

LEGISLATIVE SUMMARY SHEET

Tracking No. 0005-20

DATE: December 23, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI; SUPPORTING PROPOSED "NATIVE AMERICAN VOTING RIGHTS ACT OF 2019" AS INTRODUCED THROUGH U.S. SENATE BILL 739 AND HOUSE OF REPRESENTATIVE BILL 1694

PURPOSE: This resolution supports bills introduced in the United States Senate and House of Representatives entitled "Native American Voting Rights Act Of 2019." The bills are identical and numbered as S.739 and H.R. 1694, respectively. The proposed law would address the rights of Native Americans in exercising their right to vote. The proposed law is intended to protect the right of Native voters in respect to voter registration and voting in all elections, particularly state and local elections.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD:
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Eligible for Action: 01-13-20

PROPOSED STANDING COMMITTEE RESOLUTION
24th NAVAJO NATION COUNCIL – Second Year, 2020

INTRODUCED BY


(Prime Sponsor)

TRACKING NO. 0005-20

AN ACTION

RELATING TO NAABIK'ÍYÁTI; SUPPORTING PROPOSED "NATIVE AMERICAN
VOTING RIGHTS ACT OF 2019" AS INTRODUCED THROUGH U.S. SENATE BILL 739
AND HOUSE OF REPRESENTATIVE BILL 1694

WHEREAS:

1. In the United States, it is constitutionally unlawful for the federal government or any state to deny to any citizen the right to vote based on "race, color, or previous condition of servitude." U.S. Constitution, Amendment XV (1870).
2. Minorities, particularly Native Americans, continue to face discrimination and other unfair restrictions in the election process. Today, practices of voter suppression include unfair voter identification requirements, unreasonable voter registration procedures and inadequate language assistance.
3. The federal government owes a duty of trust to all Native Americans in this country. Native Americans are citizens of this country, and many have served honorably in the military forces of the United States.
4. Senator Tom Udall and Representative Ben Ray Luján introduced legislation in the United States Senate and House of Representatives, respectively, entitled "The Native American Voting Rights Act of 2019." S. 739 (attached as Exhibit A) and H.R. 1694. The purposes of the legislation are to require states and other jurisdictions to accept tribal

1 identification cards in elections, provide federal funds for voter registration facilities
2 within reservations, require polling sites in every precinct within Native communities,
3 prohibit purposeful discrimination, allow ballot submissions at local tribal government
4 offices (instead of by mail to state and local agencies), permit written translations of
5 election material (from English into Native languages), provide funding for voter
6 registration drives and making voting process more accessible for native Americans.

7 .
8 NOW THEREFORE BE IT RESOLVED:

9 The Navajo Nation hereby supports proposed Congressional bill entitled "Native
10 American Voting Rights Act of 2019" as introduced through U.S. Senate Bill 739 and
11 House of Representative Bill 1694.



116TH CONGRESS
1ST SESSION

S. 739

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

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2019

Mr. UDALL (for himself, Mr. BOOKER, Ms. CORTEZ MASTO, Mrs. FEINSTEIN, Ms. HARRIS, Mr. HEINRICH, Ms. HIRONO, Ms. KLOBUCHAR, Mr. MERKLEY, Mr. SANDERS, Mr. SCHATZ, Mr. SCHUMER, Ms. SMITH, Mr. TESTER, and Ms. WARREN) 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 “Native American Vot-
5 ing Rights Act of 2019”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

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

8 (1) The Constitution explicitly and implicitly
9 grants Congress broad general powers to legislate on

1 issues relating to Indian Tribes, powers consistently
2 described as plenary and exclusive. These powers
3 arise from the grant of authority in the Indian Com-
4 merce Clause and through legislative matters arising
5 under the Treaty Clause.

6 (2) The Federal Government is responsible for
7 upholding the obligations that the Federal Govern-
8 ment has agreed to through treaties, legislation, and
9 executive orders, referred to as the Federal trust re-
10 sponsibility toward Indian Tribes and their mem-
11 bers.

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

19 (4) Legislation removing barriers to Native
20 American voting is vital for the fulfillment of
21 Congress's "unique obligation" toward Indians, par-
22 ticularly ensuring that Native American voters are
23 fully included as "qualified members of the modern
24 body politic." *Board of County Comm'rs v. Seber*,
25 318 U.S. 705, 715 (1943).

1 (5) Under the Elections Clause of article I, sec-
2 tion 4 of the Constitution, Congress has additional
3 power to regulate any election conducted at least in
4 part to select Members of Congress. Taken together,
5 the Indian Commerce Clause and the Election
6 Clause give Congress broad authority to enact legis-
7 lation to safeguard the voting rights of Native Amer-
8 ican voters.

