

117TH CONGRESS
1ST SESSION

S. 2702

To protect the voting rights of Native American and Alaska Native voters.

IN THE SENATE OF THE UNITED STATES

AUGUST 10, 2021

Mr. LUJÁN (for himself, Mr. HEINRICH, Mr. SANDERS, Ms. SMITH, Mr. TESTER, Mr. BLUMENTHAL, Ms. WARREN, Ms. CORTEZ MASTO, Mr. SCHATZ, Mr. BOOKER, Mr. MERKLEY, Ms. ROSEN, Ms. HIRONO, Mr. DURBIN, Mr. PADILLA, Mr. VAN HOLLEN, Ms. KLOBUCHAR, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect the voting rights of Native American and Alaska Native voters.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Frank Harrison, Eliza-
5 beth Peratrovich, and Miguel Trujillo Native American
6 Voting Rights Act of 2021”.

7 **SEC. 2. FINDINGS AND PURPOSES.**

8 (a) FINDINGS.—Congress finds the following:

1 (1) The Constitution explicitly and implicitly
2 grants Congress broad general powers to legislate on
3 issues relating to Indian Tribes, powers consistently
4 described as plenary and exclusive. These powers
5 arise from the grant of authority in the Indian Com-
6 merce Clause and through legislative matters arising
7 under the Treaty Clause.

8 (2) The Federal Government is responsible for
9 upholding the obligations to which the Federal Gov-
10 ernment has agreed through treaties, legislation, and
11 executive orders, referred to as the Federal trust re-
12 sponsibility toward Indian Tribes and their mem-
13 bers.

14 (3) The Supreme Court has repeatedly relied on
15 the nature of this “government to government” rela-
16 tionship between the United States and sovereign
17 Indian Tribes for congressional authority to enact
18 “legislation that singles out Indians for particular
19 and special treatment”. *Morton v. Mancari*, 417
20 U.S. 535, 554–555 (1974).

21 (4) Legislation removing barriers to Native
22 American voting is vital for the fulfillment of Con-
23 gress’ “unique obligation” toward Indians, particu-
24 larly ensuring that Native American voters are fully
25 included as “qualified members of the modern body

1 politic”. Board of County Comm’rs v. Seber, 318
2 U.S. 705, 715 (1943).

3 (5) Under the Elections Clause of article I, sec-
4 tion 4 of the Constitution, Congress has additional
5 power to regulate any election conducted to select
6 Members of Congress. Taken together, the Indian
7 Commerce Clause and the Election Clause give Con-
8 gress broad authority to enact legislation to safe-
9 guard the voting rights of Native American voters.

10 (6) Despite Congress’ decision to grant Native
11 Americans Federal citizenship, and with it the pro-
12 tections of the Fifteenth Amendment, with passage
13 of the Act of June 2, 1924 (Chapter 233; 43 Stat.
14 253) (commonly known as the “Indian Citizenship
15 Act of 1924”), States continued to deploy distinct
16 methods for disenfranchising Indians by enacting
17 statutes to exclude from voter rolls Indians living on
18 Indian lands, requiring that Indians first terminate
19 their relationship with their Indian Tribe, restricting
20 the right to vote on account of a Tribal member’s
21 “guardianship” status, and imposing literacy tests.

22 (7) Barriers to voter access for Native Ameri-
23 cans persist today, and such barriers range from ob-
24 structing voter access to vote dilution and inten-
25 tional malapportionment of electoral districts.

1 (8) The Native American Voting Rights Coalition's nine field hearings in Indian Country and
2 four-State survey of voter discrimination revealed a
3 number of additional obstacles that Native Americans must overcome in some States, including—

4 (A) a lack of accessible registration and
5 polling sites, either due to conditions such as
6 geography, lack of paved roads, the absence of
7 reliable and affordable broadband connectivity,
8 and restrictions on the time, place, and manner
9 that eligible people can register and vote, including unequal opportunities for absentee,
10 early, mail-in, and in-person voting;

11 (B) nontraditional or nonexistent addresses
12 for residents on Indian reservations, lack of residential mail delivery and pick up, reliance on
13 distant post offices with abbreviated operating
14 hours for mail services, insufficient housing
15 units, overcrowded homes, and high incidence of
16 housing insecurity and homelessness, lack of access to vehicles, and disproportionate poverty
17 which make voter registration, acquisition and
18 dropping off of mail-in ballots, receipt of voting
19 information and materials, and securing required identification difficult, if not impossible;

1 (C) inadequate language assistance for
2 Tribal members, including lack of outreach and
3 publicity, the failure to provide complete, accu-
4 rate, and uniform translations of all voting ma-
5 terials in the relevant Native language, and an
6 insufficient number of trained bilingual poll
7 workers; and

8 (D) voter identification laws that discrimi-
9 nate against Native Americans.

10 (9) The Department of Justice and courts also
11 recognized that some jurisdictions have been unre-
12 sponsive to reasonable requests from federally recog-
13 nized Indian Tribes for more accessible voter reg-
14 istration sites and in-person voting locations.

15 (10) According to the National Congress of
16 American Indians, there is a wide gap between the
17 voter registration and turnout rates of eligible Amer-
18 ican Indians and Alaska Natives and the voter reg-
19 istration and turnout rates of non-Hispanic White
20 and other racial and ethnic groups.

21 (11) Despite these obstacles, the Native Amer-
22 ican vote continues to play a significant role in Fed-
23 eral, State, and local elections.

24 (12) In Alaska, New Mexico, Oklahoma, and
25 South Dakota, Native Americans, American Indians,

1 and Alaska Natives comprise approximately 10 per-
2 cent or more of the voting population.

3 (13) The Native American vote also holds great
4 potential, with over 1,000,000 voters who are eligible
5 to vote, but are not registered to vote.

