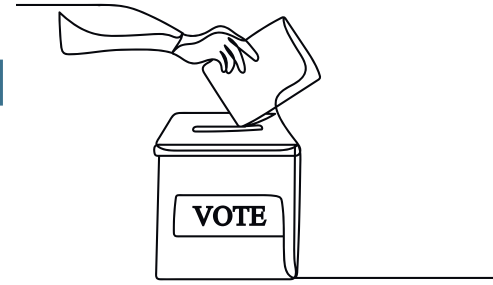


Examples of Voter Discrimination and Suppression in Indian Country



Across the country, Native Americans face discriminatory laws and unreasonable burdens when simply trying to exercise the right to vote. Native Americans deserve a fully functioning Voting Rights Act to challenge these abuses, and a baseline of federal access so their needs cannot be ignored. **The John Lewis Voting Rights Advancement Act which incorporates the Native American Voting Rights Act and the Freedom to Vote Act provide the voter protections Native Americans are entitled to as American citizens and must be passed without delay.**

MONTANA.

There are over 50,000 voting age Native Americans in Montana with more than 17,000 votes coming from the Indian reservations. In 2006, Senator Tester won by a margin of 3,562. There has been persistent discrimination against Native Americans in Montana.

On Election Day, the average distance Northern Cheyenne members must travel to reach the county seat to vote in person is more than 100 miles.

This past legislative session (2021) Montana passed a bill that, despite being very popular and supported by election administrators, outlawed same day voter registration. With the exception of around three to five days a year of satellite services, many Native Americans have to travel more than a hundred miles to their county seats to register. Native Americans remained disproportionately unregistered and—where it's offered—rely on same-day registration at greater rates than non-Natives.

This past legislative session (2021) Montana outlawed Get Out The Vote organizations from picking up and dropping off ballots, even though last year, a similar law was found unconstitutional under the Montana's right to vote provision. Enacting the same law while being well-aware of its discriminatory effects is intentional discrimination. Native Americans rely on ballot collection because, on Montana reservations, there is mostly no mail delivery to homes, post offices are farther and open less often, and election day services can be more than 100 miles away.

This legislative session the legislature rejected a bill that would have mandated on-election-day voter services on reservations.

Federal legislation protecting ballot collection assistance and mandating on reservation polling access is needed to protect Native Americans in Montana.

UTAH.

San Juan County, Utah, has been actively discriminating against its Navajo population for years. The county is 51% Native American.

Navajos in San Juan County, Utah living on tribal lands have to drive to Blanding or Monticello for any government services including year-round registration. From Navajo Mountain, Utah, which is near Lake Powell, it is about 200 miles (a four- or five-hour drive) each way, weather conditions permitting. It requires driving south into northern Arizona on U.S. highway 98 to U.S. highway 160 in Navajo County, Arizona, to U.S. highway 191 north back into Utah.

Additionally, the county has been actively discriminating against the Navajos for years.

First, the county gerrymandered the districts, packing the 51% Native Americans in one district so they could not control the County Commission. A court had to order fair districts in 2018. *Navajo Nation v. San Juan Cty.*, 929 F.3d 1270, 1274 (10th Cir. 2019).

When it saw it was likely to lose the gerrymandered districts, the county tried to move to all vote-by-mail despite Native Americans not having mail delivered to their homes and despite Native Americans requiring language assistance to vote. This had to be overturned by a court. *Navajo Nation Human Rights Comm. v. San Juan Cty.*, No. 2:16-cv-00154-JNP, (D. Utah Feb. 2018).

Then, after fair districts were drawn, a county clerk committed fraud to prevent the Native American candidate from running. The clerk illegally backdated a complaint that falsely alleged the candidate did not live in the district. Eventually, a court had to order the qualified Native candidate back on the ballot. *Grayeyes v. Cox*, No. 4:18-cv-00041, 2018 WL 3830073 (D. Utah Aug. 9, 2018).

Mandating minimum standards of elections and preventing gerrymandering would have prevented this discrimination.

NORTH DAKOTA.

