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BARRIERS TO NATIVE AMERICAN VOTING RIGHTS

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Executive Summary

This year, Native political participation reached a new milestone in the midterm election cycle, with at least 355 Native American and Indigenous candidates seeking local, state, and federal office.[1] This milestone in political participation occurs against a backdrop of a long and persisting struggle to secure Native voting rights. Even though the Indian Citizenship Act of 1924 and the Nationality Act of 1940 made Native Americans citizens of the U.S.,[2] many states did not recognize Native Americans' right to vote for many years after they officially became citizens. Over the course of several decades and significant litigation and advocacy, they acquired the right to vote in state and local elections.

Challenges and inequalities still exist due to gerrymandering and refusal to accommodate the special barriers facing Native voters. These barriers include: homes without standard street addresses, impeding access to ballot information and materials; long distances to polling places, impeding access to voting; language access, necessitating voting materials translated into Native languages, including through oral translation for those Native languages that rely exclusively on oral transmission; high incidence of Native voters lacking identification required under strict voter ID laws; and district voting maps that weaken the

[1] *See* Mariana Alfaro, *A Record Number of Native Americans Are Running in the 2026 Midterms*, WASH. POST (Oct. 3, 2026), https://www.washingtonpost.com/politics/2026/10/03/record-number-native-americans-are-running-2026-midterms/ (counting candidates who ran or are running in primary and general elections). Examples include Deb Haaland, running for governor of New Mexico; Mary Peltola, running for U.S. Senate in Alaska; Peggy Flanagan, running for U.S. Senate in Minnesota; Jonathan Nez, running for Arizona's Second Congressional District; and Bill Hill, running for Alaska's at-large congressional seat. *See also 2026 Endorsements*, ADVANCE NATIVE POL. LEADERSHIP https://advancenativepl.org/2026-endorsements/ (last visited Oct. 7, 2026).

[2] A white paper published by the Edley Center on Law and Democracy in 2026 looked at the United States' long road to bestowing United States (U.S.) citizenship on Native Americans. *See* Libby Washburn, *United States Citizenship and Native Americans*, EDLEY CTR. ON L. & DEMOCRACY (April 2026), https://acrobat.adobe.com/id/urn:aaid:sc:US:817c5d47-56fc-40be-a949-89be53addad0.

Native vote in locations with a significant number of Native American voters. These barriers often compound one another, as election rules interact with geographic isolation, limited infrastructure, and language differences to make registration and voting more difficult for Native communities.[3] Effective federal intervention is essential to establish consistent protections, enforce existing voting rights, and reduce the burden on Tribes and individual voters to secure access through costly litigation one jurisdiction at a time.[4] This paper examines the key cases and laws through which Native Americans won the right to vote in state and local elections and the barriers to voting that still remain.[5]

Legal Cases and Legislation Involving the Right of Native Americans to Vote

After Congress extended citizenship in 1924, states continued to exclude Native voters through restrictions based on guardianship, taxation, reservation residence, and English literacy. These restrictions turned the federal government's trustee relationship with Tribes, and Native peoples' continued ties to their communities, into reasons to deny political participation.[6] Native voters gradually dismantled these exclusions through litigation and advocacy. In Arizona, reservation residents challenged their exclusion in 1928, but the state's supreme court treated them as persons "under guardianship" despite recognizing their state residency.[7] That interpretation remained in place until 1948, when Frank Harrison and Harry Austin, members of the Mohave-Apache Indian Tribe living on the Fort McDowell

[3] *See* Minority Staff of H. Comm. on H. Admin., 118th Cong., *Voting for Native Peoples: Barriers and Policy Solutions* 58–64 (July 2024) [hereinafter *Voting for Native Peoples*], https://democrats-cha.house.gov/sites/evo-subsites/democrats-cha.house.gov/files/evo-media-document/Dec_2_2024_Voting%20for%20Native%20Peoples_V3%5B14%5D.pdf.

[4] *See id.* at 118–19; Subcomm. on Elections of the H. Comm. on H. Admin., 116th Cong., *Report on Voting Rights and Election Administration in the United States of America* 89 (2019), https://www.govinfo.gov/content/pkg/GOVPUB-Y4_H81_3-PURL-gpo129871/pdf/GOVPUB-Y4_H81_3-PURL-gpo129871.pdf.