9 (6) Despite Congress's decision to grant Native
10 Americans Federal citizenship, and with it the pro-
11 tections of the Fifteenth Amendment, with passage
12 of the Act of June 2, 1924 (Public Law 68-233; 43
13 Stat. 253) (commonly known as the "Indian Citizen-
14 ship Act of 1924"), States continued to deploy dis-
15 tinct methods for disenfranchising Indians by enact-
16 ing statutes to exclude from voter rolls Indians liv-
17 ing on reservations, requiring that Indians first ter-
18 minate their relationship with their Indian Tribe, re-
19 stricting the right to vote on account of a Tribal
20 member's "guardianship" status, and imposing lit-
21 eracy 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 recent 9 field hearings in Indian Country and
2 4-State survey of voter discrimination revealed a
3 number of additional obstacles that Native Americans must overcome in some States, including—

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

15 (B) nontraditional addresses for residents
16 on Indian reservations, which make voter registration, acquisition of mail-in ballots, and securing required identification difficult, if not
17 impossible;

20 (C) inadequate language assistance for
21 Tribal members, including lack of outreach and
22 publicity, the failure to provide complete, accurate, and uniform translations of all voting materials in the relevant Native language, and an

1 insufficient number of trained bilingual poll
2 workers; and

3 (D) voter identification laws that discrimi-
4 nate against Native Americans.

5 (9) The Department of Justice and courts have
6 also recognized that some jurisdictions have been
7 unresponsive to reasonable requests from federally
8 recognized Indian Tribes for more accessible voter
9 registration sites and in-person voting locations.

10 (10) According to the National Congress of
11 American Indians, there is a wide gap between the
12 voter registration and turnout rates of eligible Amer-
13 ican Indians and Alaska Natives, and the voter reg-
14 istration and turnout rates of non-Hispanic white
15 and other racial and ethnic groups.

16 (11) Despite these obstacles, the Native Amer-
17 ican vote continues to play a significant role in na-
18 tional, State, and local elections.

19 (12) In Alaska, New Mexico, Oklahoma, and
20 South Dakota, Native Americans comprise approxi-
21 mately 10 percent or more of the voting population.

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

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

1 (1) to fulfill the Federal Government's trust re-
2 sponsibility to protect and promote Native Ameri-
3 cans' exercise of their constitutionally guaranteed
4 right to vote, including the right to register to vote
5 and the ability to access all mechanisms for voting;

6 (2) to establish preclearance procedures for a
7 specific subset of State actions that have been used
8 to restrict access to the polls on Indian lands;

9 (3) to expand voter registration under the Na-
10 tional Voter Registration Act of 1993 (52 U.S.C.
11 20506 et seq.) to cover all Federal facilities, at the
12 request of the Indian Tribe;

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

15 (5) to clarify the obligations of States and polit-
16 ical subdivisions regarding the provision of trans-
17 lated voting materials for American Indians and
18 Alaska Natives under section 203 of the Voting
19 Rights Act of 1965 (52 U.S.C. 10503);

20 (6) to provide Tribal leaders with a direct path-
21 way to request Federal election observers, and to
22 allow public access to the reports of those election
23 observers; and

1 (7) to direct the Department of Justice to con-
2 sult on an annual basis with Indian Tribes on issues
3 related to voting.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) INDIAN.—The term “Indian” has the mean-
7 ing given the term in section 4 of the Indian Self-
8 Determination and Education Assistance Act (25
9 U.S.C. 5304).

10 (2) INDIAN LANDS.—The term “Indian lands”
11 includes—

12 (A) any Indian country of an Indian Tribe,
13 as defined under section 1151 of title 18,
14 United States Code;

15 (B) any land in Alaska owned, pursuant to
16 the Alaska Native Claims Settlement Act (43
17 U.S.C. 1601 et seq.), by an Indian Tribe that
18 is a Native village (as defined in section 3 of
19 that Act (43 U.S.C. 1602)) or by a Village Cor-
20 poration that is associated with an Indian Tribe
21 (as defined in section 3 of that Act (43 U.S.C.
22 1602));

23 (C) any land on which the seat of the Trib-
24 al Government is located; and

1 (D) any land that is part or all of a Tribal
 2 designated statistical area associated with an
 3 Indian Tribe, or is part or all of an Alaska Na-
 4 tive village statistical area associated with an
 5 Indian Tribe, as defined by the Census Bureau
 6 for the purposes of the most recent decennial
 7 census.

