

Four States Open the Door to Automatic Voter Registration for Native Americans

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Introduction

Native Americans' low participation in elections stems from a long history of exclusion. Today, it is estimated that roughly one in four eligible Native Americans are not registered to vote.¹ These low registration rates are a major factor in low voter turnout among Native Americans, which is about 16 percentage points lower than turnout among white voters.²

Native Americans faced centuries of struggle before acquiring full U.S. citizenship and legal protection of their voting rights. Despite the passage of the Indian Citizenship Act of 1924, state laws continued to exclude Native Americans from the democratic process. It wasn't until 1948 that courts in Arizona and New Mexico³ invalidated provisions that excluded Native Americans from voting. Utah became the last state to remove laws preventing Native Americans from registering to vote in 1957.⁴

The elimination of state voting laws that explicitly denied the franchise to Native Americans did not end their exclusion from the polls. Instead, Native Americans faced the same mechanisms and barriers – poll taxes, literacy tests, intimidation – that kept Black Americans from voting.⁵ Even after passage of the Voting Rights Act and its amendments in 1965 and 1975 finally afforded Native Americans a meaningful opportunity to enforce

their rights, the number of court cases Native voters have brought and won is evidence of the continued efforts to silence their vote and diminish their political power.

Today, Native Americans continue to face obstacles to voting that are rooted in their historic mistreatment. Lower rates of voter registration in Native communities are a product of these unjust barriers to Native American participation. The concept of requiring eligible voters to “register to vote” in advance of elections is rooted at least partially in xenophobia. When voter registration laws initially appeared in the 1870s, the stated rationale was administrative: maintaining accurate lists was necessary to prevent fraud and avoid delays, confusion, and conflict on voting day.⁶ However, the laws were embedded in partisan politics and intentionally imposed significant burdens on lower income and naturalized U.S. citizen voters, who lacked the time, resources, and education to comply with the cumbersome registration process.⁷

While voter registration has been made easier in the decades since it was introduced, through changes like online voter registration and same-day registration, this barrier—requiring an antecedent step before voting—still persists and serves as part of the reason for lower participation among Native American communities.

¹ Lee, J. and Gronke, P. cpsvote: A Toolbox for Using the CPS's Voting and Registration Supplement. Hur and Achen adjustments for turnout. R package version emailed directly from authors April 2024, <https://github.com/Reed-EVIC/cpsvote>; United States Census Bureau. Current Population Survey Voting and Registration Supplement. (2022). April 10, 2024.

² Ibid.

³ *Harrison v. Laveen*, 67 Ariz. 337, 342 (Ariz. 1948) and *Trujillo v. Garley*, Civ. No. 1353 (D.N.M. 1948).

⁴ Jennifer Robinson, “Utah and Native American Voting Rights,” Utah Women's History March 28, 2019, <https://utahwomenshistory.org/2019/03/utah-and-native-american-voting-rights/>.

⁵ U.S. Election Assistance Commission, “Voting Access for Native Americans: Case Studies & Best Practices,” November 2021, https://www.eac.gov/sites/default/files/2021-11/Voting_Access_for_Native_Americans-Case_Studies_%26_Best_Practices.pdf.

⁶ Alexander Keyssar, Institute for Responsive Government, “Voter Registration: A Very Short History,” August 1, 2022, <https://responsivegoverning.org/research/voter-registration-a-very-short-history/>.

⁷ Ibid.

Current Barriers To Native American Voter Registration

Multiple present-day barriers—geographic, logistical, and socioeconomic—contribute to low voter registration rates among Native Americans. Geographic barriers include long travel distances to register to vote; challenges with transportation infrastructure including unpaved roads and an absence of public transportation; and difficulty obtaining a state-issued ID with a driver's license number often because DMVs are prohibitively far away. In addition, the lack of traditional residential addresses and home mail delivery, as well as the lower quality postal services on tribal lands, make it difficult for Native Americans to complete voter registration forms that ask for their address and to receive voter registration information.⁸ Relatedly, low levels of access to the internet make it difficult to find information about registering to vote, and eliminates online registration as an option for many people who live on reservations.