6 (b) PURPOSES.—The purposes of this Act are—

7 (1) to fulfill the Federal Government’s trust re-
8 sponsibility to protect and promote Native Ameri-
9 cans’ exercise of their constitutionally guaranteed
10 right to vote, including the right to register to vote
11 and the ability to access all mechanisms for voting;

12 (2) to establish Tribal administrative review
13 procedures for a specific subset of State actions that
14 have been used to restrict access to the polls on In-
15 dian lands;

16 (3) to expand voter registration under the Na-
17 tional Voter Registration Act of 1993 (52 U.S.C.
18 20501 et seq.) to cover Federal facilities;

19 (4) to afford equal treatment to forms of identi-
20 fication unique to Indian Tribes and their members;

21 (5) to ensure American Indians and Alaska Na-
22 tives experiencing homelessness, housing insecurity,
23 or lacking residential mail pickup and delivery can
24 pool resources to pick up and return ballots;

1 (6) to clarify the obligations of States and polit-
2 ical subdivisions regarding the provision of trans-
3 lated voting materials for American Indians and
4 Alaska Natives under section 203 of the Voting
5 Rights Act of 1965 (52 U.S.C. 10503);

6 (7) to provide Tribal leaders with a direct path-
7 way to request Federal election observers and to
8 allow public access to the reports of those election
9 observers;

10 (8) to study the prevalence of nontraditional or
11 nonexistent mailing addresses in Native communities
12 and identify solutions to voter access that arise from
13 the lack of an address; and

14 (9) to direct the Department of Justice to con-
15 sult on an annual basis with Indian Tribes on issues
16 related to voting.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) ATTORNEY GENERAL.—The term “Attorney
20 General” means the United States Attorney General.

21 (2) INDIAN.—The term “Indian” has the mean-
22 ing given the term in section 4 of the Indian Self-
23 Determination and Education Assistance Act (25
24 U.S.C. 5304).

1 (3) INDIAN LANDS.—The term “Indian lands”
2 includes—

3 (A) Indian country as defined under sec-
4 tion 1151 of title 18, United States Code;

5 (B) any land in Alaska owned, pursuant to
6 the Alaska Native Claims Settlement Act (43
7 U.S.C. 1601 et seq.), by an Indian Tribe that
8 is a Native village (as defined in section 3 of
9 that Act (43 U.S.C. 1602)) or by a Village Cor-
10 poration that is associated with an Indian Tribe
11 (as defined in section 3 of that Act (43 U.S.C.
12 1602));

13 (C) any land on which the seat of the Trib-
14 al government is located; and

15 (D) any land that is part or all of a Tribal
16 designated statistical area associated with an
17 Indian Tribe, or is part or all of an Alaska Na-
18 tive village statistical area associated with an
19 Indian Tribe, as defined by the Census Bureau
20 for the purposes of the most recent decennial
21 census.

22 (4) INDIAN TRIBE.—The term “Indian Tribe”
23 means the recognized governing body of any Indian
24 or Alaska Native Tribe, band, nation, pueblo, village,
25 community, component band, or component reserva-

1 tion, individually identified (including parentheti-
2 cally) in the list published most recently as of the
3 date of enactment of this Act pursuant to section
4 104 of the Federally Recognized Indian Tribe List
5 Act of 1994 (25 U.S.C. 5131).

6 (5) POLLING PLACE.—The term “polling place”
7 means any location where a ballot is cast in elections
8 for Federal office, and includes a voter center, poll,
9 polling location, or polling place, depending on the
10 State nomenclature.

11 **SEC. 4. ESTABLISHMENT OF A NATIVE AMERICAN VOTING**
12 **TASK FORCE GRANT PROGRAM.**

13 (a) IN GENERAL.—The Office for Civil Rights at the
14 Office of Justice Programs of the Department of Justice
15 (referred to in this section as the “Office”) shall establish
16 and administer, in coordination with the Department of
17 the Interior, a Native American voting task force grant
18 program, through which the Office shall provide financial
19 assistance to eligible applicants to enable those eligible ap-
20 plicants to establish and operate a Native American Vot-
21 ing Task Force in each State with a federally recognized
22 Indian Tribe.

23 (b) PURPOSES.—The purposes of the Native Amer-
24 ican voting task force grant program are to—

1 (1) increase voter outreach, education, registra-
2 tion, and turnout in Native American communities;

3 (2) increase access to the ballot for Native
4 American communities, including additional satellite,
5 early voting, and absentee voting locations;

6 (3) streamline and reduce inconsistencies in the
7 voting process for Native Americans;

8 (4) provide, in the community's dominant lan-
9 guage, educational materials and classes on Indian
10 lands about candidacy filing;

11 (5) train and educate State and local employ-
12 ees, including poll workers, about—

13 (A) the language assistance and voter as-
14 sistance requirements under sections 203 and
15 208 of the Voting Rights Act of 1965 (52
16 U.S.C. 10503; 10508);

17 (B) voter identification laws as affected by
18 section 8 of this Act; and

19 (C) the requirements of Tribes, States, and
20 precincts established under this Act;

21 (6) identify model programs and best practices
22 for providing language assistance to Native Amer-
23 ican communities;

24 (7) provide nonpartisan poll watchers on elec-
25 tion day in Native American communities;

1 (8) participate in and evaluate future redistricting efforts;

2
3 (9) address issues of internet connectivity as it
4 relates to voter registration and ballot access in Na-
5 tive American communities;

6 (10) work with Indian Tribes, States, and the
7 Federal Government to establish mailing addresses
8 that comply with applicable State and Federal re-
9 quirements for receipt of voting information and ma-
10 terials; and

11 (11) facilitate collaboration between local elec-
12 tion officials, Native American communities, and
13 Tribal elections offices.

14 (c) ELIGIBLE APPLICANT.—The term “eligible appli-
15 cant” means—

16 (1) an Indian Tribe;

17 (2) a Secretary of State of a State, or another
18 official of a State entity responsible for overseeing
19 elections;

20 (3) a nonprofit organization that works, in
21 whole or in part, on voting issues; or

22 (4) a consortium of entities described in para-
23 graphs (1) through (3).

24 (d) APPLICATION AND SELECTION PROCESS.—

1 (1) IN GENERAL.—The Office, in coordination
2 with the Department of the Interior and following
3 consultation with Indian Tribes about the implemen-
4 tation of the Native American voting task force
5 grant program, shall establish guidelines for the
6 process by which eligible applicants will submit ap-
7 plications.

