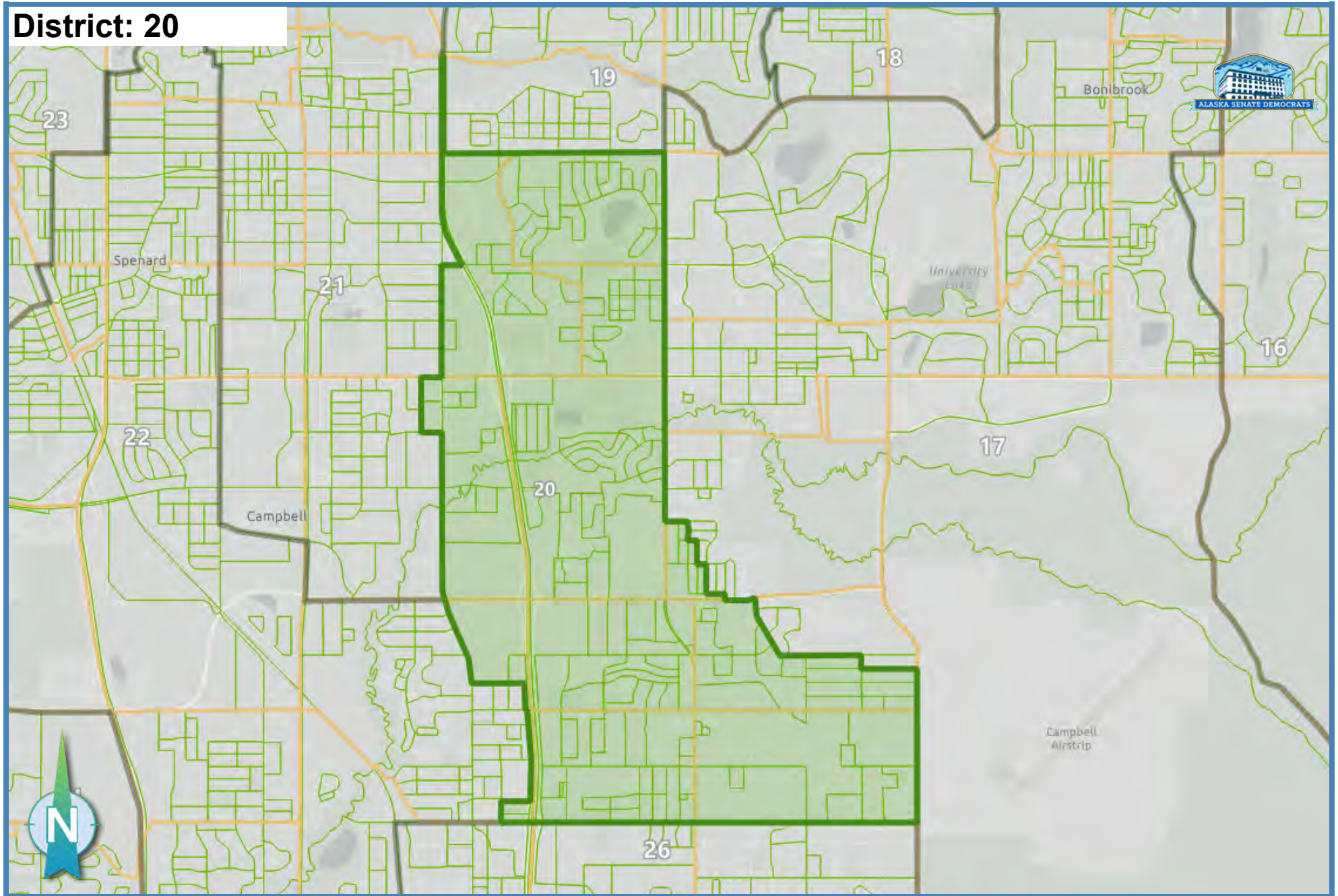


Ideal Population: 18,335

Deviation: 0.03 %

Total Population: 18,340

District: 20

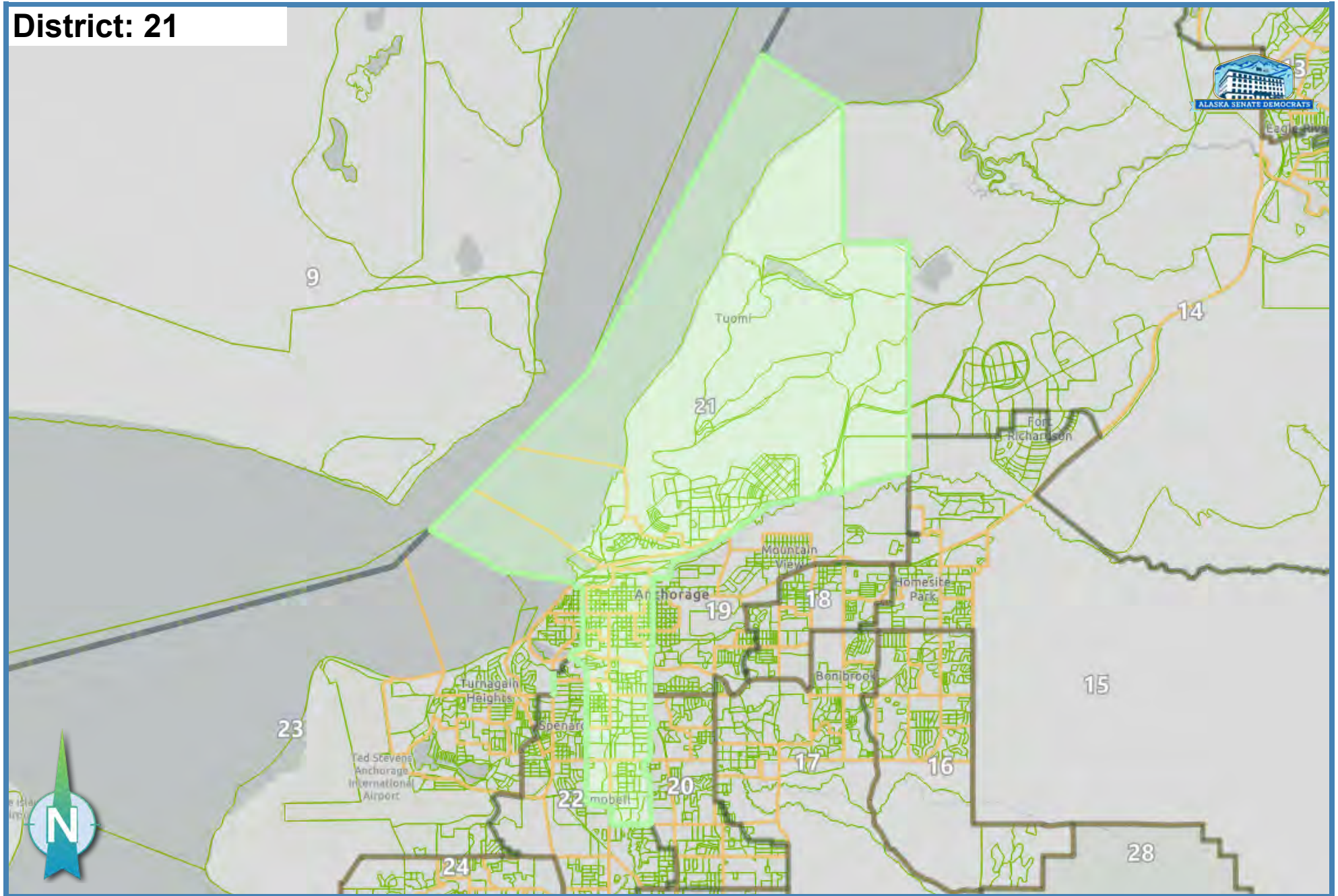


Ideal Population: 18,335

Deviation: 0.03 %

Total Population: 18,340

District: 21

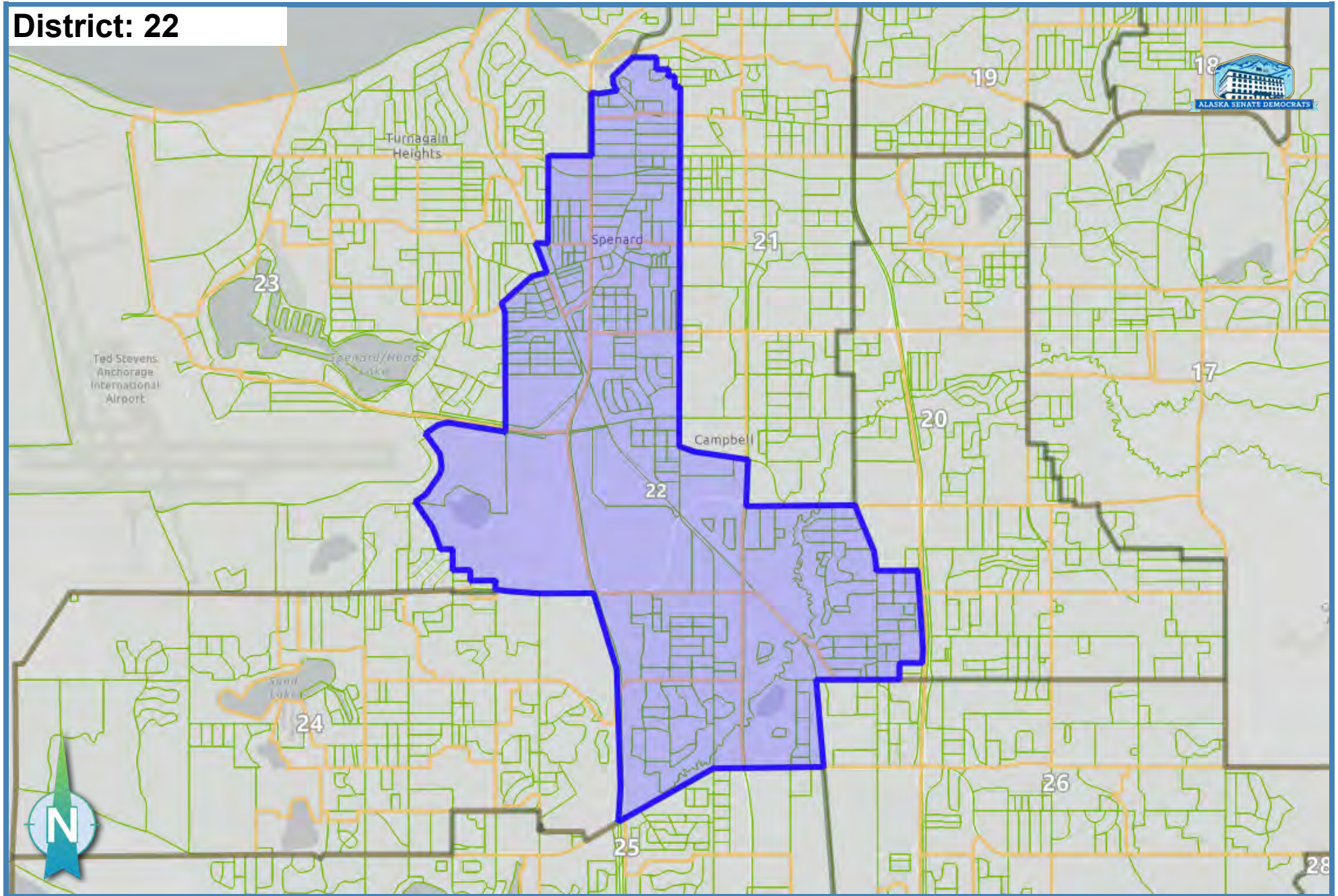


Ideal Population: 18,335

Deviation: -0.07 %

Total Population: 18,322

District: 22

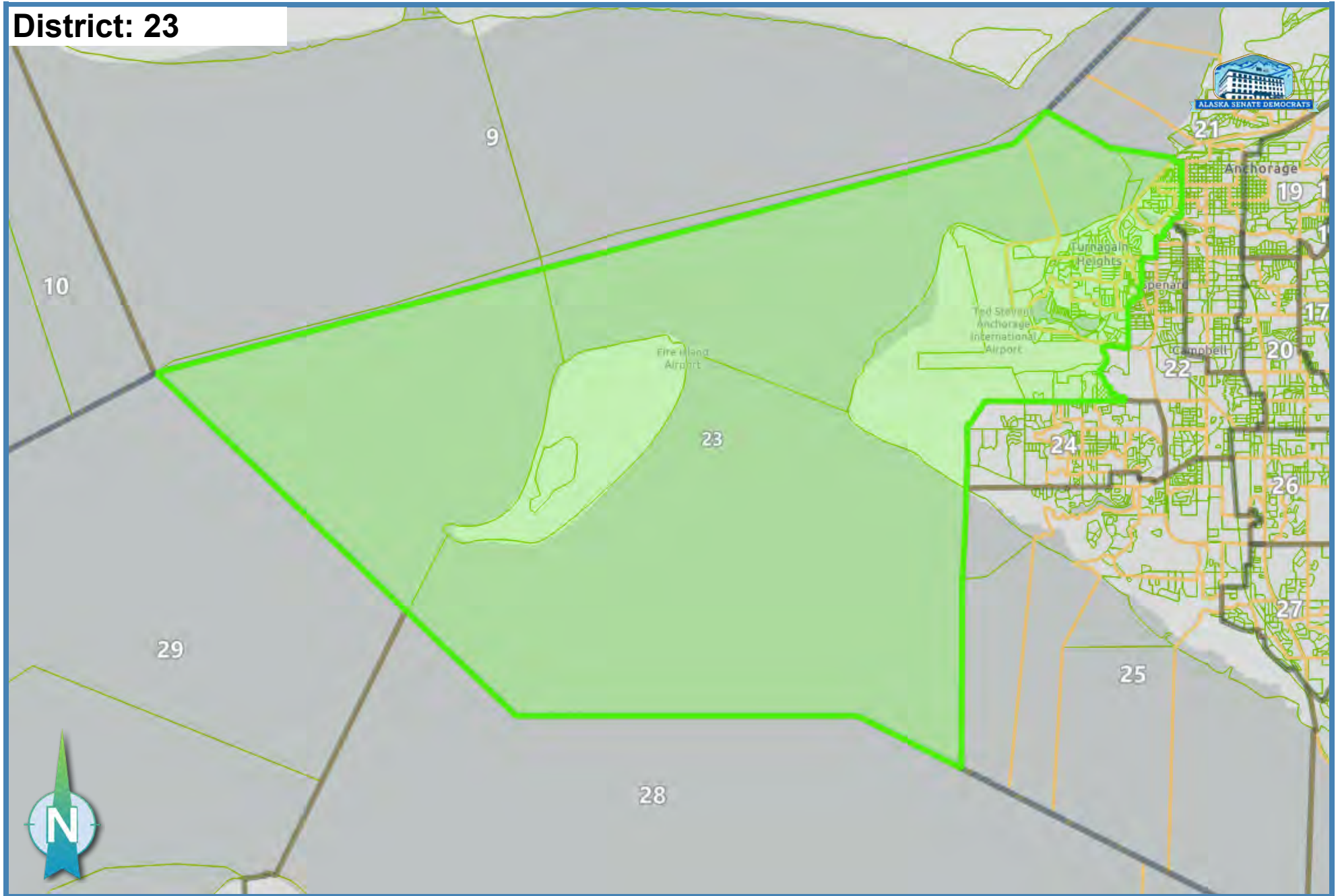


Ideal Population: 18,335

Deviation: 0.08 %

Total Population: 18,349