[5] For a more comprehensive understanding of Native American voting rights, *see generally,* Megan Gall & Kevin Stout, *Obstacles Persist: According to the Data*, Native Am. Rts. Fund (2026), https://vote.narf.org/wp-content/uploads/2026/08/2026-narf-obstacles-persist-voting-report.pdf; *Voting for Native Peoples: Barriers and Policy Solutions*, *supra* note 3; Chelsea Jones & Coryn Grange, *Voting on Tribal Lands*, Brennan Ctr. for Just. (Nov. 19, 2024), https://www.brennancenter.org/our-work/research-reports/voting-tribal-lands; James Thomas Tucker, Jacqueline De León & Daniel McCool, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters*, Native Am. Rts. Fund (2020), https://vote.narf.org/obstacles-at-every-turn/; *Report on Voting Rights and Election Administration in the United States of America*, *supra* note 3, at 85–108 (2019); U.S. Comm'n on Civil Rts., *An Assessment of Minority Voting Rights Access in the United States* 45 (2018); Daniel McCool, Susan M. Olson & Jennifer L. Robinson, *Native Vote: American Indians, the Voting Rights Act, and the Right to Vote* (2007); Patty Ferguson-Bohnee, *The History of Indian Voting Rights in Arizona: Overcoming Decades of Voter Suppression*, 47 Ariz. St. L.J. 1099 (2015); Natalie Landreth & Moira Smith, *Voting Rights in Alaska: 1982–2006*, 17 S. Cal. Rev. L. & Soc. Just. 79 (2007); Cohen's Handbook of Federal Indian Law § 17.02 (Nell Jessup Newton ed., 2024).

[6] *See Voting for Native Peoples*, *supra* note 3, at 32–39.

[7] Porter v. Hall, 271 P. 411 (Ariz. 1928), *overruled in part by* Harrison v. Laveen, 196 P.2 456 (Ariz. 1948).

Reservation, successfully challenged it.[8] The court held that the federal government's relationship with Native people did not constitute the legal guardianship contemplated by Arizona's voting restrictions.[9] That same year, Miguel Trujillo, an Isleta Pueblo member and World War II veteran, defeated New Mexico's voting exclusion of "Indians not taxed" as unconstitutional racial discrimination under the Fourteenth and Fifteenth Amendments.[10] These victories did not immediately settle Native voting eligibility. Utah retained a reservation-based residency restriction until its repeal in 1957,[11] and New Mexico faced another challenge to Navajo voters' residency in an election dispute resolved in 1962.[12] Removing explicit state-level exclusions did not ensure access to the ballot. State-imposed English literacy tests continued to disenfranchise Native voters, particularly where discriminatory educational policies provided limited opportunities to learn English.[13]

Dismantling these broader barriers required federal legislation. The Voting Rights Act of 1965 (VRA) prohibited racial discrimination in voting and required jurisdictions covered by its formulas to obtain federal approval before implementing voting changes.[14] Congress's nationwide prohibition on literacy tests, upheld by the Supreme Court in 1970, removed another obstacle.[15]

Congress subsequently recognized that an English-only election system could exclude citizens even when they were legally entitled to vote.[16] The VRA's 1975 amendments explicitly extended language protections to American Indians and Alaska Natives.[17] Covered jurisdictions must provide election information and assistance in the applicable minority

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[8] Laveen, 196 P.2d at 456.

[9] *Id.* at 348–49.

[10] Trujillo v. Garley (D.N.M. Aug. 2, 1948); *see also Voting for Native Peoples*, *supra* note 3, at 33–38.

[11] Allen v. Merrell, 305 P.2d 490 (Utah 1956), *vacated*, 353 U.S. 932 (1957).

[12] Montoya v. Bolack, 372 P.2d 387, 388, 394 (N.M. 1962) (rejecting a reservation-residency challenge to Navajo voters' ballots).

[13] *See* Staff of Subcomm. on Elections of the H. Comm. on H. Admin., 116th Cong., *Voting Rights and Election Administration in the United States of America* 87 (2019) [hereinafter *Election Administration Report*]; Oregon v. Mitchell, 400 U.S. 112, 132–34 (1970).

[14] Voting Rights Act of 1965, Pub. L. No. 89-110, §§ 2, 4–5, 79 Stat. 437, 437–39.