8 (2) APPLICATIONS.—Each eligible applicant de-
9 siring a grant under this section shall submit an ap-
10 plication, according to the process established under
11 paragraph (1), and at such time, in such manner,
12 and containing such information as the Office may
13 require. Such application shall include—

14 (A) a certification that the applicant is an
15 eligible applicant;

16 (B) a proposed work plan addressing how
17 the eligible applicant will establish and admin-
18 ister a Native American Voting Task Force
19 that achieves the purposes described in sub-
20 section (b);

21 (C) if the eligible applicant is a consortium
22 as described in subsection (c)(4), a description
23 of the proposed division of responsibilities be-
24 tween the participating entities;

1 (D) an explanation of the time period that
2 the proposed Native American Voting Task
3 Force will cover, which shall be a time period
4 that is not more than 3 years; and

5 (E) the goals that the eligible applicant de-
6 sires to achieve with the grant funds.

7 (e) USES OF FUNDS.—A grantee receiving funds
8 under this section shall use such funds to carry out one
9 or more of the activities described in subsection (b),
10 through the grantee’s Native American Voting Task
11 Force.

12 (f) REPORTS.—

13 (1) REPORT TO THE OFFICE.—

14 (A) IN GENERAL.—Not later than 1 year
15 after the date on which an eligible applicant re-
16 ceives grant funds under this section, and annu-
17 ally thereafter for the duration of the grant,
18 each eligible applicant shall prepare and submit
19 a written report to the Office describing the eli-
20 gible applicant’s progress in achieving the goals
21 outlined in the application under subsection
22 (d)(2).

23 (B) RESPONSE.—Not later than 30 days
24 after the date on which the Office receives the
25 report described in paragraph (1), the Office

1 will provide feedback, comments, and input to
2 the eligible applicant in response to such report.

3 (2) REPORT TO CONGRESS.—Not later than 1
4 year after the date of enactment of this Act, and an-
5 nually thereafter, the Office shall prepare and sub-
6 mit a report to the Committee on Indian Affairs of
7 the Senate and Committee on Natural Resources of
8 the House of Representatives containing the results
9 of the reports described under paragraph (1).

10 (g) RELATIONSHIP WITH OTHER LAWS.—Nothing in
11 this section reduces State or local obligations provided for
12 by the Voting Rights Act of 1965 (52 U.S.C. 10301 et
13 seq.), the National Voter Registration Act of 1993 (52
14 U.S.C. 20501 et seq.), the Help America Vote Act of 2002
15 (52 U.S.C. 20901 et seq.), or any other Federal law or
16 regulation related to voting or the electoral process.

17 (h) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to carry out this section
19 \$10,000,000 for each of fiscal years 2022 through 2037.

20 **SEC. 5. VOTER REGISTRATION SITES AT INDIAN SERVICE**
21 **PROVIDERS AND ON INDIAN LANDS.**

22 Section 7(a) of the National Voter Registration Act
23 of 1993 (52 U.S.C. 20506(a)) is amended—

24 (1) in paragraph (2)—

1 (A) in subparagraph (A), by striking
2 “and” after the semicolon;

3 (B) in subparagraph (B), by striking the
4 period at the end and inserting a semicolon;
5 and

6 (C) by adding at the end the following:

7 “(C) any Federal facility or federally fund-
8 ed facility that is primarily engaged in pro-
9 viding services to an Indian Tribe; and

10 “(D) not less than one Federal facility or
11 federally funded facility that is located within
12 the Indian lands of an Indian Tribe, as applica-
13 ble, (which may be the Federal facility or feder-
14 ally funded facility described in subparagraph
15 (C)).”; and

16 (2) by adding at the end the following:

17 “(8) Where practicable, each Federal agency
18 that operates a Federal facility or a federally funded
19 facility that is a designated voter registration agency
20 in accordance with subparagraph (C) or (D) of para-
21 graph (2) shall designate one or more special days
22 per year at a centralized location within the bound-
23 aries of the Indian lands of each applicable Indian
24 Tribe for the purpose of informing members of the
25 Indian Tribe of the timing, registration require-

1 ments, and voting procedures in elections for Fed-
2 eral office, at no cost to the Indian Tribe.”.

3 **SEC. 6. ACCESSIBLE TRIBAL DESIGNATED POLLING SITES.**

4 (a) IN GENERAL.—

5 (1) DESIGNATION OF STATE OFFICER.—Each
6 of the several States whose territory contains all or
7 part of an Indian Tribe’s Indian lands shall des-
8 ignate an officer within that State who will be re-
9 sponsible for compliance with the provisions of this
10 section and who shall periodically consult with the
11 Indian Tribes located wholly or partially within that
12 State regarding compliance with the provisions of
13 this section and coordination between the State and
14 the Indian Tribe. The State shall provide written no-
15 tice to each such Indian Tribe of the officer so des-
16 ignated.

17 (2) PROVISION OF POLLING PLACES.—For each
18 Indian Tribe that satisfies the obligations of sub-
19 section (c), and for each election for a Federal offi-
20 cial or State official that is held 180 days or later
21 after the date on which the Indian Tribe initially
22 satisfies such obligations, any State or political sub-
23 division whose territory contains all or part of an In-
24 dian Tribe’s Indian lands—

1 (A) shall provide a minimum of one polling
2 place in each precinct in which there are eligible
3 voters who reside on Indian lands, in a location
4 selected by the Indian Tribe and at no cost to
5 the Indian Tribe, regardless of the population
6 or number of registered voters residing on In-
7 dian lands;

8 (B) shall not reduce the number of polling
9 locations on Indian lands based on population
10 numbers;

11 (C) shall provide, at no cost to the Indian
12 Tribe, additional polling places in locations on
13 Indian lands selected by an Indian Tribe and
14 requested under subsection (c) if, based on the
15 totality of circumstances described in subsection
16 (b), it is shown that not providing those addi-
17 tional polling places would result in members of
18 the Indian Tribe and living on Indian lands or
19 other individuals residing on the Indian Tribe's
20 Indian lands having less opportunity to vote
21 than eligible voters in that State or political
22 subdivision who are not members of an Indian
23 Tribe or do not reside on Indian lands;

24 (D) shall, at each polling place located on
25 Indian lands and at no cost to the Indian Tribe,

1 make voting machines, tabulation machines, of-
2 ficial receptacles designated for the return of
3 completed absentee ballots, ballots, provisional
4 ballots, and other voting materials available to
5 the same or greater extent that such equipment
6 and materials are made available at other poll-
7 ing places in the State or political subdivision
8 that are not located on Indian lands;