When Senator Heidi Heitkamp (D-ND) was elected in 2012, Native Americans were widely credited with her 1% win. The next legislative session, North Dakota began requiring addresses on IDs even though there were Native Americans in North Dakota that lacked addresses on their homes and many who did not have ID with addresses on them. **Additionally, driver's licenses are difficult to obtain. For a potential Native voter on the Standing Rock Reservation, the mean distance to a driver's license site is nearly 61 miles.** In 2014, qualified Native Americans were turned away from the polls. Following successful litigation that halted the law, the legislature passed another law that again required addresses on IDs. This intentional discrimination against Native Americans persisted until an eventual settlement that was finalized in 2020. *Brakebill v. Jaeger*, No. 1:16-CV008, 2016 WL 7118548, at *1 (D.N.D. Aug. 1, 2016); *Spirit Lake Tribe. v. Jaeger*, No. 1:18-cv00222 (D.N.D.) (Complaint filed Oct. 30, 2018).

North Dakota passed a voter ID law that required addresses on IDs when it knew there were Native Americans in North Dakota that did not have addresses on their homes and could not comply even though they were qualified American citizens. Because of the lack of federal protection, North Dakota was able to exclude qualified Native American citizens from voting for six years. We need federal protections and a fully functioning Voting Rights Act to prevent this intentional discrimination.

SOUTH DAKOTA.

In 2002, South Dakota Senator Tim Johnson (D-SD) was re-elected by 500 votes when the final votes were counted on the Pine Ridge Reservation. Following the election, false and disproven allegations of voter fraud flourished accusing Native reservations of being untrustworthy. Using the allegation of fraud to try and undermine Native American political power is not new.

In 2002, Native residents in the Bennet County were denied on-reservation voting access that decreased their ability to vote in Senator Johnson's close election. They had to travel 40 miles roundtrip to vote. *Bone Shirt v. Hazeltine*, 336 F. Supp. 2d 976, 1027 (D.S.D. 2004).

In 2003, members of the Crow Creek Sioux Tribe sued the County Commission, alleging that the three county commission districts were not only dilutive, but also drawn and maintained for a discriminatory purpose. According to the 2000 census, Buffalo County had a population of approximately 2000 people, 83 percent of whom were Indian. The redistricting plan, which had been used for decades, confined virtually all of the county's Indian population to a single district containing approximately 1500 people. White voters controlled the remaining two districts, which gave them control over the county government. County commissioners continued to maintain the plan, even though state law required redistricting every 10 years. The parties settled the case in 2004, with the county admitting that the plan was discriminatory. Consent Decree, *Kirkie v. Buffalo County, S.D.*, Civ. No. 03-3011 (D.S.D. entered Feb. 12, 2004).

In 2012, again in Buffalo County, election administrators opted to use a chicken coop for Native voters, humiliating the Native voters. There was no room to vote, feathers on the floor, and no bathroom facilities. The Native county commissioner protested this discriminatory treatment.

Parts of the Crow Creek reservation were also discriminated against by the Gann Valley County Auditor who, in 2014, refused to provide on-reservation early voting access for the more than 1,200 Crow Creek tribal members. Instead they

NEVADA.

Members of the Duckwater reservation have to travel 140 miles one way, or 280 miles roundtrip, to get to their nearest county election office with services such as year-round registration.

In 2016, members of the Pyramid Lake Paiute Tribe and Walker River Paiute Tribe successfully sued because they were being forced to travel over 60 miles to get election services.

ALASKA.

In 2010, Senator Lisa Murkowski, (R-AK) credited her victory in large part to mobilized Alaska Native voters that supported her unorthodox win through a write-in election.

Native Alaskans have to travel incredibly far to access election offices for services such as registration. Aleutians West have to travel 1,096 miles. Natives in Barrow have to travel 520 miles to Nome. Native voters in Dillingham have to travel 330 miles to Anchorage. Native voters in Bethel have to travel 280 miles to Nome. Arctic Village voters have to travel 235 miles to Fairbanks.



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