[15] Voting Rights Act Amendments of 1970, Pub. L. No. 91-285, § 201, 84 Stat. 314, 315; Mitchell, 400 U.S. at 118.

[16] *See* U.S. Comm'n on C.R., *An Assessment of Minority Voting Rights Access in the United States* 19 (2018), https://www.usccr.gov/files/pubs/2018/Minority_Voting_Access_2018.pdf (last visited Oct. 13, 2026) (explaining that a failure to provide or make available legally required language access voting materials and to comply with Section 208's requirement for voters to bring an assistant of their choosing imposes unnecessary barriers on Native American voters).

[17] *See id.* at 40 (explaining that Congress responded to discrimination and intimidation against voters with limited English proficiency by adding Section 203's coverage formula and requirements for bilingual election materials and voter assistance); Voting Rights Act Amendments of 1975, Pub. L. No. 94-73, 89 Stat. 400.

language, including oral assistance for predominantly historically unwritten languages.[18] Congress expanded language coverage in 1992 to better reach Native communities on reservations.[19] Nevertheless, congressional reports continued to document both gaps in coverage and inadequate assistance where the law applies.[20]

The National Voter Registration Act of 1993 (NVRA)[21] expanded ballot access by integrating voter registration into motor vehicle offices, mail applications, and public assistance and disability service agencies. While these options have reduced administrative hurdles, significant barriers remain to the exercise of the franchise.

To combat the well-documented structural conditions on Tribal lands and in Native communities that suppress the Native vote, the proposed Native American Voting Rights Act of 2021 aimed to guarantee on-reservation voting access, enforce the validity of Tribal identification and designated addresses, and expand language assistance.[22]

Recent Supreme Court Decisions Impacting Voting

Recent Supreme Court decisions have weakened the legal tools necessary to protect these voting rights gains. In 2013, *Shelby County v. Holder* invalidated the VRA's coverage formula, ending routine preclearance.[23] Previously covered jurisdictions like Arizona could implement voting changes without first demonstrating that they were nondiscriminatory. This shifted greater responsibility to Tribes and voters to challenge barriers after their adoption, a costly process that has left contested rules in place while elections proceed.[24]

The Court has also made certain challenges in voting rules more difficult. In *Brnovich v. Democratic National Committee* (2021), it upheld Arizona's restrictions on out-of-precinct voting and third-party ballot collection against a Section 2 of the VRA challenge. The Court's

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[18] Voting Rights Act Amendments of 1975, Pub. L. No. 94-73, 89 Stat. 400

[19] Voting Rights Language Assistance Act of 1992, Pub. L. No. 102-344, § 2, 106 Stat. 921, 921–22; 52 U.S.C. §§ 10503(b)(2)(A), (c), (e); *see also Election Administration Report*, *supra* note 20, at 88; *see also* U.S. Comm'n on C.R., *supra* note 23, at 43 (noting that the 1992 amendments included more expansive language access coverage formulas for Native Americans living on Indian Reservations); H.R. 4312, 102nd Cong. (1992).

[20] *See Voting for Native Peoples*, *supra* note 3, at 58–64.

[21] National Voter Registration Act of 1993, Pub. L. No. 103-31, 107 Stat. 77 (codified as amended at 52 U.S.C. §§ 20501–20511); 52 U.S.C. §§ 20503(a), 20506(a)(2), (4).

[22] *Native American Voting Rights: Exploring Barriers and Solutions: Hearing Before the Subcomm. on Elections of the H. Comm. on H. Admin.*, 116th Cong. (2020) (written statement of Patty Ferguson Bohnee at 8–12); Frank Harrison, Elizabeth Peratrovich, and Miguel Trujillo Native American Voting Rights Act of 2021, H.R. 5008, 117th Cong. (2021); *Voting for Native Peoples*, *supra* note 3, at 118–19.

[23] Shelby Cnty., Ala. v. Holder, 570 U.S. 529, 556–57 (2013).