9 (E) shall, at each polling place located on
10 Indian lands, conduct the election using the
11 same voting procedures that are used at other
12 polling places in the State or political subdivi-
13 sion that are not located on Indian lands, or
14 other voting procedures that provide greater ac-
15 cess for voters;

16 (F) shall, at each polling place located on
17 Indian lands and at no cost to the Indian Tribe,
18 make voter registration available during the pe-
19 riod the polling place is open to the maximum
20 extent allowable under State law;

21 (G) shall, at each polling place located on
22 Indian lands, provide training, compensation,
23 and other benefits to election officials and poll
24 workers at no cost to the Indian Tribe and, at
25 a minimum, to the same or greater extent that

1 such training, compensation, and benefits are
2 provided to election officials and poll workers at
3 other polling places in the State or political
4 subdivision that are not located on Indian
5 lands;

6 (H) shall, in all cases, provide the Indian
7 Tribe an opportunity to designate election offi-
8 cials and poll workers to staff polling places
9 within the Indian lands of the applicable Indian
10 Tribe on every day that the polling places will
11 be open;

12 (I) shall allow for any eligible voting mem-
13 ber of the Indian Tribe or any eligible voting
14 individual residing on Indian lands to vote early
15 or in person at any polling place on Indian
16 lands, regardless of that member or individual's
17 residence or residential address, and shall not
18 reject the ballot of any such member or indi-
19 vidual on the grounds that the ballot was cast
20 at the wrong polling place; and

21 (J) may fulfill the State's obligations
22 under subparagraphs (A) and (C) by relocating
23 existing polling places, by creating new polling
24 places, or both.

25 (b) **EQUITABLE OPPORTUNITIES TO VOTE.—**

1 (1) IN GENERAL.—When assessing the opportu-
2 nities to vote provided to members of an Indian
3 Tribe and to other eligible voters in the State resid-
4 ing on Indian lands in order to determine the num-
5 ber of additional polling places (if any) that a State
6 or political subdivision must provide in accordance
7 with subsection (a)(2)(C), the State, political sub-
8 division, or any court applying this section, shall
9 consider the totality of circumstances of—

10 (A) the number of voting-age citizens as-
11 signed to each polling place;

12 (B) the distances that voters must travel
13 to reach the polling places;

14 (C) the time that voters must spend trav-
15 eling to reach the polling places, including
16 under inclement weather conditions;

17 (D) the modes of transportation, if any,
18 that are regularly and broadly available to vot-
19 ers to use to reach the polling places;

20 (E) the existence of and access to frequent
21 and reliable public transportation to the polling
22 places;

23 (F) the length of lines and time voters
24 waited to cast a ballot in previous elections; and

1 (G) any other factor relevant to effec-
2 tuating the aim of achieving equal voting oppor-
3 tunity for individuals living on Indian lands.

4 (2) ABSENCE OF FACTORS.—When assessing
5 the opportunities to vote in accordance with para-
6 graph (1), the State, political subdivision, or court
7 shall ensure that each factor described in paragraph
8 (1) is considered regardless of whether any one fac-
9 tor would lead to a determination not to provide ad-
10 ditional polling places under subsection (a)(2)(C).

11 (c) FORM; PROVISION OF FORM; OBLIGATIONS OF
12 THE INDIAN TRIBE.—

13 (1) FORM.—The Attorney General shall estab-
14 lish the form described in this subsection through
15 which an Indian Tribe can fulfill its obligations
16 under this subsection.

17 (2) PROVISION OF FORM.—Each State or polit-
18 ical subdivision whose territory contains all or part
19 of an Indian Tribe's Indian lands—

20 (A) shall provide the form established
21 under paragraph (1) to each applicable Indian
22 Tribe not less than 30 days prior to the dead-
23 line set by the State or political subdivision for
24 completion of the obligations under this sub-
25 section (which deadline shall be not less than

1 30 days prior to a Federal election) whereby an
2 Indian Tribe can fulfill its obligations under
3 this subsection by providing the information de-
4 scribed in paragraph (3) on that form and sub-
5 mitting the form back to the applicable State or
6 political subdivision by such deadline;

7 (B) shall not edit the form established
8 under paragraph (1) or apply any additional ob-
9 ligations on the Indian Tribe with respect to
10 this section; and

11 (C) shall cooperate in good faith with the
12 efforts of the Indian Tribe to satisfy the re-
13 quirements of this subsection.

14 (3) OBLIGATIONS OF THE INDIAN TRIBE.—The
15 requirements for a State and political subdivision
16 under subsection (a)(2) shall apply with respect to
17 an Indian Tribe once an Indian Tribe meets the fol-
18 lowing obligations by completing the form specified
19 in paragraph (1):

20 (A) The Indian Tribe specifies the number
21 and locations of requested polling places, early
22 voting locations, and ballot drop boxes to be
23 provided on the Indian lands of that Indian
24 Tribe.

1 (B) The Indian Tribe certifies that
2 curbside voting will be available for any facili-
3 ties that lack accessible entrances and exits in
4 accordance with Federal and State law.

5 (C) The Indian Tribe certifies that the In-
6 dian Tribe will ensure that each such requested
7 polling place will be open and available to all el-
8 igible voters who reside in the precinct or other
9 geographic area assigned to such polling place,
10 regardless of whether such eligible voters are
11 members of the Indian Tribe or of any other
12 Indian Tribe.

13 (D) The Indian Tribe requests that the
14 State or political subdivision shall designate
15 election officials and poll workers to staff such
16 requested polling places, or certifies that the In-
17 dian Tribe will designate election officials and
18 poll workers to staff such polling places on
19 every day that the polling places will be open.

20 (E) The Indian Tribe may request that the
21 State or political subdivision provide absentee
22 ballots without requiring an excuse, an absentee
23 ballot request, or residential address to all eligi-
24 ble voters who reside in the precinct or other
25 geographic area assigned to such polling place,

1 regardless of whether such eligible voters are
2 members of the Indian Tribe or of any other
3 Indian Tribe.

4 (4) ESTABLISHED POLLING PLACES.—Once a
5 polling place is established under subsection
6 (a)(2)(A) or subsection (a)(2)(C) the Tribe need not
7 fill out the form designated under paragraph (1)
8 again unless or until that Indian Tribe requests
9 modifications to the requests specified in the most
10 recent form under paragraph (1).