District: 23

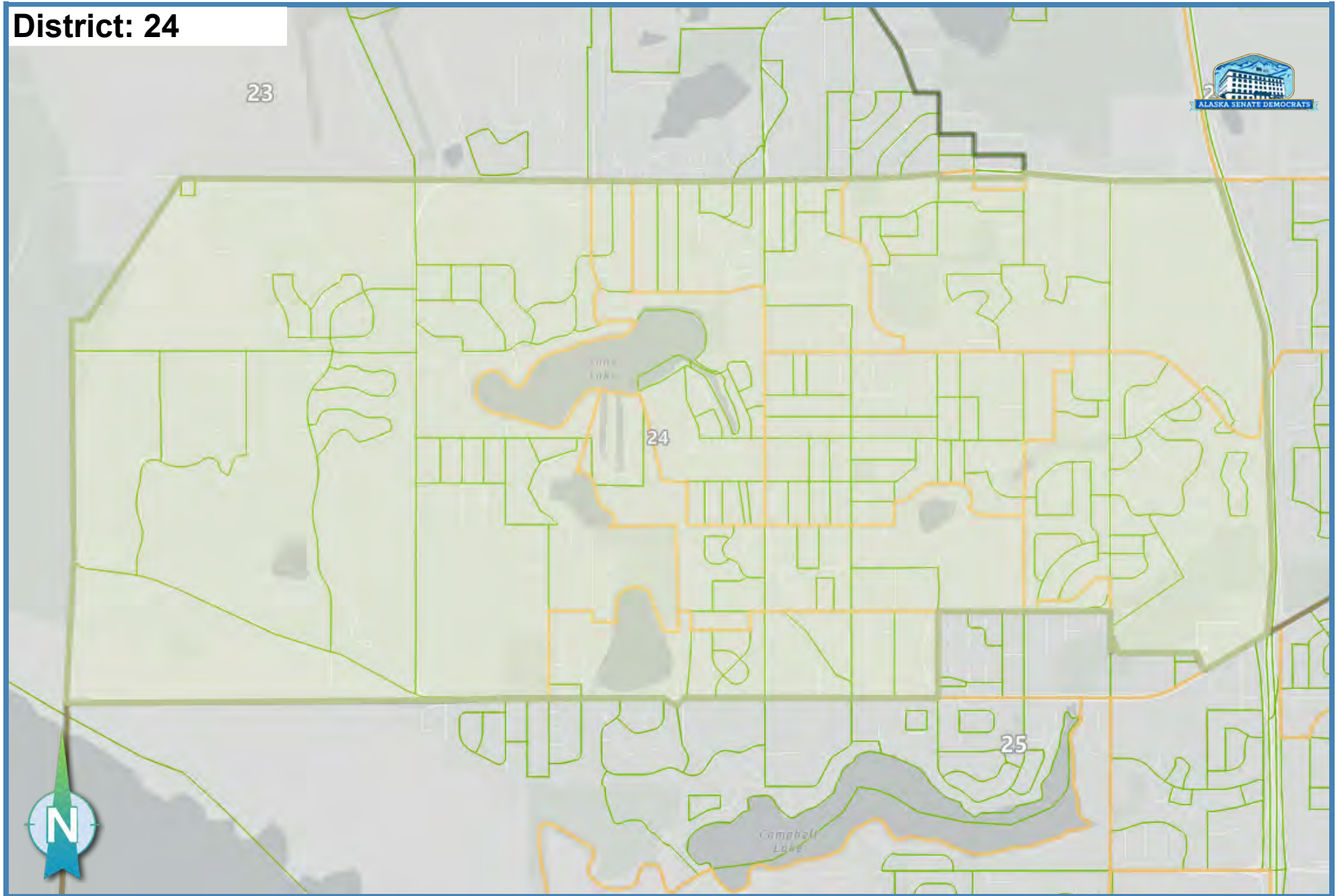


Ideal Population: 18,335

Deviation: -0.01 %

Total Population: 18,333

District: 24

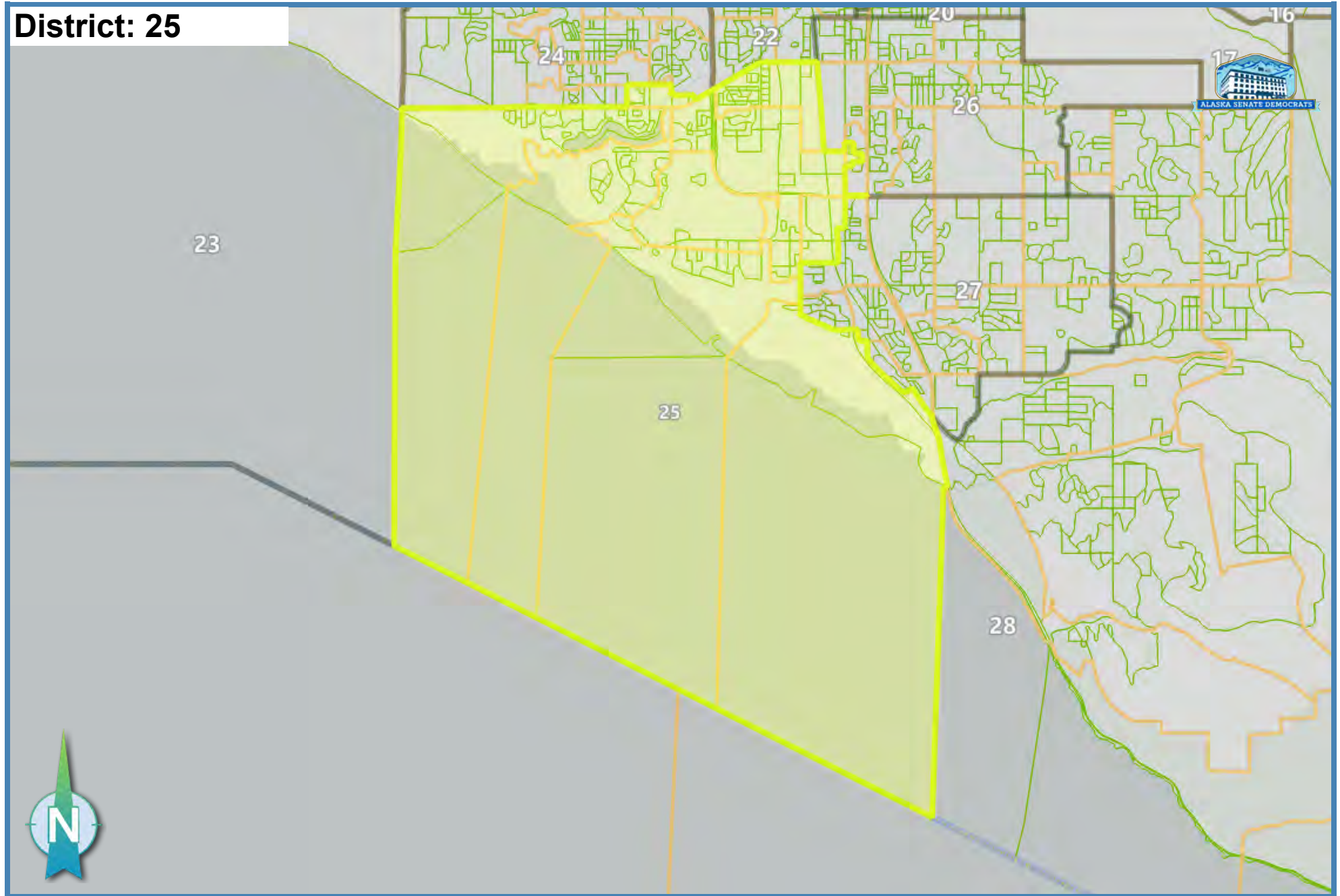


Ideal Population: 18,335

Deviation: 0.05 %

Total Population: 18,344

District: 25

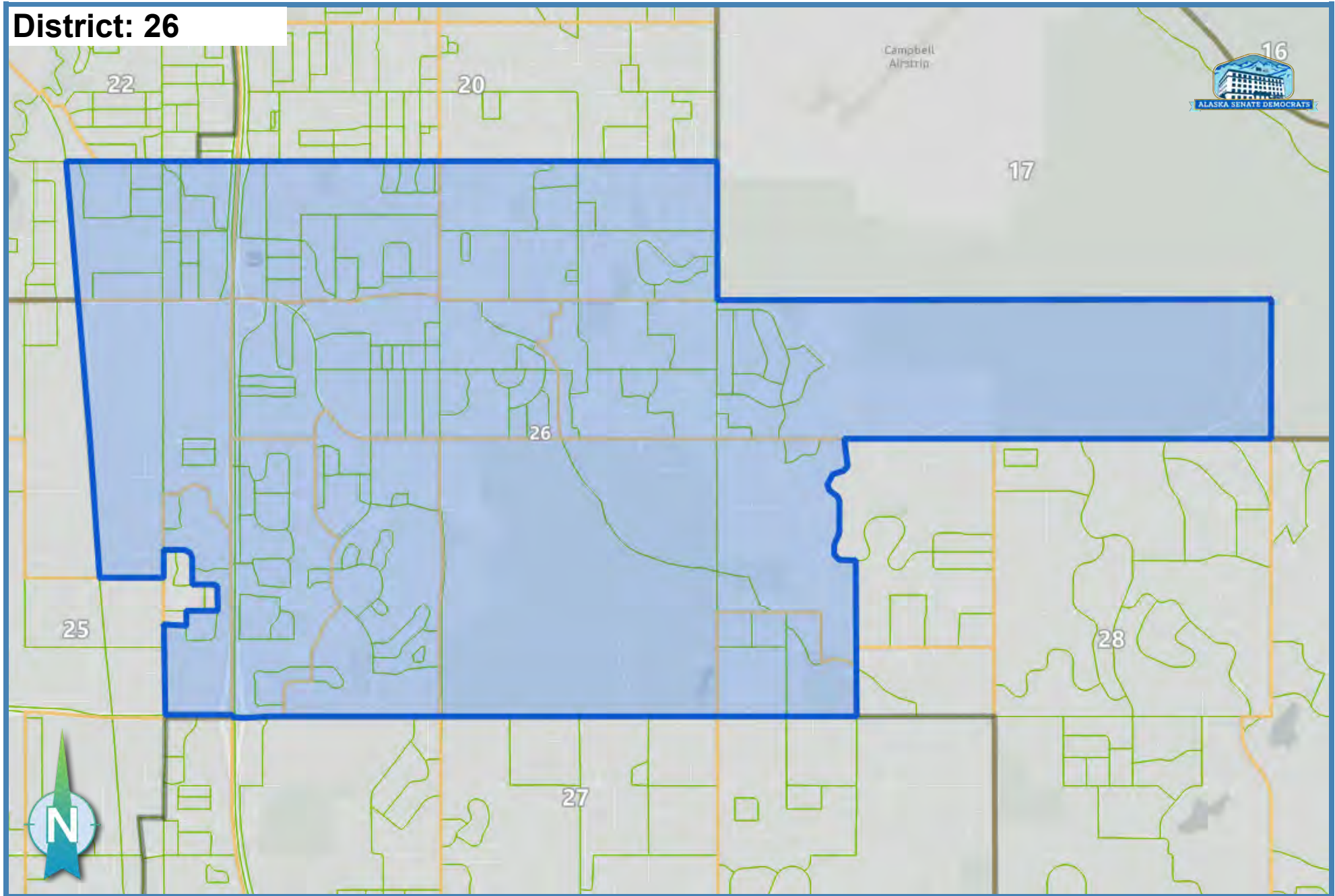


Ideal Population: 18,335

Deviation: 0.00 %

Total Population: **18,334**

District: 26

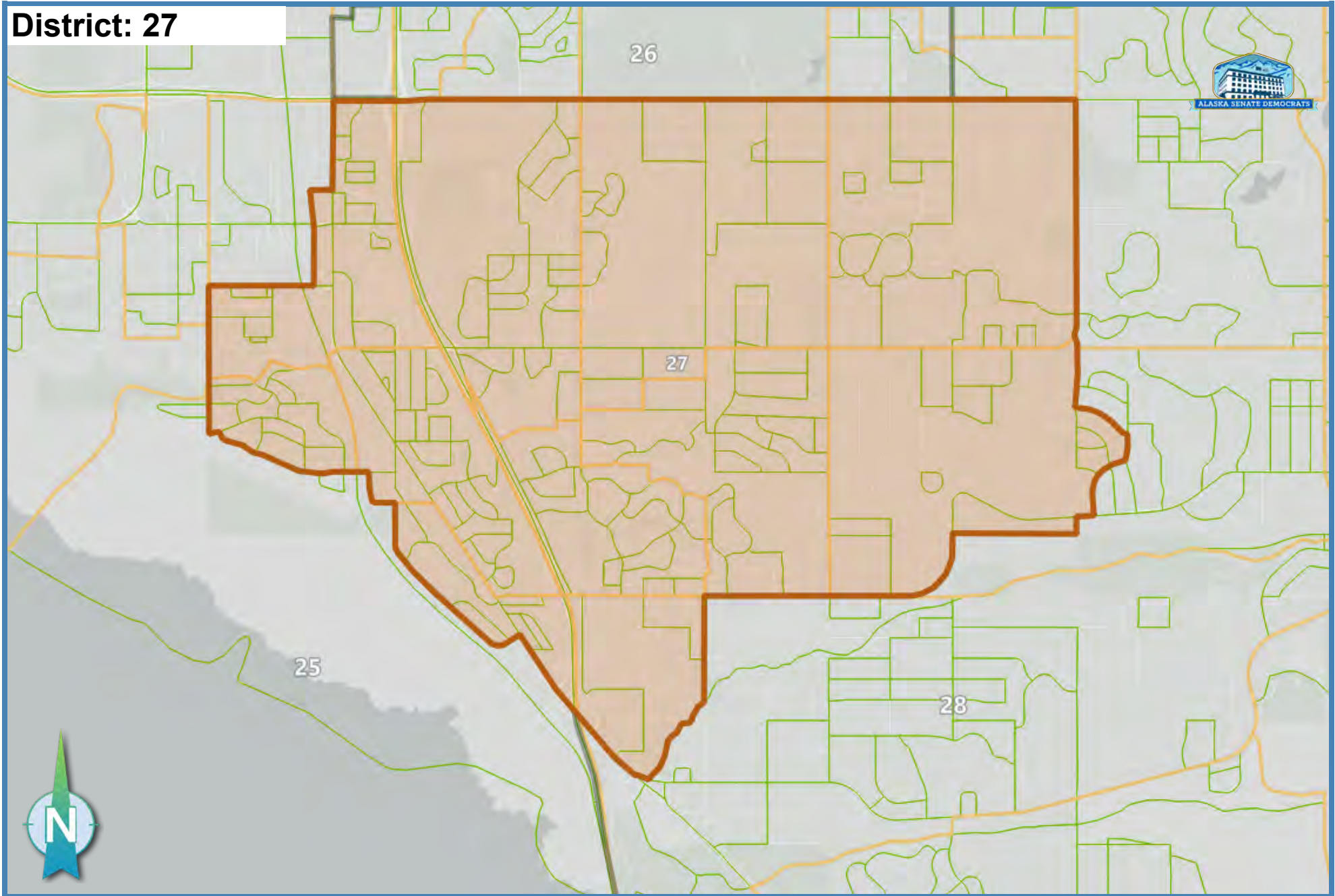


Ideal Population: 18,335

Deviation: 0.01 %

Total Population: 18,336