8 (3) INDIAN TRIBE.—The term “Indian Tribe”
 9 has the meaning given the term “Indian tribe” in
 10 section 4 of the Indian Self-Determination and Edu-
 11 cation Assistance Act (25 U.S.C. 5304).

12 (4) TRIBAL GOVERNMENT.—The term “Tribal
 13 Government” means the recognized governing body
 14 of an Indian Tribe.

15 **SEC. 4. ESTABLISHMENT OF A NATIVE AMERICAN VOTING**
 16 **TASK FORCE GRANT PROGRAM.**

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

1 ing Task Force in each State with a federally recognized
2 Indian Tribe.

3 (b) PURPOSE.—The purpose of the Native American
4 voting task force grant program is to—

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

7 (2) increase access to the ballot for Native
8 American communities, including additional satellite,
9 early voting, and absentee voting locations;

10 (3) streamline and reduce inconsistencies in the
11 voting process for Native Americans;

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

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

17 (A) the language assistance and voter as-
18 sistance requirements under sections 203 and
19 208 of the Voting Rights Act of 1965 (52
20 U.S.C. 10503; 10508); and

21 (B) voter identification laws under section
22 8 of this Act;

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

1 (7) provide non-partisan poll watchers on elec-
2 tion day in Native American communities;

3 (8) participate in and evaluate future redis-
4 tricting efforts;

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

8 (10) facilitate collaboration between local elec-
9 tion officials, Native American communities, and
10 Tribal elections offices.

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

13 (1) an Indian Tribe;

14 (2) a Secretary of State of a State, or another
15 official of a State entity responsible for overseeing
16 elections;

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

19 (4) a consortium of one or more of the entities
20 described in paragraphs (1) through (3).

21 (d) APPLICATION AND SELECTION PROCESS.—

22 (1) IN GENERAL.—The Office, in coordination
23 with the Department of the Interior and following
24 consultation with Indian Tribes about the implemen-
25 tation of the Native American voting task force

1 grant program, shall establish guidelines for the
2 process by which eligible applicants will submit ap-
3 plications.

4 (2) APPLICATIONS.—Each eligible applicant de-
5 siring a grant under this section shall submit an ap-
6 plication, according to the process established under
7 paragraph (1), and at such time, in such manner,
8 and containing such information as the Attorney
9 General may require. Such application shall in-
10 clude—

11 (A) a certification that the applicant is an
12 eligible applicant;

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

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

22 (D) an explanation of the time period that
23 the proposed Native American Voting Task
24 Force will cover, which shall be a time period
25 that is not more than 3 years.

1 (e) USES OF FUNDS.—A grantee receiving funds
2 under this section shall use such funds to carry out one
3 or more of the activities described in subsection (b),
4 through the grantee's Native American Voting Task
5 Force.

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

13 (g) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to carry out this section
15 \$10,000,000 for each of fiscal years 2020 through 2034.

16 **SEC. 5. TRIBAL DESIGNATED VOTER REGISTRATION SITES.**

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

19 (1) in paragraph (2)—

20 (A) in subparagraph (A), by striking
21 “and” after the semicolon;

22 (B) in subparagraph (B), by striking the
23 period at the end and inserting a semicolon;
24 and

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

1 “(C) at the request of an Indian Tribe,
2 any Federal facility or federally funded facility
3 that is primarily engaged in providing services
4 to Indian Tribes and that provides such services
5 to the requesting Indian Tribe; and

6 “(D) at the request of an Indian Tribe, not
7 less than one Federal facility or federally fund-
8 ed facility that is located on the Indian lands of
9 the requesting Indian Tribe (which may be the
10 Federal facility or federally funded facility de-
11 scribed in subparagraph (C)).”; and

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

13 “(8) Where practicable, each Federal agency
14 that operates a Federal facility or a federally funded
15 facility that is subject to the provisions of paragraph
16 (2)(C) or (D), shall designate one or more special
17 days at a centralized location within the boundaries
18 of the Indian lands of each applicable Indian Tribe
19 for the purpose of informing members of the Indian
20 Tribe of the timing, registration requirements, and
21 voting procedures in elections for Federal office, at
22 no cost to the Indian Tribe.”.

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

24 (a) IN GENERAL.—

1 (1) DESIGNATION OF STATE OFFICER.—Each
2 of the several States whose territory contains all or
3 part of an Indian Tribe's Indian lands shall des-
4 ignate for each Indian Tribe an officer within that
5 State who will be responsible for compliance with the
6 provisions of this section. The State shall provide
7 written notice to each such Indian Tribe of the offi-
8 cer so designated.