[24] *Id.* at 557; *see also Election Administration Report*, *supra* note 20, at 89 (discussing testimony concerning the expense of litigation and the loss of preclearance protections for Native voters).

decision largely dismissed an evidentiary record demonstrating how facially neutral electoral rules can impose different burdens on the right to vote due to limited home mail delivery, distant postal services, and transportation barriers that increased Native voters' reliance on assistance returning ballots.[25] In *Louisiana v. Callais* (2026), the Court narrowed the pathway for Section 2 relief, requiring plaintiffs to isolate evidence of racial discrimination from partisan voting behavior and legitimate districting objectives. Although the case concerned Black voters in Louisiana, that framework also governs claims involving Native communities.[26]

Registration protections now face another test in *Republican National Committee v. Mi Familia Vota*, scheduled for argument on December 8, 2026.[27] One question before the Court is whether the NVRA or an existing consent decree prevents Arizona from requiring documentary proof of citizenship from applicants using its state registration form.[28] Some Native Elders born at home on Tribal lands were never issued birth certificates, leaving them without a document commonly used to establish citizenship.[29] Obtaining a delayed or replacement certificate can require fees, substantial travel, and lengthy processing times, with geographic isolation and higher poverty rates on reservations compounding these burdens.[30] For Native voters who encounter difficulties obtaining citizenship documents the outcome could affect access to registration. Together, these developments underscore the continuing gap between possessing the right to vote and having a reliable, enforceable opportunity to exercise it.

Persistent Barriers to Native American Voting

Despite formal gains in voting protection, in practice state and local laws and rules block many Native voters from the polls. Significant current barriers facing Native voters include: (1) lack of standard number addresses; (2) residence far away from the polls; (3) unequal access to common means for registering to vote; (4) language access barriers; (5) strict voter

[25] Brnovich v. Democratic Nat'l Comm., 594 U.S. 647, 668–87 & n.21 (2021); *Id.* at 724–25 (Kagan, J., dissenting) (discussing Native voters' mail access, transportation barriers, and reliance on ballot collection).

[26] Louisiana v. Callais, 146 S. Ct. 1131 (2026), Nos. 24-109 & 24-110, slip. Op. at 23–31, 32–35 (Apr. 29, 2026).

[27] Docket, *Republican Nat'l Comm. v. Mi Familia Vota*, No. 25-1017 (U.S.), https://www.supremecourt.gov/docket/docketfiles/html/public/25-1017.html (last visited Oct. 8, 2026) (recording the June 29, 2026, grant of certiorari and December 8, 2026, argument date).

[28] Petition for a Writ of Certiorari at i, Republican Nat'l Comm. v. Mi Familia Vota, No. 25-1017 (U.S. Feb. 19, 2026). The Court also agreed to decide "whether the NVRA prohibits Arizona from implementing a program within 90 days of a federal election to cancel the registrations of voters who are not U.S. citizens."

[29] *See* Jacqueline De León & Nicole Hnasen, *All Versions of the SAVE Act Harm Native Voters*, 1–2, Native Am. Rts. Fund & Campaign Legal Ctr., https://narf.org/wordpress/wp-content/uploads/2025/04/2026save-act-factsheet-narf-clc.pdf (last visited Oct. 13, 2026) (discussing barriers to obtaining citizenship documents among Native elders born at home).

[30] *Id.* at 2 (discussing costs, travel, and processing delays associated with delayed or replacement birth certificates).

identification rules; and (6) redistricting that dilutes Native voter impact. Each of these barriers is discussed in turn.

Lack of Addresses

Election systems assume every voter has a standard numbered address on a named street. On many reservations, however, homes do not have official addresses and Native families often collect mail at post office boxes in distant towns.[31] When election rules ignore these distinctive conditions, Native voters suffer higher rates of registration rejections, delayed mail ballots, and incorrect precinct assignments.[32]

An example from North Dakota shows how a neutral-seeming voter ID law can prevent Native Americans from voting. Beginning in 2013, North Dakota enacted legislation mandating that voter identification list a residential address, subsequently imposing increasingly stringent restrictions on voting.[33] About 43,000 individuals identify as American Indian or Alaska Native in North Dakota,[34] and many live in rural areas. Native voters secured an injunction against the early version of the state voter ID law and again challenged the 2017 version.[35] Before the 2018 general election, the Eighth Circuit allowed the state to enforce the street address requirement. When two Tribes and individual voters sought emergency relief, the court held that it was too close to the election to change the rules.[36] Relief arrived in 2020 when North Dakota agreed to accept Tribal IDs and Tribally designated addresses and to let voters without a physical address mark their homes on a map. While the settlement was a significant legal victory, the delayed resolution meant the address requirement had already suppressed Native voter participation in intervening elections.[37]

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[31] *See* WHITE HOUSE DOMESTIC POLICY COUNCIL, Interagency Steering Group on Native American Voting Rights, *Report of the Interagency Steering Group on Native American Voting Rights* 17–25 (March 2022), https://bidenwhitehouse.archives.gov/wp-content/uploads/2022/03/Tribal-Voting-Report-FINAL.pdf.