District: 27

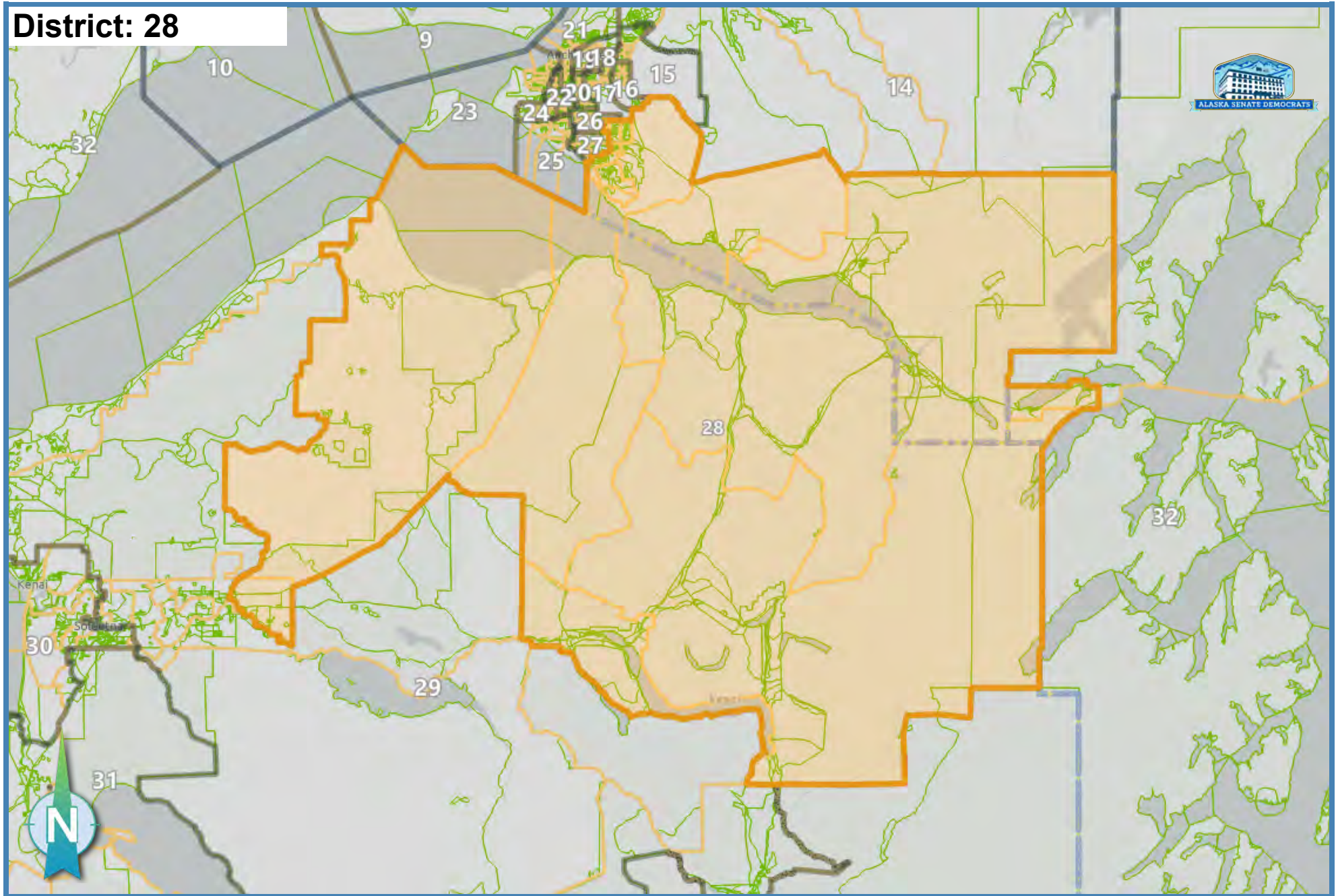


Ideal Population: 18,335

Deviation: 0.02 %

Total Population: **18,338**

District: 28

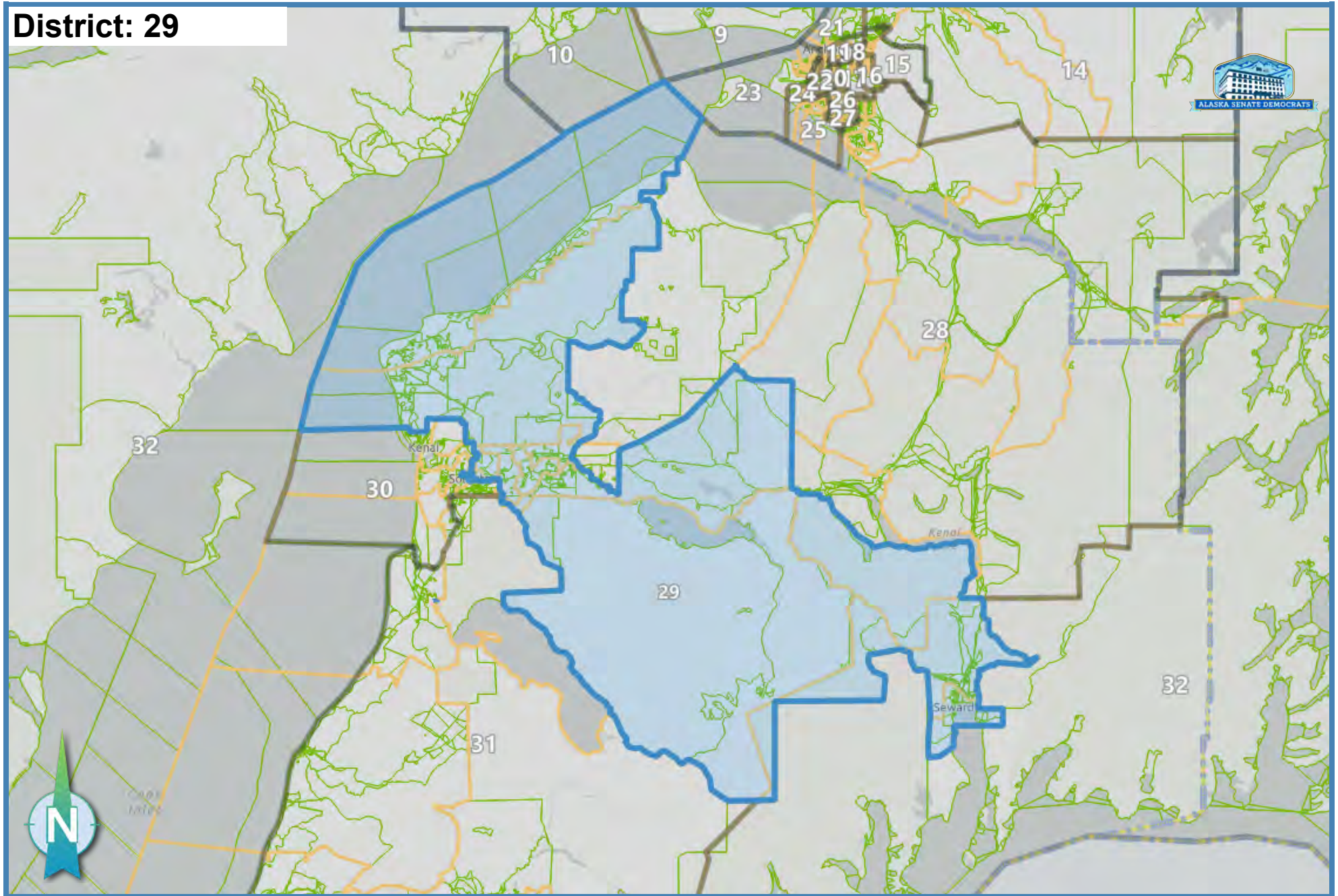


Ideal Population: 18,335

Deviation: 0.00 %

Total Population: 18,335

District: 29

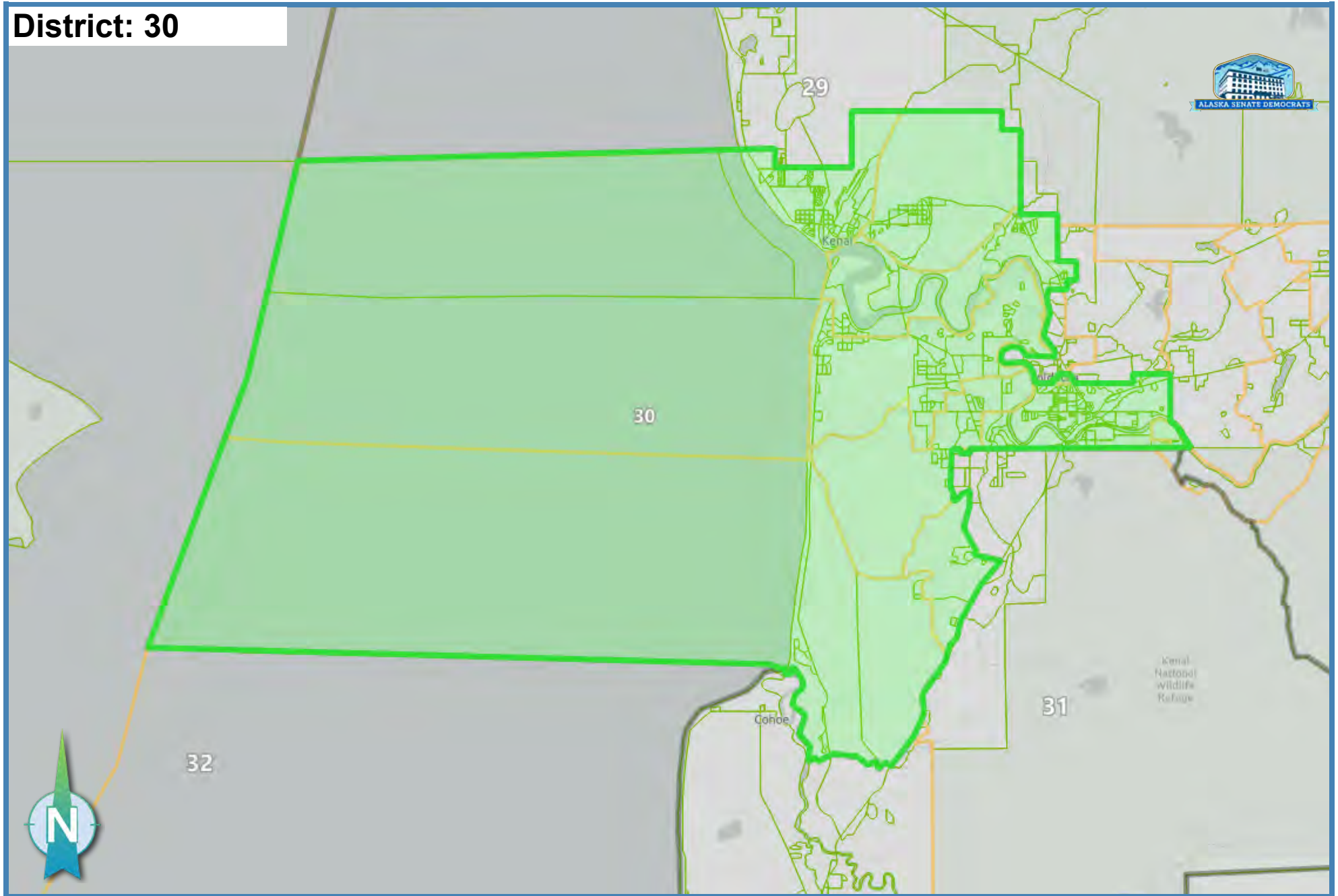


Ideal Population: 18,335

Deviation: 1.45 %

Total Population: 18,601

District: 30

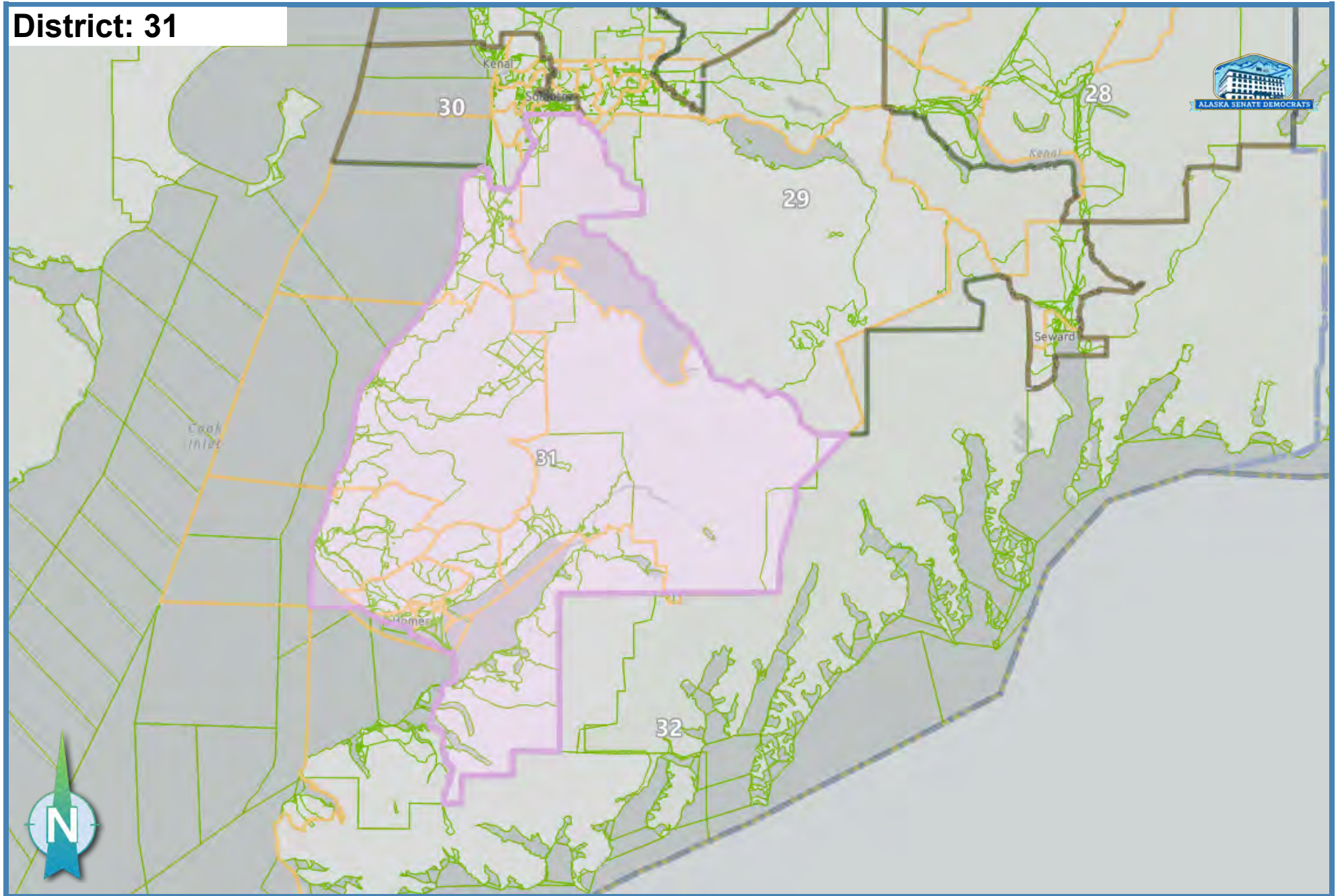


Ideal Population: 18,335

Deviation: 1.48 %