9 (2) PROVISION OF POLLING PLACES.—For each
10 Indian Tribe that satisfies the obligations of sub-
11 section (c), and for each election for a Federal offi-
12 cial that is held 180 days or later after the date on
13 which the Indian Tribe initially satisfies such obliga-
14 tions, any State or political subdivision whose terri-
15 tory contains all or part of an Indian Tribe's Indian
16 lands—

17 (A) shall provide a minimum of one polling
18 place for each precinct in which there are eligi-
19 ble voters who reside on Indian lands, in a loca-
20 tion selected by the Indian Tribe and at no cost
21 to the Indian Tribe;

22 (B) shall provide, at no cost to the Indian
23 Tribe, additional polling places in locations se-
24 lected by an Indian Tribe if, based on the total-
25 ity of circumstances described in subsection (b),

1 it is shown that not providing those additional
2 polling places would result in members of the
3 Indian Tribe and individuals residing on the In-
4 dian Tribe's Indian lands having less oppor-
5 tunity to vote than eligible voters in that State
6 or political subdivision who are not members of
7 an Indian Tribe and do not reside on Indian
8 lands;

9 (C) shall, at each polling place located on
10 Indian lands and at no cost to the Indian Tribe,
11 make voting machines, tabulation machines,
12 ballots, provisional ballots, and other voting ma-
13 terials available to the same extent that such
14 equipment and materials are made available at
15 other polling places in the State or political
16 subdivision that are not located on Indian
17 lands;

18 (D) shall, at each polling place located on
19 Indian lands, conduct the election using the
20 same voting procedures that are used at other
21 polling places in the State or political subdivi-
22 sion that are not located on Indian lands;

23 (E) shall, at each polling place located on
24 Indian lands, provide training, compensation,
25 and other benefits to election officials and poll

1 workers at no cost to the Indian Tribe and to
2 the same extent that such training, compensa-
3 tion, and benefits are provided to election offi-
4 cials and poll workers at other polling places in
5 the State or political subdivision that are not lo-
6 cated on Indian lands;

7 (F) shall cooperate in good faith with the
8 efforts of the Indian Tribe to satisfy the re-
9 quirements of subsection (c); and

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

14 (b) **EQUITABLE OPPORTUNITIES TO VOTE.**—When
15 assessing the opportunities to vote provided to members
16 of an Indian Tribe and to other eligible voters in the State
17 residing on Indian lands in order to determine the number
18 of additional polling places (if any) that a State or political
19 subdivision must provide in accordance with subsection
20 (a)(2)(B), the State, political subdivision, and any court
21 applying this section, shall consider the totality of cir-
22 cumstances of—

23 (1) the number of voting-age citizens assigned
24 to each polling place;

1 (2) the distances that voters must travel to
2 reach the polling places;

3 (3) the time that voters must spend traveling to
4 reach the polling places, including under inclement
5 weather conditions;

6 (4) the modes of transportation, if any, that are
7 available to voters to use to reach the polling places;

8 (5) the existence of and access to public trans-
9 portation to the polling places; and

10 (6) any other factor relevant to effectuating the
11 purposes of this Act.

12 (c) OBLIGATIONS OF THE INDIAN TRIBE.—

13 (1) IN GENERAL.—The State and political sub-
14 division obligations under subsection (a)(2) shall
15 apply with respect to an Indian Tribe only if that
16 Indian Tribe files a standing request with the officer
17 designated under subsection (a)(1) for a polling
18 place or polling places for future elections, pursuant
19 to subsection (a)(2)(A), or subsection (a)(2)(B) (if
20 applicable), which—

21 (A) specifies the number and locations of
22 such polling places that the Indian Tribe is re-
23 questing;

24 (B) certifies that the Indian Tribe has ar-
25 ranged access to the facilities in which such

1 polling places will be located, and that such ac-
2 cess is in accordance with Federal and State
3 law;

4 (C) certifies that the Indian Tribe will en-
5 sure that each such polling place will be open
6 and available to all eligible voters who reside in
7 the precinct or other geographic area assigned
8 to such polling place, regardless of whether
9 such eligible voters are members of the Indian
10 Tribe or of any other Indian Tribe; and

11 (D) requests that the State shall designate
12 election officials and poll workers to staff such
13 polling places, or certifies that the Indian Tribe
14 will designate election officials and poll workers
15 to staff such polling places on every day that
16 the polling places will be open.

17 (2) OPT OUT.—At any time that is 60 days or
18 more before the date of an election, an Indian Tribe
19 that previously has satisfied the obligations of para-
20 graph (1) may notify the State that the Indian Tribe
21 intends to opt out of the standing request for one
22 or more polling places that were requested in accord-
23 ance with subsection (a)(2)(A) or subsection
24 (a)(2)(B) for a particular election or for all future
25 elections.