[32] *Id.* at 16–25.

[33] *See* H.B. 1332, 63d Leg. Assembly, Reg. Sess. (N.D. 2013); H.B. 1333, 64th Leg. Assembly, Reg. Sess. (N.D. 2015); H.B. 1369, 65th Leg. Assembly, Reg. Sess. (N.D. 2017).

[34] *See* QuickFacts: North Dakota, U.S. CENSUS BUREAU, https://www.census.gov/quickfacts/fact/table/ND/PST045225.

[35] *See* Brakebill v. Jaeger, No. 1:16-cv-008, 2016 WL 7118548 (D.N.D. Aug. 1, 2016) (Order granting Plaintiffs' Motion for Preliminary Injunction); Brakebill v. Jaeger, No. 1:16-cv-008, 2018 WL 1612190 (D.N.D. Apr. 3, 2018) (Second Preliminary Injunction); *Brakebill v. Jaeger*, 905 F.3d 553 (8th Cir. 2018); Brakebill v. Jaeger, 139 S. Ct. 10 (2018) (mem.) (Denial of the application to vacate the stay). The Eighth Circuit later vacated the injunction. *See* Brakebill v. Jaeger, 932 F.3d 671, 681 (8th Cir. 2019).

[36] *See* Spirit Lake Tribe v. Jaeger, No. 1:18-cv-222, 2018 WL 5722665 (D.N.D. Nov. 1, 2018); *Consent Decree,* Spirit Lake Tribe v. Jaeger, No. 1:18-cv-222 (D.N.D. Apr. 27, 2020).

[37] This barrier exists in other places as well and has been part of lawsuits in Arizona and Montana. As discussed in greater detail below, the Tohono O'odham Nation and the Gila River Indian Community challenged a 2022 law requiring voters to prove a physical residential address and the Supreme Court has agreed to hear the case. *See* Mi Familia Vota v. Fontes, 719 F. Supp. 3d 929, 1019 (D. Ariz. 2024), *aff'd in part*, *vacated in part*, 129 F.4th 691 (9th Cir. 2025), cert. granted

Distance to the Polls

Many Tribal homelands cover vast amounts of rural land plagued by poor road quality, nonexistent public transit, and a lack of reliable personal transportation.[38] A Native voter may have to travel between twenty to a hundred miles to register and to vote.[39] Where a state or local government locates its polling places can sometimes decide whether Native Americans vote at all.[40] In 2016, members of the Pyramid Lake and Walker River Paiute Tribes in Nevada asked for their Tribal members to have the ability to register and vote on their own land. The Nevada Secretary of State and county officials refused and Tribal members sued. A month before the election, they won polling sites on their reservations.[41] In this instance, the court recognized that distance, poverty, and lack of transportation were keeping Native voters from the ballot. This proactive work opened the polls for two Tribes, but Nevada has approximately 20 federally recognized Tribes comprised of 28 separate bands, colonies, and councils, many in rural areas, and there is more work to do to secure nearby polling sites for all Native voters.[42]

Unequal Access to Voter Registration

Although the National Voter Registration Act designates specific state agencies to facilitate voter registration, administrative noncompliance has deprived Native voters of these statutory protections in practice. For example, in 2020, the Oglala Sioux and Rosebud Sioux Tribes took South Dakota to court for ignoring the National Voter Registration Act[43], which

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Republican Nat'l Comm. v. Mi Familia Vota, No. 25-1017 (U.S. June 29, 2026). In Montana, Tribes and Native organizations joined a successful challenge to a set of 2021 voting laws that included stricter voter ID rules. *See* Mont. Democratic Party v. Jacobsen, 545 P.3d 1074 (Mont. 2024).