Logistical barriers also make it difficult for Native Americans to register to vote. These often include arbitrary state and local limits on the number of voter registration applications that can be returned by Tribal Nations; election officials that reject or fail to timely process tribal voter registration applications; lack of information on how and where to register; registration deadlines weeks in advance of election day in some states; and a lack of same-day registration and voting.⁹ Lack of a driver's license or state identification card can also be a barrier in some states. While some states allow individuals to use the last four digits of their Social Security Number to register online, many do not and instead require an in-state driver's license or DMV-issued ID card for online registration.

Due to the long standing mistreatment and neglect of Native communities, Native Americans also face persistent socioeconomic barriers to voter registration such as poverty, homelessness, and housing instability. Higher conviction rates also result in loss of voting rights in states with felon disenfranchisement and, even after rights are restored, confusion about eligibility can chill registration among former felons. Low levels of trust in government is an additional obstacle that makes it difficult to engage in registering to vote.¹⁰

⁸ In Arizona, more than 40,000 homes on Native American reservations did not have physical addresses as of 2023. See Arizona Voting Rights, Native American Rights Fund, <https://narf.org/cases/az-voter-address-requirements/#:~:text=More%20than%2040%2C000%20homes%20on,physical%20location%20of%20their%20home>. And in 2019, the Navajo Nation had 50,000 unaddressed homes and businesses. See Matt Vasilogambras, "For Some Native Americans, No Home Address Might Mean No Voting," Stateline, October 4, 2019, <https://stateline.org/2019/10/04/for-some-native-americans-no-home-address-might-mean-no-voting/>. Demonstrating the rarity of physical addresses and home mail delivery in tribal communities nationwide, the Census Bureau does not mail Census forms to most reservations homes in most states, having found that they are in areas where mail typically isn't delivered to residences. See <https://www.oig.doc.gov/OIGPublications/OSE-18027.pdf>. Moreover, even if Native voters do overcome this hurdle and register, voting by mail is also problematic due to the lack of fixed physical address and lower quality mail service on tribal lands.

⁹ "Barriers to Voter Registration, NARF Field Hearing Report Summary Document," Native American Rights Fund, June 2020, https://vote.narf.org/wp-content/uploads/2020/06/obstacles_registration_summary.pdf.

¹⁰ https://vote.narf.org/wp-content/uploads/2020/06/obstacles_registration_summary.pdf.

Automatic Voter Registration Dramatically Improves Registration Rates

One innovative way to address voter registration challenges is automatic voter registration (AVR). People provide information related to voter registration—their name, address, date of birth, etc.—as a routine part of accessing government services. AVR relies on the principle that the information people provide to a government agency can be seamlessly shared with election officials and used for voter registration purposes, unless the person affirmatively declines registration. This streamlines government functions and limits the number of times people need to interact with government in order to register to vote, which is particularly helpful for people who have limited resources to navigate bureaucratic processes. AVR also replaces paper-based voter registration systems with modern electronic systems, making the voter registration process more accurate and secure.

In the last decade, 25 states and Washington, DC have adopted some version of AVR, and millions of people have been registered by AVR in the states that have implemented it.¹¹ Pioneered at Departments of Motor Vehicles, individuals who provide information that establishes their eligibility to register to vote when they apply for a driver's license or state ID card or during another covered agency transaction are automatically registered to vote unless they decline the opportunity. This automatic process significantly increases the accuracy and completeness of voter registration rolls. It also decreases workloads for agency employees, lowers costs for agencies, shortens transaction times, and avoids confusion among the public.¹² In Oregon alone, more than 272,000 new people were added to the rolls through transactions coming from the Office of Motor Vehicles in the first year of implementation, and more than 98,000 of them were new voters in the November 2016 presidential election.¹³

Seeking to build on the success of AVR and address disparities in voter registration among Native Americans, some states are seeking to expand their AVR systems to make use of tribal membership data. Under these Tribal AVR programs, Tribal Nations would have the option to self-designate as automatic voter registration entities. As such, Tribal Nations would play a role similar to the one played by DMVs in existing AVR systems and securely transfer relevant tribal member data to election officials for voter registration purposes. AVR is a critical step in reducing racial, ethnic, and income disparities in the election process, and could dramatically improve Native Americans' voter registration rates once AVR using tribal data is fully implemented.