11 (5) OPT OUT.—At any time that is 60 days or
12 more before the date of an election, an Indian Tribe
13 that previously has satisfied the obligations of para-
14 graph (3) may notify the State or political subdivi-
15 sion that the Indian Tribe intends to opt out of the
16 standing obligation for one or more polling places
17 that were established in accordance with subsection
18 (a)(2)(A) or subsection (a)(2)(C) for a particular
19 election or for all future elections. A Tribe may opt
20 back in at any time.

21 (d) FEDERAL POLLING SITES.—Each State shall
22 designate as voter polling facilities any of the facilities
23 identified in accordance with subparagraph (C) or (D) of
24 section 7(a)(2) of the National Voter Registration Act of
25 1993 (52 U.S.C. 20506(a)(2)), at no cost to the Indian

1 Tribe, provided that the facility meets the requirements
2 of Federal and State law as applied to other polling places
3 within the State or political subdivision. The applicable
4 agency of the Federal Government shall ensure that such
5 designated facilities are made available as polling places.

6 (e) MAIL-IN BALLOTING.—In States or political sub-
7 divisions that permit absentee or mail-in balloting, the fol-
8 lowing shall apply with respect to an election for Federal
9 office:

10 (1) For each ballot cast by a member of an In-
11 dian Tribe living on Indian lands, all postage shall
12 be prepaid by the Federal Government and each bal-
13 lot postmarked the day the ballot is received at a
14 postal facility located on Indian lands.

15 (2) An Indian Tribe may designate at least one
16 building per precinct as a ballot pickup and collec-
17 tion location (referred to in this section as a “trib-
18 ally designated buildings”) at no cost to the Indian
19 Tribe. The applicable State or political subdivision
20 shall collect and timely deposit all ballots from each
21 tribally designated building.

22 (3) At the applicable Tribe’s request, the State
23 or political subdivision shall provide mail-in and ab-
24 sentee ballots to each registered voter residing on
25 Indian lands in the State or political subdivision

1 without requiring a residential address, a mail-in or
2 absentee ballot request, or an excuse for a mail-in or
3 absentee ballot.

4 (4) The address of a tribally designated build-
5 ing may serve as the residential address and mailing
6 address for voters living on Indian lands if the trib-
7 ally designated building is in the same precinct as
8 that voter.

9 (5) If there is no tribally designated building
10 within the precinct of a voter residing on Indian
11 lands (including if the tribally designated building is
12 on Indian lands but not in the same precinct as the
13 voter), the voter may—

14 (A) use another tribally designated build-
15 ing within the Indian lands where the voter is
16 located; or

17 (B) use such tribally designated building
18 as a mailing address and may separately des-
19 ignate the voter's appropriate precinct through
20 a description of the voter's address, as specified
21 in section 9428.4(a)(2) of title 11, Code of Fed-
22 eral Regulations.

23 (6) In the case of a State or political subdivi-
24 sion that is a covered State or political subdivision
25 under section 203 of the Voting Rights Act of 1965

1 (52 U.S.C. 10503), that State or political subdivi-
2 sion shall provide absentee or mail-in voting mate-
3 rials with respect to an election for Federal office in
4 the language of the applicable minority group as well
5 as in the English language, bilingual election voting
6 assistance, and written translations of all voting ma-
7 terials in the language of the applicable minority
8 group, as required by section 203 of the Voting
9 Rights Act of 1965 (52 U.S.C. 10503), as amended
10 by this Act.

11 (7) A State or political division shall make rea-
12 sonable efforts to contact a voter who resides within
13 Indian lands located within its jurisdiction and offer
14 such voter a reasonable opportunity to cure any de-
15 fect in an absentee ballot issued to and completed
16 and returned by the voter, or appearing on or per-
17 taining to the materials provided for the purpose of
18 returning the absentee ballot, if State law would oth-
19 erwise require the absentee ballot to be rejected due
20 to such defect and the defect does not compromise
21 ballot secrecy or involve a lack of witness or assist-
22 ant signature, where such signature is mandated by
23 State law.

24 (8) In a State or political subdivision that does
25 not permit absentee or mail-in balloting for all eligi-

1 ble voters in the State or political subdivision, that
2 State or political subdivision shall nonetheless pro-
3 vide for absentee or mail-in balloting for voters who
4 reside on Indian lands consistent with this section if
5 the State, political subdivision, or any court applying
6 this section determines that the totality of cir-
7 cumstances described in subsection (b) warrants es-
8 tablishment of absentee or mail-in balloting for vot-
9 ers who reside on Indian lands located within the ju-
10 risdiction of the State or political subdivision.

11 (f) **BALLOT DROP BOXES.**—Each State shall—

12 (1) provide not less than one ballot drop box for
13 each precinct on Indian lands, at no cost to the In-
14 dian Tribe, at either the tribally designated building
15 under subsection (e)(2) or an alternative site se-
16 lected by the applicable Indian Tribe; and

17 (2) provide additional drop boxes at either the
18 tribally designated building under subsection (e)(2)
19 or an alternative site selected by the applicable In-
20 dian Tribe if the State or political subdivision deter-
21 mines that additional ballot drop boxes should be
22 provided based on the criteria considered under the
23 totality of circumstances enumerated under sub-
24 section (b).

25 (g) **EARLY VOTING.**—

1 (1) EARLY VOTING LOCATIONS.—In a State or
2 political subdivision that permits early voting in an
3 election for Federal office, that State or political
4 subdivision shall provide not less than one early vot-
5 ing location for each precinct on Indian lands, at no
6 cost to the Indian Tribe, at a site selected by the ap-
7 plicable Indian Tribe, to allow individuals living on
8 Indian lands to vote during an early voting period in
9 the same manner as early voting is allowed on such
10 date in the rest of the State or precinct. Additional
11 early voting sites shall be determined based on the
12 criteria considered under the totality of cir-
13 cumstances described in subsection (b).

14 (2) LENGTH OF PERIOD.—In a State or polit-
15 ical subdivision that permits early voting in an elec-
16 tion for Federal office, that State or political sub-
17 division shall provide an early voting period with re-
18 spect to that election that shall consist of a period
19 of consecutive days (including weekends) which be-
20 gins on the 15th day before the date of the election
21 (or, at the option of the State or political subdivi-
22 sion, on a day prior to the 15th day before the date
23 of the election) and ends on the date of the election
24 for all early voting locations on Indian lands.