[38] *See How Barriers to Voting Impact Native American Communities*, League of Women Voters Blog (Nov. 25, 2025), https://www.lwv.org/blog/how-barriers-voting-impact-native-american-communities; *Clean Public Transportation Is Taking Indian Country the Extra Mile*, NRDC Blog (Sep. 10, 2024), https://www.nrdc.org/bio/isabella-sullivan/clean-public-transportation-taking-indian-country-extra-mile.

[39] *See* U.S. Comm'n on C.R., *An Assessment of Minority Voting Rights Access in the United States*, 345 (2018), https://www.usccr.gov/files/pubs/2018/Minority_Voting_Access_2018.pdf (last visited Oct. 13, 2026) (explaining that DOJ had found Native Americans had to travel up to 100 miles to vote).

[40] Tucker, De León & McCool, *supra* note 2.

[41] *See* Sanchez v. Cegavske, 214 F. Supp. 3d 961 (D. Nev. 2016) (Plaintiffs alleged the potential for an almost 100-miles roundtrip driving distance burden for Native Americans). The Plaintiffs' Motion for Preliminary Injunction was granted in part for the request for early in-person voting in the towns of Nixon and Schurz and for election day in-person voting in Nixon and denied in part for the voter registration relief.

[42] *See* FAQs, Nevada Department of Native American Affairs https://dnaa.nv.gov/resources/faqs/ (last visited Oct. 13, 2026); *Nevada Tribes*, Univ. of Nevada Reno, https://www.unr.edu/indigenous-relations/nevada-tribes, (last visited Oct. 13, 2026).

[43] *See* Nat'l Voter Registration Act of 1993, Pub. L. No. 103-31, 107 Stat. 77 (codified as amended at 52 U.S.C. §§ 20501–20511).

requires public assistance and driver's license offices to offer voter registration. Following a judicial finding of systemic NVRA violations across multiple state agencies, the Tribes secured a settlement requiring South Dakota to appoint a statewide coordinator, standardize voter registration procedures, and report publicly on its progress.[44] That agreement lasted three years, and when it ended, the court oversight ended as well.[45] Now the burden of holding the state accountable for following the law falls back to the Tribes, advocates, and community members.

Language Access

For some Native voters, particularly elders on the Navajo Nation and in rural Alaska, English is a second language or one they do not speak at all.[46] Because many Native languages rely exclusively on oral transmission, a written translation will not help a voter who needs assistance understanding a ballot or voting materials.[47] In 2013, Alaska Native voters and four Tribes sued Alaska for failing to provide language assistance required by federal law for Alaska Native speakers.[48] The court found Alaska had violated Section 203 of the Voting Rights Act in three census areas.[49] A 2015 settlement required Alaska to build a language assistance program with translated materials and trained bilingual workers.[50] Alaska never fully followed through on the requirements, and the Tribes and individual voters had to go back to court and secure an extension; the court kept the agreement in place through the end of 2026.[51] Winning in court is only part of the fight and Native communities must be vigilant to protect their rights.

Voter Identification

Several states have strict voter identification rules, and for Tribal members, obtaining a state ID can mean yet another long drive to a motor vehicle office, paying fees for supporting documents, and possibly providing a birth certificate that some elders, born at home, do not

[44] *See* Rosebud Sioux Tribe v. Barnett, 604 F. Supp. 3d 827 (D.S.D. 2022); Rosebud Sioux Tribe v. Barnett, No. 5:20-cv-05058-LLP (D.S.D. 2022) (settlement).

[45] *See* SD Voter Settlement Ends; Tribal Advocates Emphasize Continued Vigilance, Native Am. Rts. Fund (Jan. 19, 2026), https://narf.org/sd-nvra/.

[46] *See* National Conf. of State Legislatures, Voting for All Americans: Native Americans (May 20, 2026).

[47] *See How translators help remove barriers to voting for Indigenous communities,* PBS News Hour (Nov 7, 2022), https://www.pbs.org/newshour/show/how-translators-help-remove-barriers-to-voting-for-indigenous-communities.

[48] *See* Toyukak v. Treadwell, No. 3:13-cv-00137-SLG (D. Alaska Filed in 2013).

[49] *See* Toyukak v. Treadwell, No. 3:13-cv-00137-SLG (D. Alaska Decided in 2014).