¹¹ Institute for Responsive Government, Automatic Voter Registration, <https://responsivegov.org/automatic-voter-registration/>; What Happened When 2.2 Million People Were Automatically Registered to Vote, FiveThirtyEight, October 10, 2019, <https://fivethirtyeight.com/features/what-happened-when-2-2-million-people-were-automatically-registered-to-vote/>.

¹² Secure Elections Project, "How AVR Improves the Accuracy of Registration Lists," August 2019, <https://www.secureelectionsproject.org/report/how-avr-improves-the-accuracy-of-registration-lists/>.

¹³ "Who Votes with Automatic Voter Registration? Impact Analysis of Oregon's First in the Nation Program", Center for American Progress, June 7, 2017, <https://www.americanprogress.org/article/votes-automatic-voter-registration/>.

Four States Have Laws Allowing Automatic Voter Registration with Tribal Nations

Colorado, Nevada, New Mexico, and Michigan have all passed laws that allow Tribal AVR, with ultimate discretion in the hands of individual Tribal Nations over whether to participate. In Colorado, the Tribal Council would decide whether to participate in the automatic voter registration process.¹⁴ If a Tribe opts into implementing AVR, it would enter into a memorandum of understanding with the Secretary of State on the specific mechanics of the data transfer, generally under the following format:

- 01** A Tribal Nation would electronically share information on eligible voters with the Secretary of State. The Tribal Nation would compile this information—including name, date of birth, residential address (and mailing address if different), and SSN or driver's license number—from the tribal enrollment registry and other tribal data sources. In addition, all registered members of Tribes in the United States are automatically U.S. citizens, ensuring that only U.S. citizens are registered to vote through this process.¹⁵
- 02** The Secretary of State would receive the electronic data on eligible individuals from the Tribal Nation and provide it to the relevant county clerk and recorder where the person resides. The county clerk would then determine whether the record is complete for purposes of voter registration or preregistration.¹⁶ If the record is complete, the county clerk would then register or preregister eligible individuals and send them an opt-out notice that also provides an opportunity to affiliate with a political party. The individual would remain registered or preregistered to vote, unless they send back the mailer declining registration, or the mailer is returned as undeliverable by the Postal Service. This second stage of the process mirrors the AVR process for information received from the Colorado DMV.

The other states anticipate a similar process with a few modifications. In Nevada, Tribal Nations can submit a request to the Governor to designate an agency of the Tribal Nation as an automatic voter agency.¹⁷ In New Mexico, a Tribal Nation that has the capabilities to transmit registration information electronically has the discretion to enter into a memorandum of understanding with the Secretary of State to transmit such information.¹⁸ And in Michigan, a Tribal Nation would submit a request to the Secretary of State for approval to allow the Nation to electronically submit the information needed for automatic voter registration.¹⁹

¹⁴ CO SB 23-276, August 18, 2023, <https://leg.colorado.gov/bills/sb23-276>.

¹⁵ Native peoples and governments have inherent rights and a political relationship with the U.S. government that does not derive from race or ethnicity. Tribal members are citizens of three sovereigns: their Tribe, the United States, and the state in which they reside. "Tribal Nations and the United States: An Introduction," National Congress of American Indians, February 2020, <https://archive.ncai.org/about-tribes#:~:text=Native%20peoples%20and%20governments%20have,state%20in%20which%20they%20reside>.

¹⁶ Preregistration is an election procedure that allows individuals younger than 18 years of age to register to vote, so they are eligible to cast a ballot when they reach 18, the voting age for all state and federal elections. Typically, a preregistrant will fill out an application and be added to the voter registration list with a "pending" or "preregistration" status. Upon turning 18, the individual is added to the voter registration list and able to cast a ballot. <https://www.ncsl.org/elections-and-campaigns/preregistration-for-young-voters>.