1 (3) MINIMUM EARLY VOTING REQUIRE-
2 MENTS.—Each polling place that allows voting dur-
3 ing an early voting period under this subsection
4 shall—

5 (A) allow such voting for no less than 10
6 hours on each day;

7 (B) have uniform hours each day for which
8 such voting occurs; and

9 (C) allow such voting to be held for some
10 period of time prior to 9:00 a.m. (local time)
11 and some period of time after 5:00 p.m. (local
12 time).

13 (4) BALLOT PROCESSING AND SCANNING RE-
14 QUIREMENTS.—

15 (A) IN GENERAL.—To the greatest extent
16 practicable, ballots cast during the early voting
17 period in an election for Federal office at voting
18 locations and drop boxes on Indian lands shall
19 be processed and scanned for tabulation in ad-
20 vance of the close of polls on the date of the
21 election.

22 (B) LIMITATION.—Nothing in this sub-
23 section shall be construed to permit a State or
24 political subdivision to tabulate and count bal-

1 lots in an election for Federal office before the
2 closing of the polls on the date of the election.

3 (h) PROVISIONAL BALLOTS.—

4 (1) IN GENERAL.—In addition to the require-
5 ments under section 302(a) of the Help America
6 Vote Act of 2002 (52 U.S.C. 21082(a)), for each
7 State or political subdivision that provides voters
8 provisional ballots, challenge ballots, or affidavit bal-
9 lots under the State’s applicable law governing the
10 voting processes for those voters whose eligibility to
11 vote is determined to be uncertain by election offi-
12 cials, election officials shall—

13 (A) provide clear written instructions indi-
14 cating the reason the voter was given a provi-
15 sional ballot, the information or documents the
16 voter needs to prove eligibility, the location at
17 which the voter must appear to submit these
18 materials or alternative methods, including
19 email or facsimile, that the voter may use to
20 submit these materials, and the deadline for
21 submitting these materials;

22 (B) permit any voter who votes provision-
23 ally at any polling place on Indian lands to ap-
24 pear at any polling place or at the central loca-

1 tion for the election board to submit the docu-
2 mentation or information to prove eligibility;

3 (C) permit any voter who votes provision-
4 ally at any polling place to submit the required
5 information or documentation via email or fac-
6 simile, if the voter prefers to use such methods
7 as an alternative to appearing in person to sub-
8 mit the required information or documentation
9 to prove eligibility;

10 (D) notify the voter on whether the voter's
11 provisional ballot was counted or rejected by
12 telephone, email, or postal mail, or any other
13 available method, including notifying the voter
14 of any online tracking website if State law pro-
15 vides for such a mechanism; and

16 (E) provide the reason for rejection if the
17 voter's provisional ballot was rejected after the
18 voter provided the required information or doc-
19 umentation on eligibility.

20 (2) DUTIES OF ELECTION OFFICIALS.—A State
21 or political subdivision described in paragraph (1)
22 shall ensure in each case in which a provisional bal-
23 lot is cast, that election officials—

24 (A) request and collect the voter's email
25 address, if the voter has one, and transmit any

1 written instructions issued to the voter in per-
2 son to the voter via email; and

3 (B) provide a verbal translation of any
4 written instructions to the voter.

5 (i) ENFORCEMENT.—

6 (1) ATTORNEY GENERAL.—The Attorney Gen-
7 eral may bring a civil action in an appropriate dis-
8 trict court for such declaratory or injunctive relief as
9 is necessary to carry out this section.

10 (2) PRIVATE RIGHT OF ACTION.—

11 (A) A person or Indian Tribe who is ag-
12 grieved by a violation of this section may pro-
13 vide written notice of the violation to the chief
14 election official of the State involved.

15 (B) An aggrieved person or Indian Tribe
16 may bring a civil action in an appropriate dis-
17 trict court for declaratory or injunctive relief
18 with respect to a violation of this section, if—

19 (i) that person or Indian Tribe pro-
20 vides the notice described in subparagraph
21 (A); and

22 (ii)(I) in the case of a violation that
23 occurs more than 120 days before the date
24 of an election for Federal office, the viola-
25 tion remains and 90 days or more have

1 passed since the date on which the chief
2 election official of the State receives the
3 notice under subparagraph (A); or

4 (II) in the case of a violation that oc-
5 curs 120 days or less but more than 30
6 days before the date of an election for Fed-
7 eral office, the violation remains and 20
8 days or more have passed since the date on
9 which the chief election official of the State
10 receives the notice under subparagraph
11 (A).

12 (C) In the case of a violation of this sec-
13 tion that occurs 30 days or less before the date
14 of an election for Federal office, an aggrieved
15 person or Indian Tribe may bring a civil action
16 in an appropriate district court for declaratory
17 or injunctive relief with respect to the violation
18 without providing notice to the chief election of-
19 ficial of the State under subparagraph (A).

20 (3) RULE OF CONSTRUCTION.—Nothing in this
21 section shall be construed to prevent a State or po-
22 litical subdivision from providing additional polling
23 places or early voting locations on Indian lands.

1 **SEC. 7. PROCEDURES FOR REMOVAL OF POLLING PLACES**
2 **AND VOTER REGISTRATION SITES ON INDIAN**
3 **LANDS.**

4 (a) ACTIONS REQUIRING TRIBAL ADMINISTRATIVE
5 REVIEW.—No State or political subdivision may carry out
6 any of the following activities in an election for Federal
7 office unless the requirements of subsection (b) have been
8 met:

9 (1) Eliminating polling places or voter registra-
10 tion sites on the Indian lands of an Indian Tribe.

11 (2) Moving or consolidating a polling place or
12 voter registration site on the Indian lands of an In-
13 dian Tribe to a location 1 mile or further from the
14 existing location of the polling place or voter reg-
15 istration site.

16 (3) Moving or consolidating a polling place on
17 the Indian lands of an Indian Tribe to a location
18 across a river, lake, mountain, or other natural
19 boundary such that it increases travel time for a
20 voter, regardless of distance.

21 (4) Eliminating in-person voting on the Indian
22 lands of an Indian Tribe by designating an Indian
23 reservation as a permanent absentee voting location,
24 unless the Indian Tribe requests such a designation
25 and has not later requested that the designation as
26 a permanent absentee voting location be reversed.