[50] *See* Toyukak v. Mallott, No. 3:13-cv-00137-SLG (D. Alaska 2015) (order approving settlement).

[51] See Toyukak v. Dahlstrom, No. 3:13-cv-00137-SLG (D. Alaska 2023).

have.[52] When Arizona passed a 2022 law requiring new voters to prove citizenship and residence,[53] the Tribes were concerned that their members might be impacted. The Gila River Indian Community and Tohono O'odham Nation joined a lawsuit challenging the new ID rules, and a federal district court blocked provisions of the law.[54] In 2025, the Ninth Circuit affirmed,[55] and the U.S. Supreme Court will soon hear the case.[56] This case is significant because a ruling in favor of Arizona might spur other states to adopt stricter citizenship requirements that impose a burden on Tribal members' right to vote.

Redistricting and Vote Dilution

Native Americans make up significant portions of the population in several states, including Oklahoma, Arizona, California, and New Mexico.[57] The way district voting lines are drawn can weaken Native American voting power even when Natives make up a large portion of an area. Redistricting often dilutes Native political power by either "cracking" Tribal communities across several districts or "packing" them into a single district to minimize their overall electoral influence.[58]

In 2021, after years of conflict over district voting lines, New Mexico's Tribal leaders took a proactive stance. The state's new Redistricting Act (SB 304)[59] changed the way New Mexico draws voting districts and created a Citizen Redistricting Committee to propose maps; the Tribes formed the Native American Redistricting Working Group to submit their own consensus maps.[60] With the backing of all the Tribal Nations in the state, Tribal leaders

[52] *See* Tucker & De León, supra note 2, at 74; Aaron Granillo, Navajos Born at Home Find It Hard to Get Delayed Birth Certificates, KNAU (July 18, 2014), https://www.knau.org/knau-and-arizona-news/2014-07-18/navajos-born-at-home-find-it-hard-to-get-delayed-birth-certificates.

[53] *See* H.B. 2492, 55th Leg., 2d Reg. Sess. (Ariz. 2022) (codified at Ariz. Rev. Stat. Ann. § 16-121.01).

[54] *See* Mi Familia Vota v. Fontes, 719 F. Supp. 3d 929 (D. Ariz. 2024).

[55] *See* Mi Familia Vota v. Fontes, 129 F.4th 691 (9th Cir. 2025).

[56] *See* Republican Nat'l Comm. v. Mi Familia Vota, No. 25-1017 (U.S. cert. granted June 29, 2026).

[57] *See A Look at the Largest American Indian and Alaska Native Tribes and Villages in the Nation, Tribal Areas and States*, U.S. Census Bureau (Oct. 03, 2023), https://www.census.gov/library/stories/2023/10/2020-census-dhc-a-aian-population.html.

[58] *See* Tucker, De León & McCool, *supra* note 2.

[59] *See* S.B. 304, 55th Leg., 1st Sess. (N.M. 2021) (codified at N.M. Stat. Ann. §§ 1-3A-1 to -9).

[60] *See* Press Release, All Pueblo Council of Governors, Pueblo Governors of New Mexico, Navajo Nation and Jicarilla Apache Nation Achieve Consensus on State House Map (Dec. 6, 2021), *reprinted in* ICT, https://ictnews.org/the-press-pool/pueblo-governors-of-new-mexico-navajo-nation-and-jacarilla-apache-nation-achieve-consensus-on-state-house-map/; Press Release, Navajo Nation Council, New Mexico Redistricting Plan for Voting Discussed with Navajo Nation Leaders (Oct. 12, 2021), https://www.navajonationcouncil.org/wp-content/uploads/2021/10/NM_Redistrict_2021.10.12.pdf. Some individuals did not feel that the consensus maps went far enough to protect Native voters. *See* NM redistricting act signed – advocates say more needed, Navajo Times (April 13, 2021).

brought their consensus maps to the New Mexico Legislature, and lawmakers incorporated them into the new state House plan, which was signed into law.[61]

This experience is not typical. A voting rights dispute arose in San Juan County, Utah, where members of the Navajo Nation experienced voter packing. The county occupies the southeastern corner of the state, and at the time more than 50% of its population was Native American. In 2012, the Navajo Nation and several individual members sued the county, alleging that the election districts for the school board and the county commission violated the Equal Protection Clause and the VRA. The district court found that the districts violated the Equal Protection Clause and awarded summary judgment to the Navajo Nation.[62] The Tenth Circuit affirmed.[63]