Total Population: **18,606**

District: 31

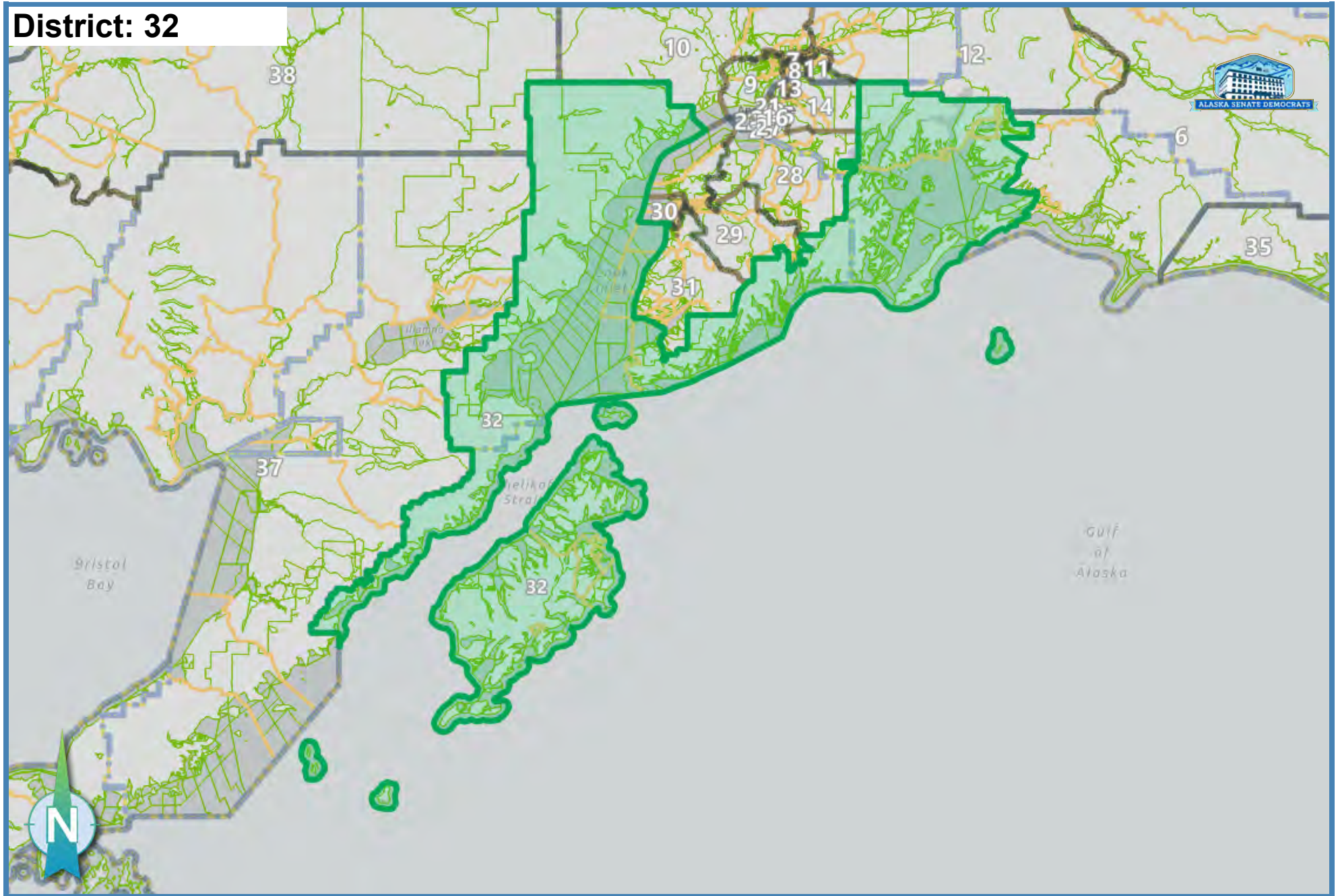


Ideal Population: 18,335

Deviation: 1.46 %

Total Population: 18,602

District: 32

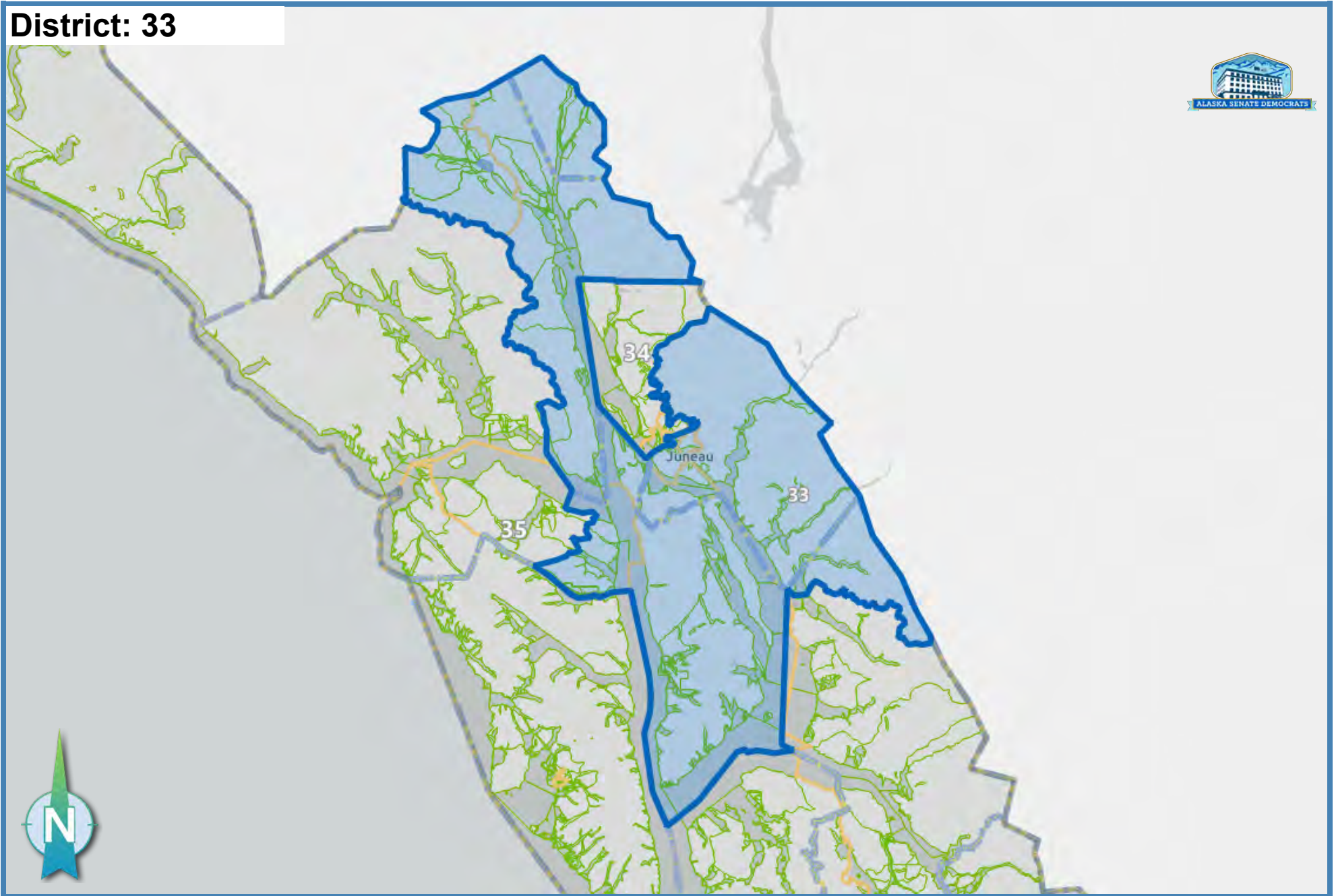


Ideal Population: 18,335

Deviation: 0.27 %

Total Population: 18,385

District: 33

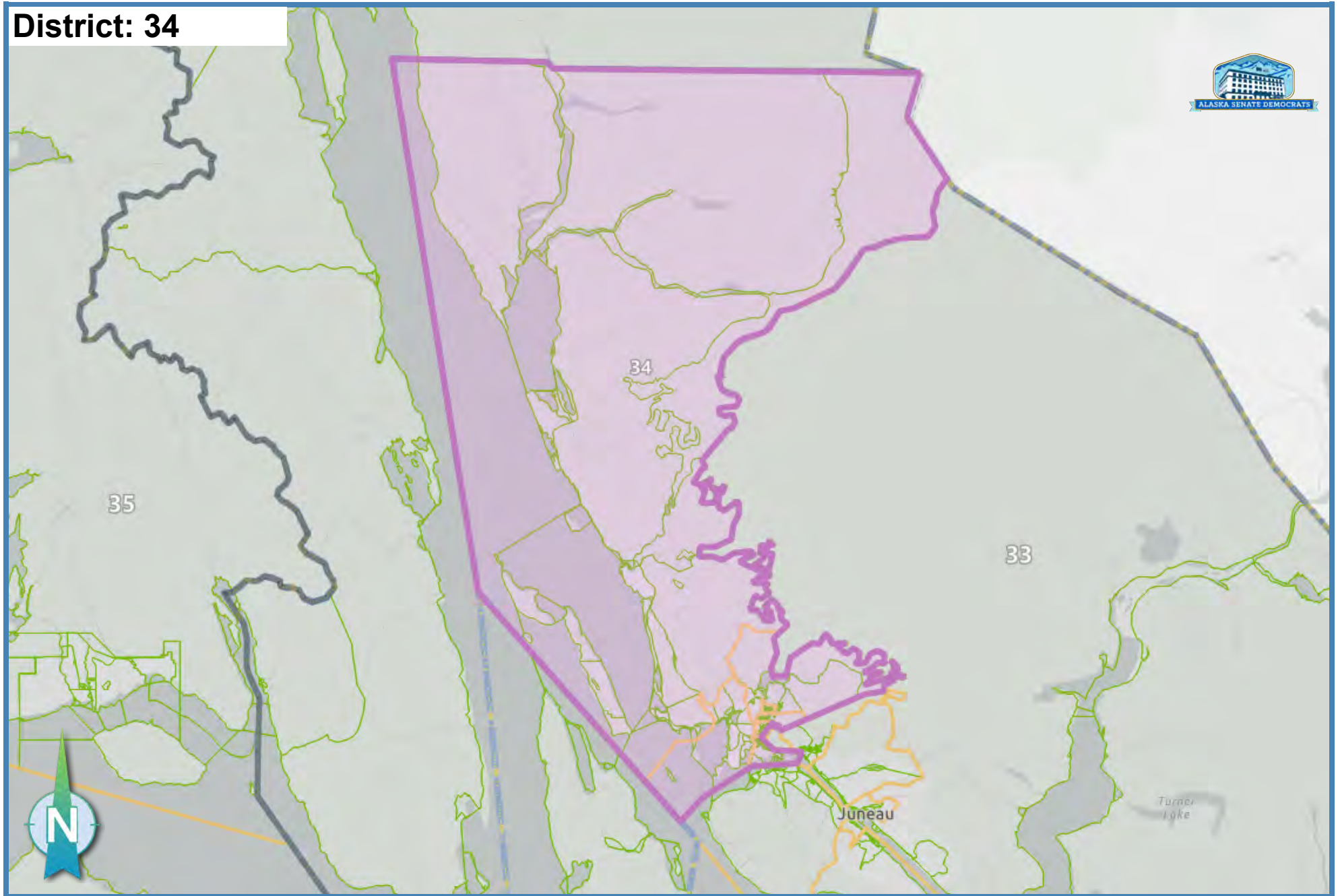


Ideal Population: 18,335

Deviation: -1.35 %

Total Population: **18,087**

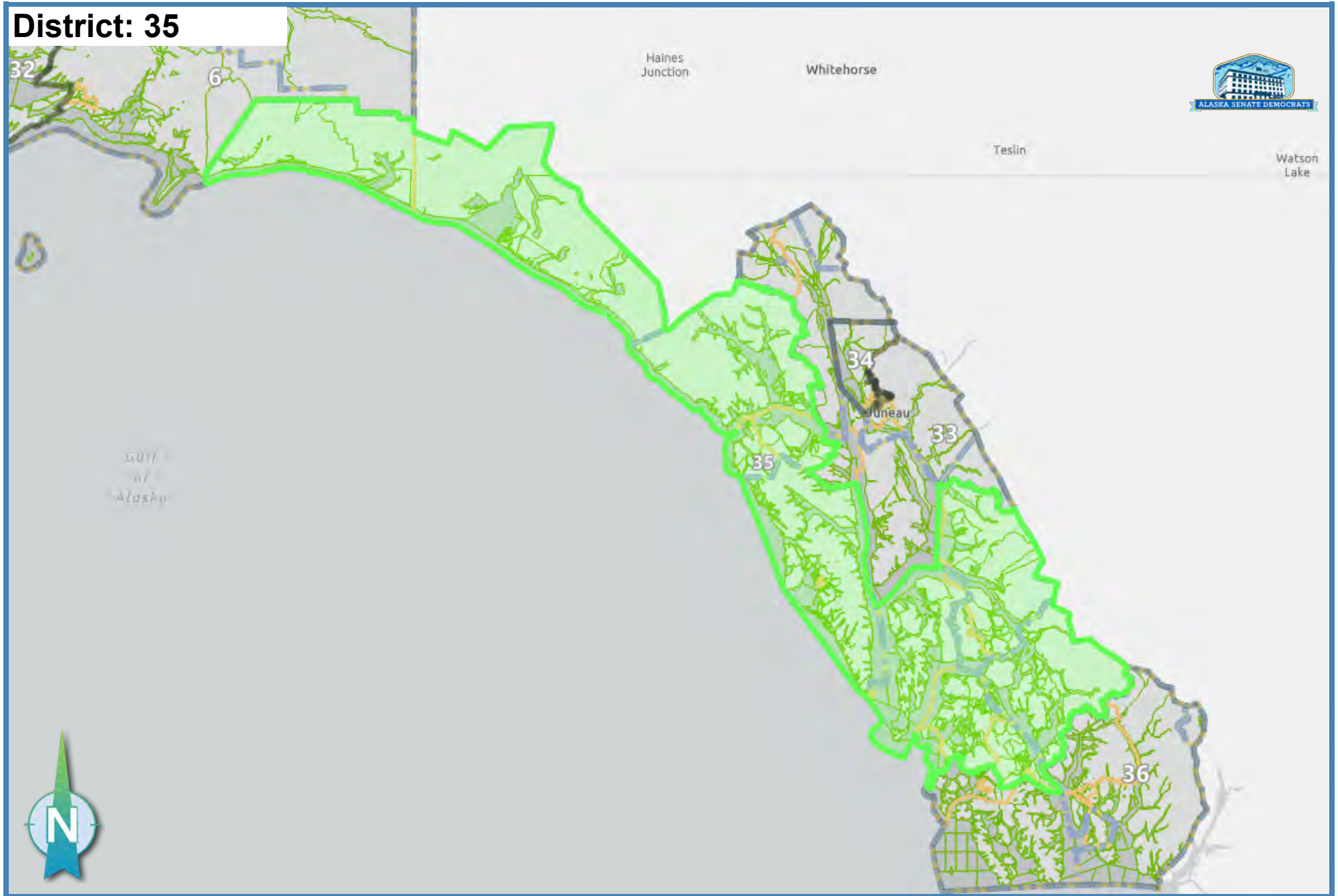
District: 34



Ideal Population: 18,335