1 (5) Removing an early voting location or other-
2 wise diminishing early voting opportunities on In-
3 dian lands.

4 (6) Removing a ballot drop box or otherwise di-
5 minishing ballot drop boxes on Indian lands.

6 (7) Decreasing the number of days or hours
7 that an in-person or early voting polling place is
8 open on Indian lands only or changing the dates of
9 in-person or early voting only on the Indian lands of
10 an Indian Tribe.

11 (b) TRIBAL ADMINISTRATIVE REVIEW.—

12 (1) IN GENERAL.—The requirements of this
13 subsection have been met if—

14 (A) the impacted Indian Tribe submits to
15 the Attorney General the Indian Tribe’s written
16 consent to the proposed activity described in
17 subsection (a);

18 (B) the State or political subdivision, after
19 consultation with the impacted Indian Tribe
20 and after attempting to have the impacted In-
21 dian Tribe give consent as described in sub-
22 paragraph (A), institutes an action in the
23 United States District Court for the District of
24 Columbia for a declaratory judgment, and a de-
25 claratory judgment is issued based upon affirm-

1 ative evidence provided by the State or political
2 subdivision, that conclusively establishes that
3 the specified activity described in subsection (a)
4 proposed by the State or political subdivision
5 neither has the purpose nor will have the effect
6 of denying or abridging the right to vote on ac-
7 count of race or color, membership in an Indian
8 Tribe, or membership in a language minority
9 group; or

10 (C) the chief legal officer or other appro-
11 priate official of such State or political subdivi-
12 sion, after consultation with the impacted In-
13 dian Tribe and after attempting to have the im-
14 pacted Indian Tribe give consent as described
15 in subparagraph (A), submits a request to carry
16 out the specified activity described in subsection
17 (a) to the Attorney General and the Attorney
18 General affirmatively approves the specified ac-
19 tivity.

20 (2) NO LIMITATION ON FUTURE ACTIONS.—

21 (A) NO BAR TO SUBSEQUENT ACTION.—

22 Neither an affirmative indication by the Attor-
23 ney General that no objection will be made, nor
24 the Attorney General's failure to object, nor a
25 declaratory judgment entered under this sec-

1 tion, nor a written consent issued under para-
2 graph (1)(A) shall bar a subsequent action to
3 enjoin enforcement of an activity described in
4 subsection (a).

5 (B) REEXAMINATION.—The Attorney Gen-
6 eral reserves the right to reexamine any submis-
7 sion under paragraph (1)(C) if additional rel-
8 evant information comes to the Attorney Gen-
9 eral’s attention.

10 (C) DISTRICT COURT.—Any action under
11 this section shall be heard and determined by a
12 district court of 3 judges in accordance with the
13 provisions of section 2284 of title 28, United
14 States Code, and any appeal shall lie to the Su-
15 preme Court.

16 **SEC. 8. TRIBAL VOTER IDENTIFICATION.**

17 (a) TRIBAL IDENTIFICATION.—If a State or political
18 subdivision requires an individual to present identification
19 for the purposes of voting or registering to vote in an elec-
20 tion for Federal office, an identification card issued by a
21 federally recognized Indian Tribe, the Bureau of Indian
22 Affairs, the Indian Health Service, or any other Tribal or
23 Federal agency issuing identification cards to eligible In-
24 dian voters shall be treated as a valid form of identifica-
25 tion for such purposes.

1 (b) ONLINE REGISTRATION.—If a State or political
 2 subdivision requires an identification card for an indi-
 3 vidual to register to vote online or to vote online, that
 4 State or political subdivision shall annually consult with
 5 an Indian Tribe to determine whether a tribal identifica-
 6 tion can feasibly be used to register to vote online or vote
 7 online.

8 (c) LIMITATION ON REQUIRING MULTIPLE FORMS
 9 OF IDENTIFICATION.—If a State or political subdivision
 10 requires an individual to present more than one form of
 11 identification for the purposes of voting or registering to
 12 vote in an election for Federal office, or for registering
 13 to vote online or to vote online, that State or political sub-
 14 division shall not require any member of an Indian Tribe
 15 to provide more than one form of identification if the
 16 member provides orally or in writing that the member does
 17 not possess more than one form of identification.

18 **SEC. 9. PERMITTING VOTERS TO DESIGNATE OTHER PER-**
 19 **SON TO RETURN BALLOT.**

20 Each State or political subdivision—

21 (1) shall permit any person to return a sealed
 22 ballot of a voter that resides on Indian lands to a
 23 post office on Indian lands, a ballot drop box loca-
 24 tion in a State or political subdivision that provides
 25 ballot drop boxes, a tribally designated building

1 under section 6(e)(2), or an election office, so long
2 as the person designated to return the ballot or bal-
3 lots on behalf of another voter does not receive any
4 form of compensation based on the number of bal-
5 lots that the person has returned and no individual,
6 group, or organization provides compensation on this
7 basis;

8 (2) may not put any limit on how many voted
9 and sealed absentee ballots any designated person
10 can return to the post office, ballot drop box loca-
11 tion, tribally designated building, or election office
12 under paragraph (1); and

13 (3) shall permit any person to return voter reg-
14 istration applications, absentee ballot applications,
15 or absentee ballots to ballot drop box locations in a
16 State or political subdivision that provides ballot
17 drop boxes for these purposes.

18 **SEC. 10. BILINGUAL ELECTION REQUIREMENTS.**

19 Section 203 of the Voting Rights Act of 1965 (52
20 U.S.C. 10503) is amended—

21 (1) in subsection (b)(3)(C), by striking “1990”
22 and inserting “most recent”; and

23 (2) by striking subsection (e) and inserting the
24 following:

1 “(c) PROVISION OF VOTING MATERIALS IN THE LAN-
2 GUAGE OF A MINORITY GROUP.—

3 “(1) IN GENERAL.—Whenever any State or po-
4 litical subdivision subject to the prohibition of sub-
5 section (b), provides any registration or voting no-
6 tices, forms, instructions, assistance, or other mate-
7 rials or information relating to the electoral process,
8 including ballots, it shall provide them in the lan-
9 guage of the applicable minority group as well as in
10 the English language.

