

114TH CONGRESS  
1ST SESSION

# S. 1912

To protect the rights of Indian and Native Alaskan voters.

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IN THE SENATE OF THE UNITED STATES

JULY 30, 2015

Mr. TESTER (for himself, Mr. FRANKEN, Ms. HEITKAMP, and Mr. UDALL)  
introduced the following bill; which was read twice and referred to the  
Committee on the Judiciary

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## A BILL

To protect the rights of Indian and Native Alaskan 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 “Native American Vot-  
5 ing Rights Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

7       In this Act:

8           (1) INDIAN RESERVATION.—The term “Indian  
9 reservation” shall have the meaning given the term  
10 in section 203 of the Voting Rights Act of 1965 (52  
11 U.S.C. 10503).



1 (A) the entire State is or becomes a per-  
2 manent absentee voting State; or

3 (B) the Indian tribe requests such a des-  
4 ignation in accordance with section 3(c);

5 (5) remove an early voting location or otherwise  
6 diminish early voting opportunities on an Indian res-  
7 ervation; or

8 (6) decrease the number of days or hours that  
9 an in-person or early voting location is open on an  
10 Indian reservation or change the dates of in-person  
11 or early voting on an Indian reservation.

12 (b) PRECLEARANCE.—

13 (1) IN GENERAL.—A State or political subdivi-  
14 sion meets the requirements of this subsection if the  
15 State or political subdivision—

16 (A) institutes an action in the United  
17 States District Court for the District of Colum-  
18 bia for a declaratory judgment that the speci-  
19 fied activity described in subsection (a) that the  
20 State or political subdivision desires to carry  
21 out neither has the purpose nor will have the  
22 effect of denying or abridging the right to vote  
23 on account of race or color, or membership in  
24 a language minority group, and unless and until  
25 the court enters such judgment the State or po-

1           litical subdivision shall not carry out such activ-  
2           ity; or

3                   (B) the chief legal officer or other appro-  
4           prium official of such State or subdivision sub-  
5           mits a request to carry out the specified activity  
6           described in subsection (a) to the Attorney Gen-  
7           eral and the Attorney General has not inter-  
8           posed an objection within 60 days after such  
9           submission, or upon good cause shown, to facili-  
10          tate an expedited approval within 60 days after  
11          such submission, the Attorney General has af-  
12          firmatively indicated that such objection will  
13          not be made.

14                   (2) NO LIMITATION ON FUTURE ACTIONS.—  
15          Neither an affirmative indication by the Attorney  
16          General that no objection will be made, nor the At-  
17          torney General's failure to object, nor a declaratory  
18          judgment entered under this section shall bar a sub-  
19          sequent action to enjoin enforcement of an activity  
20          described in subsection (a). In the event the Attor-  
21          ney General affirmatively indicates that no objection  
22          will be made within the 60-day period following re-  
23          ceipt of a submission, the Attorney General may re-  
24          serve the right to reexamine the submission if addi-  
25          tional information comes to the Attorney General's

1 attention during the remainder of the 60-day period  
2 which would otherwise require objection in accord-  
3 ance with this section. Any action under this section  
4 shall be heard and determined by a court of 3 judges  
5 in accordance with the provisions of section 2284 of  
6 title 28 of the United States Code and any appeal  
7 shall lie to the Supreme Court.

8 **SEC. 4. DESIGNATION OF TRIBAL POLLING PLACES.**

9 (a) OBLIGATIONS OF THE STATE.—

10 (1) DESIGNATION OF STATE OFFICER.—Each  
11 of the several States whose territory contains all or  
12 part of an Indian reservation shall designate, for  
13 each Indian tribe of each Indian reservation, an offi-  
14 cer within that State responsible for compliance with  
15 the provisions of this Act. The State shall provide  
16 written notice to each such Indian tribe of the offi-  
17 cer so designated.