Deviation: -1.44 %

Total Population: 18,071

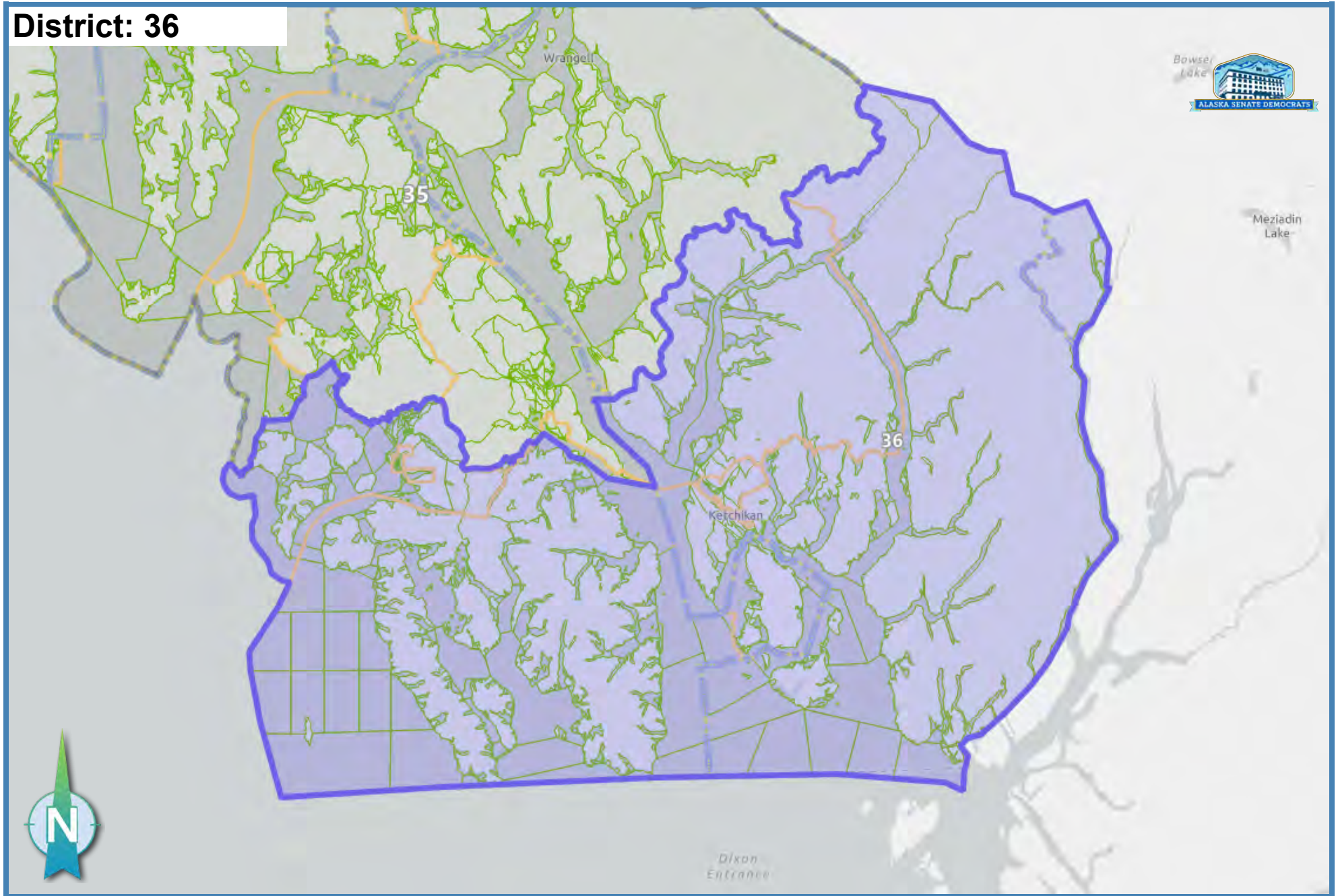
District: 35

Ideal Population: 18,335

Deviation: -1.44 %

Total Population: 18,071

District: 36



Ideal Population: 18,335

Deviation: -1.52 %

Total Population: **18,057**

District: 37

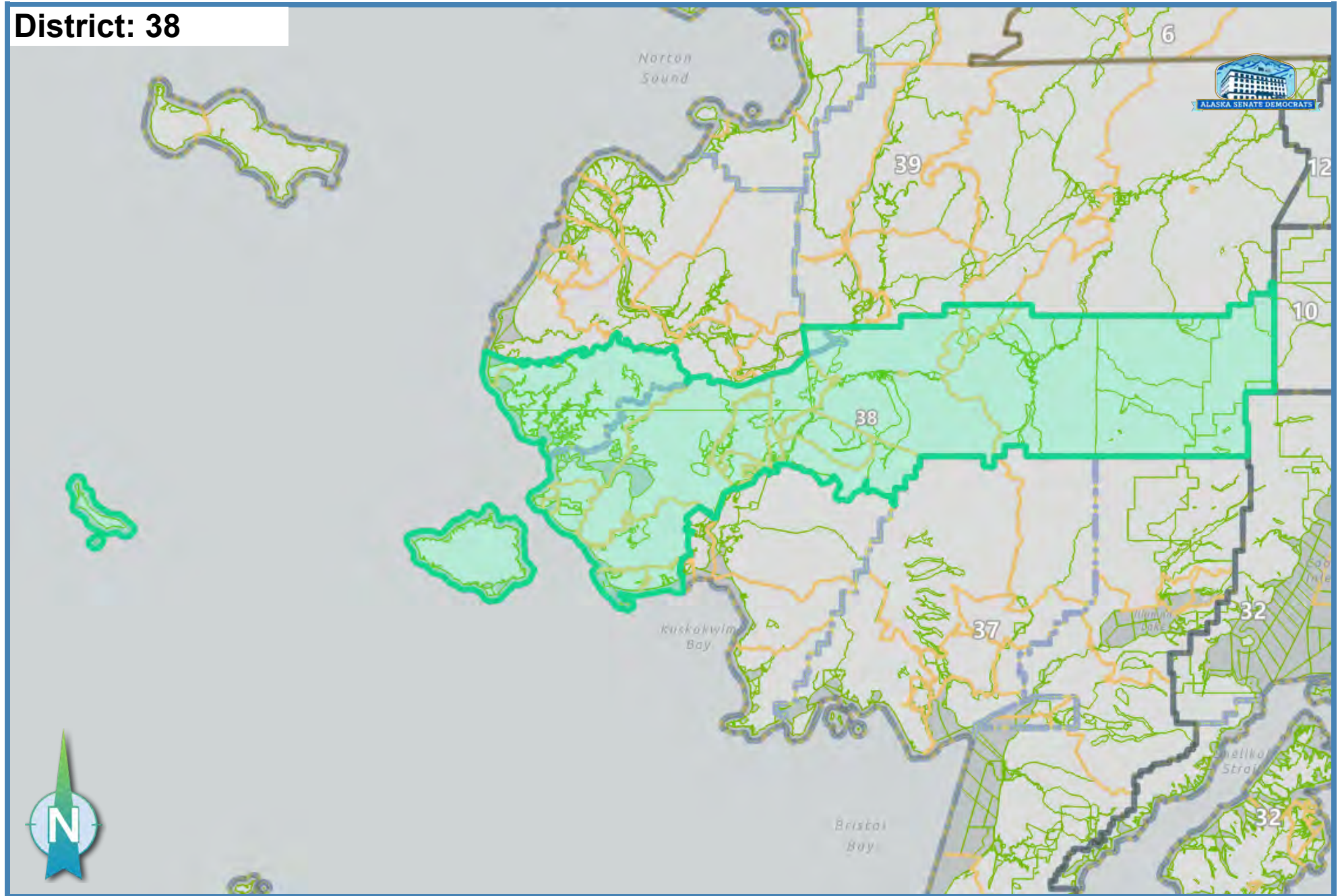


Ideal Population: 18,335

Deviation: -0.28 %

Total Population: **18,284**

District: 38

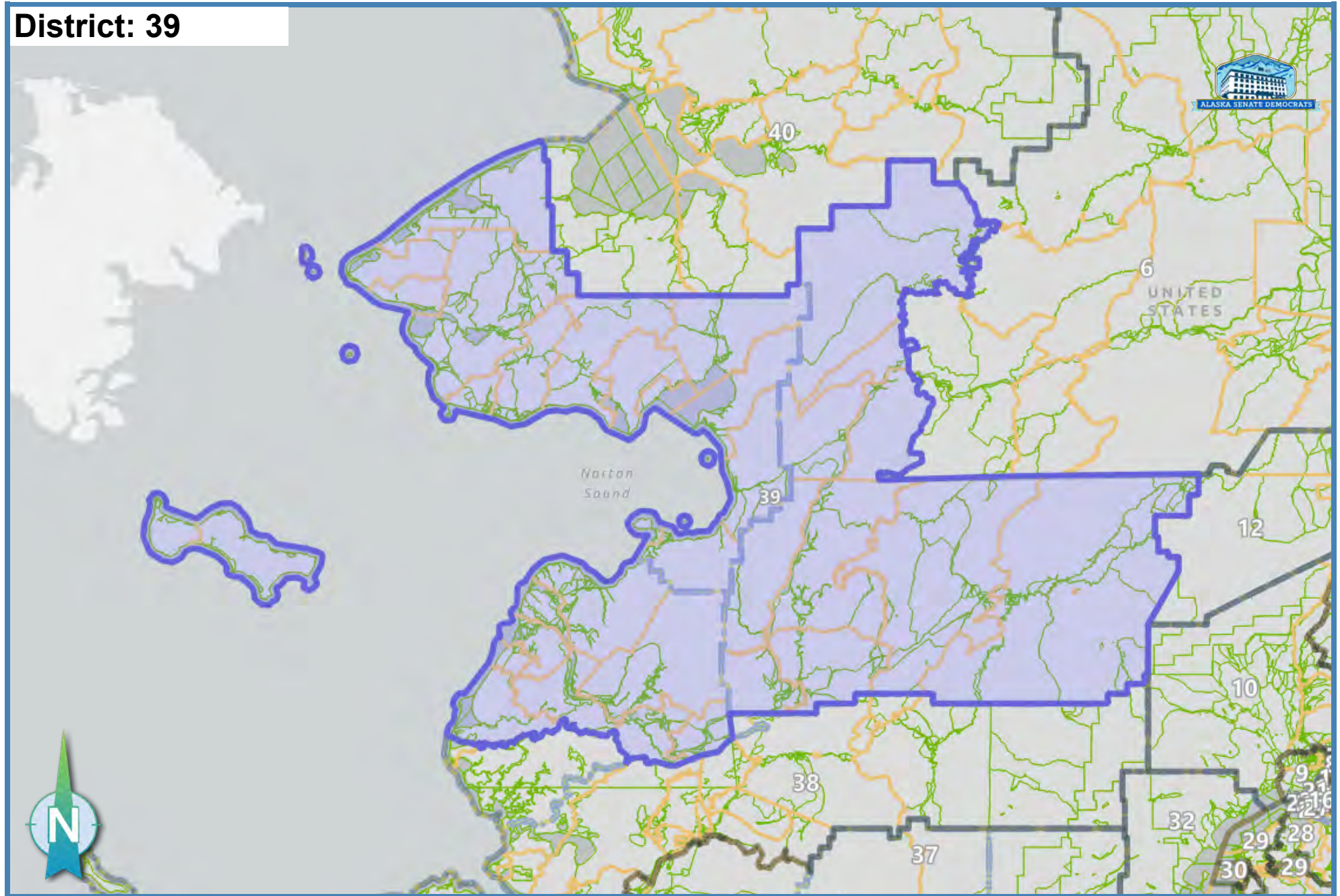


Ideal Population: 18,335

Deviation: 1.16 %