11 “(2) EXCEPTIONS.—

12 “(A) In the case of a minority group that
13 is not American Indian or Alaska Native and
14 the language of that minority group is oral or
15 unwritten, the State or political subdivision
16 shall only be required to furnish, in the covered
17 language, oral instructions, assistance, trans-
18 lation of voting materials, or other information
19 relating to registration and voting.

20 “(B) In the case of a minority group that
21 is American Indian or Alaska Native, the State
22 or political subdivision shall only be required to
23 furnish in the covered language oral instruc-
24 tions, assistance, or other information relating
25 to registration and voting, including all voting

1 materials, if the Indian Tribe of that minority
 2 group has certified that the language of the ap-
 3 plicable American Indian or Alaska Native lan-
 4 guage is presently unwritten or the Indian
 5 Tribe does not want written translations in the
 6 minority language.

7 “(3) WRITTEN TRANSLATIONS FOR ELECTION
 8 WORKERS.—Notwithstanding paragraph (2), the
 9 State or political division may be required to provide
 10 written translations of voting materials, with the
 11 consent of any applicable Indian Tribe, to election
 12 workers to ensure that the translations from English
 13 to the language of a minority group are complete,
 14 accurate, and uniform.”.

15 **SEC. 11. FEDERAL OBSERVERS TO PROTECT TRIBAL VOT-**
 16 **ING RIGHTS.**

17 (a) AMENDMENT TO THE VOTING RIGHTS ACT OF
 18 1965.—Section 8(a) of the Voting Rights Act of 1965 (52
 19 U.S.C. 10305(a)) is amended—

20 (1) in paragraph (1), by striking “or” after the
 21 semicolon;

22 (2) in paragraph (2)(B), by adding “or” after
 23 the semicolon; and

24 (3) by inserting after paragraph (2) the fol-
 25 lowing:

1 “(3) the Attorney General has received a writ-
2 ten complaint from an Indian Tribe that efforts to
3 deny or abridge the right to vote under the color of
4 law on account of race or color, membership in an
5 Indian Tribe, or in contravention of the guarantees
6 set forth in section 4(f)(2), are likely to occur;”.

7 (b) PUBLICLY AVAILABLE REPORTS.—The Attorney
8 General shall make publicly available the reports of a Fed-
9 eral election observer appointed pursuant to section
10 (8)(a)(3) of the Voting Rights Act of 1965 (52 U.S.C.
11 10305(a)(3)), as added by subsection (a), not later than
12 6 months after the date that such reports are submitted
13 to the Attorney General, except that any personally identi-
14 fiable information relating to a voter or the substance of
15 the voter’s ballot shall not be made public.

16 **SEC. 12. TRIBAL JURISDICTION.**

17 (a) IN GENERAL.—Tribal law enforcement have the
18 right to exercise their inherent authority to detain and or
19 remove any non-Indian, not affiliated with the State, its
20 political subdivision, or the Federal Government, from In-
21 dian lands for intimidating, harassing, or otherwise imped-
22 ing the ability of people to vote or of the State and its
23 political subdivisions to conduct an election.

24 (b) CIVIL ACTION BY ATTORNEY GENERAL FOR RE-
25 LIEF.—Whenever any person has engaged or there are

1 reasonable grounds to believe that any person is about to
2 engage in any act or practice prohibited by this section,
3 the Attorney General may institute for the United States,
4 or in the name of the United States, an action for preven-
5 tive relief, including an application for a temporary or per-
6 manent injunction, restraining order, or other order, and
7 including an order directed to the State and State or local
8 election officials to require them to permit persons to vote
9 and to count such votes.

10 **SEC. 13. TRIBAL VOTING CONSULTATION.**

11 The Attorney General shall consult annually with In-
12 dian Tribes regarding issues related to voting in elections
13 for Federal office.

14 **SEC. 14. ATTORNEYS' FEES, EXPERT FEES, AND LITIGATION**
15 **EXPENSES.**

16 In a civil action under this Act, the court shall award
17 the prevailing party, other than the United States, reason-
18 able attorney fees, including litigation expenses, reason-
19 able expert fees, and costs.

20 **SEC. 15. GAO STUDY AND REPORT.**

21 The Comptroller General shall study the prevalence
22 of nontraditional or nonexistent mailing addresses among
23 Indians, those who are members of Indian Tribes, and
24 those residing on Indian lands and identify alternatives
25 to remove barriers to voter registration, receipt of voter

1 information and materials, and receipt of ballots. The
2 Comptroller General shall report the results of that study
3 to Congress not later than 1 year after the date of enact-
4 ment of this Act.

5 **SEC. 16. UNITED STATES POSTAL SERVICE CONSULTATION.**

6 The Postmaster General shall consult with Indian
7 Tribes, on an annual basis, regarding issues relating to
8 the United States Postal Service that present barriers to
9 voting for eligible voters living on Indian lands.

10 **SEC. 17. SEVERABILITY; RELATIONSHIP TO OTHER LAWS;**
11 **TRIBAL SOVEREIGN IMMUNITY.**

12 (a) SEVERABILITY.—If any provision of this Act, or
13 the application of such a provision to any person, entity,
14 or circumstance, is held to be invalid, the remaining provi-
15 sions of this Act and the application of all provisions of
16 this Act to any other person, entity, or circumstance shall
17 not be affected by the invalidity.

18 (b) RELATIONSHIP TO OTHER LAWS.—Nothing in
19 this Act shall invalidate, or limit the rights, remedies, or
20 procedures available under, or supersede, restrict, or limit
21 the application of, the Voting Rights Act of 1965 (52
22 U.S.C. 10301 et seq.), the National Voter Registration
23 Act of 1993 (52 U.S.C. 20501 et seq.), the Help America
24 Vote Act of 2002 (52 U.S.C. 20901 et seq.), or any other
25 Federal law or regulation related to voting or the electoral

1 process. Notwithstanding any other provision of law, the
2 provisions of this Act, and the amendments made by this
3 Act, shall be applicable within the State of Maine.

4 (c) TRIBAL SOVEREIGN IMMUNITY.—Nothing in this
5 Act shall be construed as—

6 (1) affecting, modifying, diminishing, or other-
7 wise impairing the sovereign immunity from suit en-
8 joyed by an Indian Tribe; or

9 (2) authorizing or requiring the termination of
10 any existing trust responsibility of the United States
11 with respect to Indian people.

12 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated such sums
14 as may be necessary to carry out this Act.

○