18 (2) PROVISION OF POLLING PLACES.—For each  
19 Indian tribe that satisfies the obligations of sub-  
20 section (b), and for each election that is held at least  
21 180 days after the Indian tribe initially satisfies  
22 such obligations, any State whose territory contains  
23 all or part of an Indian reservation of the Indian  
24 tribe—

1 (A) shall provide a minimum of one polling  
2 place in a location selected by the Indian tribe;

3 (B) shall provide additional polling places  
4 in locations selected by the Indian tribe if,  
5 based on the totality of circumstances, it is  
6 shown that not providing additional polling  
7 places would result in members of the Indian  
8 tribe having less opportunity to vote than other  
9 citizens have, as determined by the Attorney  
10 General;

11 (C) shall, at each polling place provided in  
12 accordance with this section, make voting ma-  
13 chines, tabulation machines, ballots, provisional  
14 ballots, and other voting materials available to  
15 the same extent that such equipment and mate-  
16 rials are made available at most other polling  
17 places in the State;

18 (D) shall, at each polling place provided  
19 under this section, conduct the election using  
20 the same voting procedures that are used at  
21 other polling places in the State;

22 (E) shall, at each polling place provided in  
23 accordance with this section, provide training,  
24 compensation, and other benefits to election of-  
25 ficials and poll workers to the same 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;

4 (F) shall cooperate in good faith with the  
 5 efforts of the Indian tribe to satisfy the certifi-  
 6 cations the Indian tribe made pursuant to sub-  
 7 paragraphs (B) through (E) of subsection  
 8 (b)(1); and

9 (G) may fulfill the State's obligations  
 10 under subparagraphs (A) and (B) by relocating  
 11 existing polling places, by creating new polling  
 12 places, or both.

13 (3) **EQUITABLE OPPORTUNITIES TO VOTE.**—  
 14 When assessing the opportunities to vote provided to  
 15 members of the Indian tribe and to other citizens in  
 16 the State, to determine the number of additional  
 17 polling places (if any) that a State must provide  
 18 pursuant to subparagraph (B) of paragraph (2), the  
 19 State, and any court applying this Act, shall con-  
 20 sider—

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

23 (B) the distances that voters must travel  
 24 to reach the polling places;

1 (C) the time that voters must spend trav-  
2 eling to reach the polling places;

3 (D) the modes of transportation that vot-  
4 ers use to reach the polling places;

5 (E) the existence of and access to public  
6 transportation to the polling places; and

7 (F) any other factor relevant to effec-  
8 tuating the purposes of this Act.

9 (b) OBLIGATIONS OF THE INDIAN TRIBE.—

10 (1) The State obligations in subsection (a) shall  
11 apply only if the Indian tribe files a standing request  
12 with the officer designated under subsection (a)(1)  
13 for a polling place or polling places for future elec-  
14 tions, pursuant to subparagraphs (A) and (B) of  
15 subsection (a)(2), which—

16 (A) specifies the number and locations of  
17 such polling places;

18 (B) certifies that the Indian tribe has ar-  
19 ranged access to the facilities in which such  
20 polling places will be located, and that such ac-  
21 cess is in accordance with Federal and State  
22 law;

23 (C) certifies that the Indian tribe will en-  
24 sure that each such polling place will be open  
25 and accessible to all voting-age citizens who re-

1 side in the precinct or other geographic area as-  
2 signed to such polling place, regardless of  
3 whether such citizens are or are not members  
4 of the Indian tribe or of any other Indian tribe;

5 (D) certifies that the Indian tribe will des-  
6 ignate election officials and poll workers to staff  
7 such polling places on every day that the polling  
8 places will be open; and

9 (E) certifies that the Indian tribe will en-  
10 sure that the election officials and poll workers  
11 who the Indian tribe designate to staff such  
12 polling places attend and satisfactorily complete  
13 any training that is required of election officials  
14 and poll workers who staff other polling places  
15 in nearby areas of the State, or requests that  
16 the State shall designate such election officials  
17 and poll workers.

18 (2) At any time at least 60 days before an elec-  
19 tion, an Indian tribe that previously has satisfied the  
20 obligations of paragraph (1) may notify the State  
21 that the Indian tribe intends to opt out of the stand-  
22 ing request for one or more polling places as de-  
23 scribed in subparagraphs (A) and (B) of subsection  
24 (a)(2) for a particular election or for all future elec-  
25 tions.