¹⁷ Nev. Rev. Stat. Ann. § 293.57684, <https://casetext.com/statute/nevada-revised-statutes/title-24-elections/chapter-293-elections/automatic-voter-registration/section-29357684-effective-112025-designation-of-agency-of-indian-tribe-as-automatic-voter-registration-agency-under-certain-circumstances>.

¹⁸ NM HB 4, 2023, <https://nmlegis.gov/Sessions/23%20Regular/final/HB0004.pdf>.

¹⁹ MI HB. 4983, <https://www.legislature.mi.gov/documents/2023-2024/billconcurrent/House/pdf/2023-HCB-4983.pdf>.

To ensure protection of sensitive information for tribal members, each state has its own election privacy laws and policies that balance a level of transparency in the election process with protecting privacy. For example, in Colorado, although voter information is generally considered a “public record” that is available on request, certain information is withheld from public disclosure. The information that is considered a “public record” in Colorado includes a potential voter’s name, residential address, party and date of affiliation, phone number (if provided), gender identity (if provided), birth year, and voting history.²⁰ However, Colorado automatically makes more sensitive information confidential and exempt from public disclosure, including a person’s social security number, driver’s license number, month and day of birth, signature, and email address. A voter can also request that election officials keep all of their information confidential. In addition, anyone enrolled in the Colorado Address Confidentiality Program (for survivors of domestic violence and other crimes) will automatically have their information maintained as confidential rather than public.

Implementation Progress

Thus far, no Tribal Nation has applied for designation to conduct Tribal AVR. However, Tribal Nations did play a role in passage of these laws, suggesting the possibility of future agreements with election officials. For example, in Colorado, lawmakers worked closely with the Ute Mountain Ute and Southern Ute Tribal Nations—the two federally recognized Tribal Nations in Colorado—when crafting the bill.²¹ It will be critical for Colorado’s Secretary of State to continue to consult with Tribal Nations and implement the policy together, should these Tribal Nations request to move forward with Tribal AVR.

Although Colorado’s law specifies timelines and processes for Tribal AVR, there still are implementation decisions that require close collaboration between the state and the Tribal Nations. These decisions include, for example, agreeing on the format of the tribal data shared with the Secretary of State; setting up the mechanism of transmission; how the residential locations of homes without a traditional street address should be recorded; and how to follow up if a registration record is incomplete.

The state and Tribal Nations likely also need to collaborate on the specific language used in the notices sent by county election officials to tribal members who are registered through Tribal AVR, including language about how to decline registration, how to register for a party, and about having their information maintained as confidential rather than public. While these notices will likely mirror the notices currently used for DMV AVR, the state and Tribal Nations may wish to modify them slightly to reflect the particular communities reached by Tribal AVR.

²⁰ Colorado Secretary of State, “Public Voter Data and Information Requests FAQs,” <https://www.sos.state.co.us/pubs/elections/FAQs/VoterRegistrationData.html>.

²¹ NPR News, Colorado Voices. “Colorado Tribes could be first to get automatic voter registration under new bill.” April 13, 2023. <https://www.kunc.org/news/2023-04-13/colorado-tribes-could-be-the-first-to-get-automatic-voter-registration-under-a-new-bill>; “Testimony by Southern Ute Vice Chair Lorelei Cloud in support.” Time: 4:53. Colorado House State, Civic, Military & Veterans Affairs, April 24, 2023. <https://sq001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20230424/-1/14649>.

Other Ways to Support Native Americans' Access to Voting

Registration is, of course, just one barrier to participation by Native populations. While Tribal AVR can help remove (or at least lower) the barrier of registration for tribal members, Native voters still face barriers to actually casting a ballot, including voting locations far from tribal lands, poor mail service on tribal lands, and inadequate language accessibility.

