

# The Frank Harrison, Elizabeth Peratrovich, and Miguel Trujillo **NATIVE AMERICAN VOTING RIGHTS ACT (NAVRA)**



## **BACKGROUND**

The United States has a trust responsibility to enact voting rights legislation to protect the constitutionally guaranteed right of Native Americans to vote. Despite the Indian Citizenship Act in 1924 and the Nationality Act in 1940, Native American voters continue to face unique challenges when exercising their right to vote.

Tellingly, in voting rights litigation, Native Americans have won an astounding 90+% of the cases they have brought, in liberal and conservative districts alike. Federal legislation is sorely needed to establish baseline, consistent standards for voting in Indian Country, particularly given that Native Americans continue to incur costly legal fees to defend their right to franchise from state and county laws and practices that seek to disenfranchise Native American voters.

### ***In order to protect the right to vote on Indian lands, any legislation passed must address the distinct issues confronting Native American voters, including:***

- o Geographic isolation, often with lack of reliable transportation and poor access to distant polling and registration locations
- o Non-traditional mailing addresses, overcrowded housing, homelessness, and housing instability
- o Lack of residential mail delivery and limited access to post offices
- o Lack of access to affordable and reliable broadband service
- o Native language translation needs, including non-written, during voting process
- o Strong socioeconomic challenges, such as poverty and unemployment
- o Historic and ongoing mistrust of state and local governments

### ***Congress MUST PASS NAVRA to protect Native voting rights***

NAVRA provides a customized approach for the distinctive needs of Native American voters on tribal lands, and it is based on tribes' unique legal status under federal law and intended to address the barriers to Native voting described above.

## **Key Provisions of NAVRA**

- **Native American voting task forces:** Provides for a U.S. EAC grant program to help establish state-level Native American voting task forces to address the unique voting issues in Indian Country (e.g., increasing voter outreach and access, addressing inadequate online connectivity and/or lack of mailing addresses, and voter identification and language-assistance matters).
- **Ensures federal agencies offer voter registration:** Requires federally funded or operated facilities on tribal lands to offer voter registration to tribal clients.
- **Improves access to voter registration,** polling places, and drop boxes in Indian Country: Ensures that states designate at least one polling place and registration site in each precinct where tribal voters reside on tribal lands for state and federal elections; Increases ballot drop boxes on Indian lands.
- **Streamlines process for adding polling places on tribal lands:** Adopts factors to consider when considering whether to add a polling place on tribal lands, such as distance voters must travel to vote, the time required to vote, the number of eligible voters who will vote in a given polling place, wait times to vote, and availability or lack thereof of public transportation.
- **Provides much needed uniformity for voting on tribal lands in federal elections:** In states where absentee/mail-in ballots are permitted, provides that ballots for voters on tribal lands will have postage pre-paid and voting materials for Voting Rights Act covered states will be translated into the applicable language; in states where early voting is permitted, requires that not less than one early voting location be provided in each precinct where tribal voters reside on tribal land – also establishes duration of early voting, daily hour minimums, and processing and tabulation timing requirements.
- **Requires the acceptance of tribally or federally issued ID if ID is required:** Outlaws prohibition of tribal IDs and requires acceptance of IDs such as those provided by the Bureau of Indian Affairs or Indian Health Service.
- **Culturally appropriate language assistance:** Allows language access to be provided orally if written translation of the language is not culturally permitted.
- **Permits tribes to designate buildings to be used as address to register:** Provides voters without residential addresses or mail delivery a means to register, pick up and drop off a ballot.
- **Provisional voting accessibility in federal elections:** Requires state to provide reason for rejection of provisional ballot.
- **Permission to deliver voting materials:** Permits extended family, caregivers, tribal assistance providers, and household members to deliver voter registration, absentee ballots, absentee applications or sealed ballot of a voter residing on tribal lands at a designated location as long as no compensation is received based on number of ballots returned
- **Requirement for pre-approval of changes in election procedures:** Mandates that states cannot reduce the voter accessibility provisions in this statute without first obtaining tribal consent, U.S. Attorney General consent, or an order from the D.C. federal district court.
- **Federal observers and consultation:** Amends Section 8(a) of the Voting Rights Act to add a request from an Indian tribe to the U.S. Attorney General as grounds for assigning federal observers; requires the U.S. Department of Justice to consult with tribes annually on issues related to voting.

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