Total Population: 18,547

District: 39

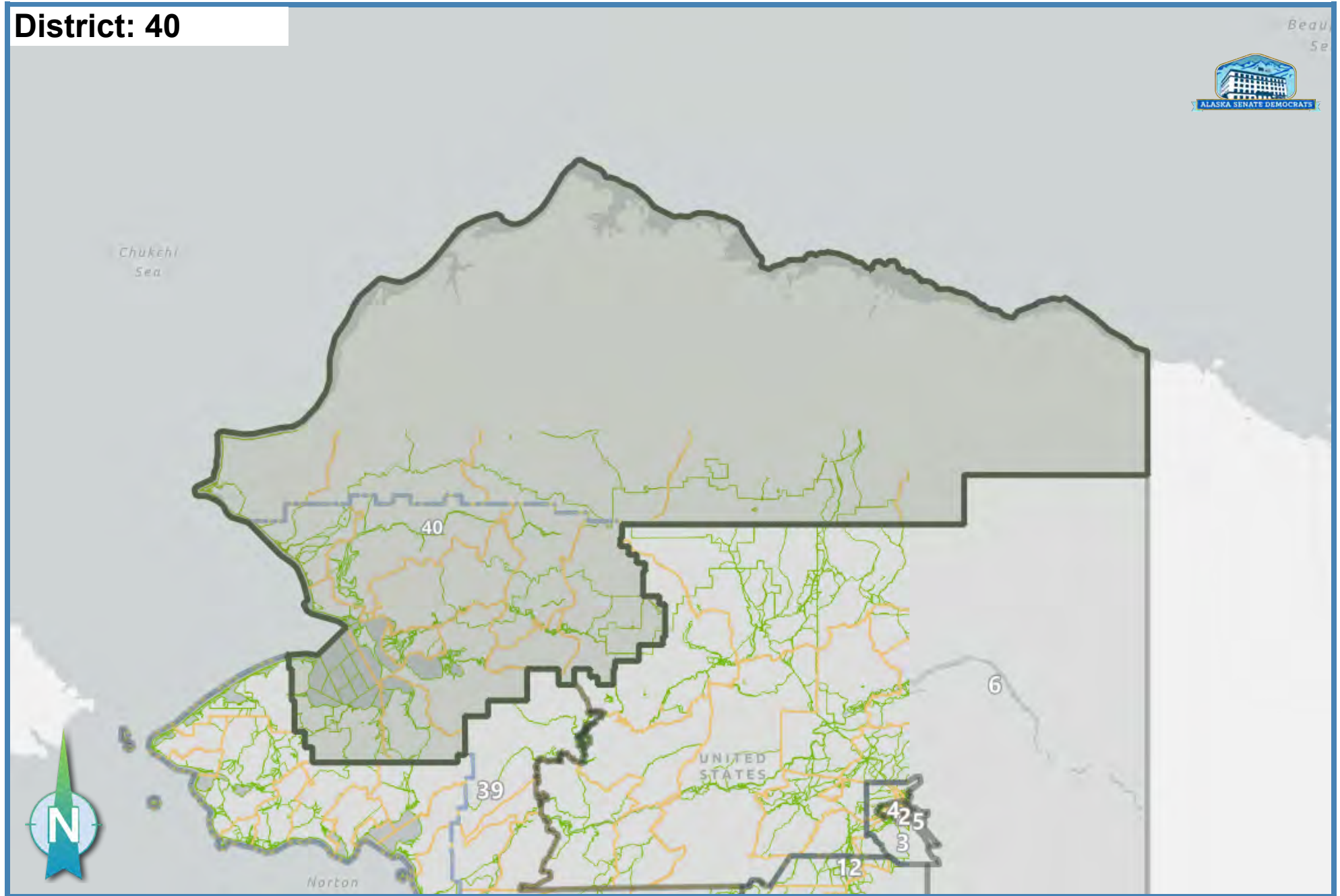


Ideal Population: 18,335

Deviation: -2.10 %

Total Population: 17,950

District: 40



Ideal Population: 18,335

Deviation: 2.67 %

Total Population: 18,824

Alaska Senate Minority REVISED 9/19/2021
District Populations and Deviations

	Total Population Tabulation			
DISTRICT	All Persons	Target	Dev.	Difference
1	18,336	18,335	0.01%	1
2	18,331	18,335	-0.02%	-4
3	18,334	18,335	0.00%	-1
4	18,351	18,335	0.09%	16