At the same time as they enact Tribal AVR policies, it is important for states to also make voting more accessible for Native Americans. For example, Colorado law allows Tribal Nations to request a vote center within the boundaries of the reservation.²² In New Mexico, state law similarly allows Tribal Nations to request vote centers, early voting locations, and drop boxes on tribal lands, and prevents removal of vote centers on tribal lands without the written approval of the tribal government. In addition, New Mexico allows Native Americans to use government buildings as mailing addresses. Nevada has similar rules, establishing a process where any Tribal Nation may request a ballot drop box or election day polling site within a reservation or colony.²³ Under the Nevada law, the drop box or polling site will remain in place for future elections until the Tribal Nation agrees otherwise. Policies like these go hand-in-hand with Tribal AVR to make voting accessible for Native Americans.

Conclusion

Automatic voter registration has the potential to dramatically improve voter registration rates among Native Americans who have traditionally had low rates of voter registration and faced significant barriers to participation. Tribal AVR laws give Tribal Nations and state election officials the power to work together to significantly reduce the burden of voter registration for enrolled tribal members. Enrollment in a Tribal Nation would effectively function as voter registration, without the need for additional paperwork.

Four states have recently passed laws that allow automatic voter registration through Tribal Nations, creating the potential to seamlessly register thousands of tribal members. These laws provide an exciting opportunity for Tribal Nations and state election officials to collaborate closely on implementation. Together, Tribes and state election officials can implement Tribal AVR systems that bring more tribal members into the political process and overcome both historical and ongoing barriers to voter registration.

²² Vote centers can provide same-day registration, in-person voting, and the ability to pick up and drop off mail ballots, creating critical access to the voting process on tribal lands.

²³ NV AB 321, 2021, <https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/7842/Overview>.



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Allison Neswood is an experienced advocate for social justice and equitable policy. At NARF, her focus is on the enforcement of Native voters' language access under section 203 of the Voting Rights Act. Allison believes that we as a nation have made policy choices that continue to negatively impact the health and well-being of Native communities for generations. Her work is dedicated to changing that reality.

Prior to joining the NARF team, Allison established herself as an expert in the field of health policy and healthcare justice. She led the passage of several pieces of legislation to improve equity in health care and was recognized with the Health Equity Advocate of the Year Award (Colorado Cross Disability Center), the Consumer Champion Award (Colorado Consumer Health Initiative), and Consumer Health Advocate Award (FamiliesUSA).

Past media appearances include [NEXT with Kyle Clark](#) (11/9/21; at minute 7:37), "[\\$18K bill for broken wrist? Problem Solvers investigate medical bills](#)" (Fox 31), and [Stairway to ATJ podcast. Episode 2: Diversity and Justice](#) (Colorado Bar Association).



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Sonya has spent more than twenty years advocating to improve access to health care and reduce poverty. As part of her current work as a public policy consultant, Sonya collaborates with organizations working to improve access to public benefit programs; protect children and immigrants' rights; and modernize voter registration systems. Sonya leads issue advocacy campaigns; develops and implements advocacy strategy; organizes diverse stakeholders and finds areas of agreement; and builds coalitions and facilitates partnerships. Sonya also advises clients on approach to policy and program changes, analyzes federal and state laws and policies; identifies experts; scans and evaluates policy environments; and conducts qualitative policy research. Sonya holds strong relationships in the progressive advocacy community and government at the federal and state level. Sonya's clients have included the National Immigration Law Center, Center on Budget and Policy Priorities, The Children's Partnership, Children's Defense Fund-NY, Kaiser Family Foundation, Center for Secure and Modern Elections, Colorado Center for Health Progress, and California Planned Parenthood Education Fund. Sonya most recently worked as Co-Chair of the Protecting Immigrant Families Campaign, and as a Senior Policy Attorney at the National Immigration Law Center. Sonya has served as a Research Fellow and Faculty Member at Georgetown University's McCourt School of Public Policy; a Program Director at the National Academy for State Health Policy (NASHP); and worked at Families USA and the Food Research & Action Center early in her career. Sonya holds a JD from the UCLA School of Law Program in Public Interest Law and Policy, and a BA in political science and Italian from Middlebury College.