1           (c) ABSENTEE BALLOTING.—In States that permit  
2 absentee or mail-in balloting, an Indian tribe may request  
3 to the State or political subdivision that an Indian reserva-  
4 tion of the Indian tribe be designated as an absentee ballot  
5 location. In such instances, absentee ballots shall be pro-  
6 vided to each registered voter living on the Indian reserva-  
7 tion without the requirement of a request or an excuse  
8 for an absentee ballot. Bilingual election materials shall  
9 be provided if required by section 203 of the Voting Rights  
10 Act of 1965 (52 U.S.C. 10503).

11           (d) EARLY VOTING.—In States that provide for early  
12 voting, a State or local election official shall provide at  
13 least one early voting location on an Indian reservation  
14 upon the request of the applicable Indian tribe.

15           (e) FACILITIES.—An Indian tribe may request to the  
16 State or political subdivision that tribal government offices  
17 or Federal facilities, such as Indian Health Service or Bu-  
18 reau of Indian Affairs facilities, be designated as polling  
19 places or voter registration agencies under section 7 of the  
20 National Voter Registration Act of 1993 (52 U.S.C.  
21 20506) provided that the tribal government office or Fed-  
22 eral facility meets the requirements of Federal and State  
23 law applied to other polling places or voter registration  
24 agencies within the State or political subdivision.

1 (f) TRIBAL GOVERNMENT IDENTIFICATION.—If a  
2 State or political subdivision requires an individual to  
3 present identification for the purposes of voting or reg-  
4 istering to vote, a tribal identification card shall be treated  
5 as a valid form of identification for such purposes.

6 (g) ENFORCEMENT.—The government of an Indian  
7 tribe or the Attorney General of the United States may  
8 bring a civil action against a State or political subdivision,  
9 as the case may be, or against an appropriate State or  
10 political subdivision officer acting in an official capacity  
11 in an appropriate United States district court for such de-  
12 claratory or injunctive relief as may be necessary to effec-  
13 tuate the provisions of this section.

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

23 **SEC. 5. BILINGUAL ELECTION REQUIREMENTS.**

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

1           (1) in subsection (b)(3)(C), by striking “1990”  
2           and inserting “2010”; and

3           (2) in subsection (c), by striking “or in the case  
4           of Alaskan natives and American Indians, if the pre-  
5           dominant language is historically unwritten” and in-  
6           serting “(as of the date on which the materials or  
7           information is provided)”.

8   **SEC. 6. FEDERAL OBSERVERS TO PROTECT TRIBAL VOTING**  
9                                   **RIGHTS.**

10          Section 8(a) of the Voting Rights Act of 1965 (52  
11   U.S.C. 10305(a)) is amended—

12           (1) in paragraph (1), by striking “or” after the  
13           semicolon;

14           (2) in paragraph (2), by adding “or” after the  
15           semicolon; and

16           (3) by inserting after paragraph (2) the fol-  
17           lowing:

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

1 **SEC. 7. ELECTION OBSERVER TRANSPARENCY.**

2       The Attorney General shall make publicly available  
3 the reports of Federal election observers appointed pursu-  
4 ant to section (8)(a)(3) of the Voting Rights Act of 1965  
5 (52 U.S.C. 10305(a)(3)), as added by section 6, not later  
6 than 6 months after the date that such reports are sub-  
7 mitted to the Attorney General.

8 **SEC. 8. TRIBAL VOTING CONSULTATION.**

9       The Attorney General shall, to the extent practicable,  
10 consult annually with Indian tribes regarding issues re-  
11 lated to voting for members of an Indian tribe.

12 **SEC. 9. ATTORNEYS' FEES, EXPERT FEES, LITIGATION EX-**  
13 **PENSES.**

14       In any civil action under this Act, the court, in its  
15 discretion, may award reasonable attorneys' fees, reason-  
16 able expert fees, and other reasonable litigation expenses  
17 as part of the costs to the prevailing party, other than  
18 the United States.

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