5	18,337	18,335	0.01%	2
6	18,333	18,335	-0.01%	-2
7	18,291	18,335	-0.24%	-44
8	18,336	18,335	0.01%	1
9	18,314	18,335	-0.11%	-21
10	18,301	18,335	-0.18%	-34
11	18,332	18,335	-0.02%	-3
12	18,306	18,335	-0.16%	-29
13	18,335	18,335	0.00%	0
14	18,335	18,335	0.00%	0
15	18,348	18,335	0.07%	13
16	18,355	18,335	0.11%	20
17	18,337	18,335	0.01%	2
18	18,323	18,335	-0.06%	-12
19	18,340	18,335	0.03%	5
20	18,340	18,335	0.03%	5
21	18,322	18,335	-0.07%	-13
22	18,349	18,335	0.08%	14
23	18,333	18,335	-0.01%	-2
24	18,344	18,335	0.05%	9
25	18,334	18,335	0.00%	-1
26	18,336	18,335	0.01%	1
27	18,338	18,335	0.02%	3
28	18,335	18,335	0.00%	0
29	18,601	18,335	1.45%	266
30	18,606	18,335	1.48%	271
31	18,602	18,335	1.46%	267
32	18,385	18,335	0.27%	50
33	18,087	18,335	-1.35%	-248
34	18,071	18,335	-1.44%	-264
35	18,071	18,335	-1.44%	-264
36	18,057	18,335	-1.52%	-278
37	18,284	18,335	-0.28%	-51
38	18,547	18,335	1.16%	212
39	17,950	18,335	-2.10%	-385
40	18,824	18,335	2.67%	489
Assigned	733391			
Total Pop	733391			
Unassigned	0			