In North Dakota, the 2021 map packed Turtle Mountain voters into a single House subdistrict and left Spirit Lake voters in a district where non-Native voters controlled the outcome. [64] After the Tribes won at trial in 2023, and the district court ordered both reservations unified into a single district.[65] The judge noted that the legislative map deprived "Native American voters of an equal opportunity to participate in the political process and to elect representatives of their choice, in violation of Section 2 of the VRA."[66] After the Supreme Court narrowed Section 2 in *Louisiana v. Callais*, the Eighth Circuit vacated the Tribes' judgment and sent the case back to the trial court.[67]

These examples demonstrate that without strong federal protection, fair districting for Native voters becomes entirely dependent on state politics.

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[61] *See NM Enacts New State House Map*, BALLOTPEDIA NEWS (Jan. 3,2022), https://news.ballotpedia.org/2022/01/03/new-mexico-enacts-new-state-house-map/.

[62] Navajo Nation v. San Juan Cnty., 266 F. Supp. 3d 1341 (D. Utah 2017), aff'd, 929 F.3d 1270 (10th Cir. 2019). The court appointed a special master to develop a remedial redistricting plan, directed the county to adopt the plan, and ordered a special election in 2018. *Id.* at 1367.

[63] The Tenth Circuit held that the county had to offer reasons "strong enough to justify the significant dilution of its citizens' right to vote" and failed to justify "the heavy and longstanding burden on its residents' right to vote." Navajo Nation v. San Juan Cnty., 929 F.3d 1270, 1285 (10th Cir. 2019). The court affirmed the finding that the county created one district "based on race in violation of the Equal Protection Clause." *Id.* at 1291.

[64] *See* Turtle Mountain Band of Chippewa Indians v. Howe, No. 3:22-cv-22, slip op. (D.N.D. Nov. 17, 2023).

[65] *Id.*; Turtle Mountain Band of Chippewa Indians v. Howe, No. 3:22-cv-22 (D.N.D. Jan. 8, 2024) (order adopting remedial plan).

[66] Turtle Mountain Band of Chippewa Indians v. Howe, No. 3:22-cv-22, at 17.

[67] *See* Louisiana v. Callais, 146 S. Ct. 1131 (2026); Turtle Mountain Band of Chippewa Indians v. Howe, No. 23-3655 (8th Cir. July 7, 2026).

Conclusion

On November 3, 2026, many Native voters will go to the polls under rules and voting maps that were either not written with them in mind or were drafted in a way that suppresses their vote. None of the issues highlighted above will be fixed before election day, and whatever barriers exist today will shape who votes in this election.

Litigation and advocacy in this area take years, even decades. This work has produced real victories, but slowly and unevenly around the country. Many people work hard to protect the Native vote, and this white paper does not downplay these important contributions. However, as lawsuits proceed through the courts and grassroots efforts mobilize, Native voters remain burdened by these persistent electoral barriers. Because judicial remedies in election law are inherently prospective, a 2025 court decree cannot retroactively remedy the disfranchisement of a voter in 2020, nor will it invalidate the results of an election tainted by discrimination in access to the vote. That vote is forever lost, and Native communities must live with the results for years to come.

In addition, settlements often only bind a single state or local government, and many expire after a few years. Sometimes a state will not follow the terms of the settlement it agreed to. Every time this happens, Tribes, nonprofits, and Native voters must raise the money, find the lawyers, and allocate the time to fight this battle again, carrying the weight to fix these democracy problems.

Piecemeal litigation is not a sustainable solution. Lasting protection requires strengthening voting rights, rather than continuing the recent trend of diminishing them. Federal legislation, like the proposed Native American Voting Rights Act, could address these barriers. State and local governments must also take direct action, which includes accepting Tribal IDs and nontraditional addresses, guaranteeing registration, early voting, and election day polling sites on Tribal lands, funding language assistance that reaches Native speakers, and ending redistricting practices that dilute Native voting power. They should also focus on a host of other barriers to voting to ensure that Native Americans can vote without impediment. Native Americans were among the last people in this country recognized as citizens and voters; their voices should be heard and their votes counted.

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