1 (d) FEDERAL POLLING SITES.—At an Indian Tribe's
2 request, each State shall designate as voter polling facili-
3 ties any of the facilities identified in accordance with sec-
4 tion 7(a)(2)(C) or (D) of the of the National Voter Reg-
5 istration Act of 1993 (52 U.S.C. 20506(a)(2)), at no cost
6 to the Indian Tribe, provided that the facility meets the
7 requirements of Federal and State law as applied to other
8 polling places within the State or political subdivision. The
9 applicable agency of the Federal Government shall ensure
10 that such designated facilities are made available as poll-
11 ing places.

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

16 (1) All postage shall be prepaid by the Federal
17 Government and each ballot postmarked the day the
18 ballot is received at a postal facility located on In-
19 dian lands.

20 (2) An Indian Tribe may designate a Tribal
21 Government building as a ballot pickup and collec-
22 tion location at no cost to the Indian Tribe. The ap-
23 plicable State or political subdivision shall collect
24 ballots from that location.

1 (3) The State or political subdivision shall pro-
2 vide mail-in and absentee ballots to each registered
3 voter residing on Indian lands in the State or polit-
4 ical subdivision without requiring a residential ad-
5 dress, a mail-in or absentee ballot request, or an ex-
6 cuse for a mail-in or absentee ballot.

7 (4) The address of a designated Tribal Govern-
8 ment building that is a ballot pickup and collection
9 location under paragraph (2) may serve as the ad-
10 dress and mailing address for voters living on Indian
11 lands if the designated Tribal Government building
12 is in the same precinct as that voter. If such des-
13 ignated Tribal Government building is not in the
14 same precinct as the voter, the voter may use the
15 designated Tribal Government building as a mailing
16 address and may separately designate the voter's ap-
17 propriate precinct through a description of the vot-
18 er's address, as specified in section 9428.4(a)(2) of
19 title 11, Code of Federal Regulations.

20 (5) In the case of a State or political subdivi-
21 sion that is a covered State or political subdivision
22 under section 203 of the Voting Rights Act of 1965
23 (52 U.S.C. 10503), that State or political subdivi-
24 sion shall provide absentee or mail-in voting mate-
25 rials in the language of the applicable minority

1 group as well as in the English language, bilingual
2 election voting assistance, and written translations
3 of all voting materials in the language of the appli-
4 cable minority group, as required by section 203 of
5 the Voting Rights Act of 1965 (52 U.S.C. 10503),
6 as amended by this Act.

7 (f) EARLY VOTING.—In a State or political subdivi-
8 sion that provides for early voting, that State or political
9 subdivision shall provide not less than one early voting lo-
10 cation on Indian lands, upon the request of the applicable
11 Indian Tribe and at a site selected by the applicable In-
12 dian Tribe.

13 (g) ENFORCEMENT.—

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

18 (2) PRIVATE RIGHT OF ACTION.—

19 (A) A person or Tribal Government who is
20 aggrieved by a violation of this section may pro-
21 vide written notice of the violation to the chief
22 election official of the State involved.

23 (B) An aggrieved person or Tribal Govern-
24 ment may bring a civil action in an appropriate

1 district court for declaratory or injunctive relief
2 with respect to a violation of this section, if—

3 (i) that person or Tribal Government
4 provides the notice described in subpara-
5 graph (A); and

6 (ii)(I) in the case of a violation that
7 occurs more than 120 days before the date
8 of an election for Federal office, the viola-
9 tion remains and 90 days or more have
10 passed since the date on which the chief
11 election official of the State receives the
12 notice under subparagraph (A); or

13 (II) in the case of a violation that oc-
14 curs 120 days or less before the date of an
15 election for Federal office, the violation re-
16 mains and 20 days or more have passed
17 since the date on which the chief election
18 official of the State receives the notice
19 under subparagraph (A).

20 (C) In the case of a violation of this sec-
21 tion that occurs 30 days or less before the date
22 of an election for Federal office, an aggrieved
23 person or Tribal Government may bring a civil
24 action in an appropriate district court for de-
25 claratory or injunctive relief with respect to the

1 violation without providing notice to the chief
2 election official of the State under subpara-
3 graph (A).

4 (3) RULE OF CONSTRUCTION.—Nothing in this
5 section shall be construed to prevent a State or po-
6 litical subdivision from providing additional polling
7 places on Indian lands if no request was made by an
8 Indian Tribe under this section.

9 **SEC. 7. TRIBAL PRECLEARANCE.**

10 (a) ACTIONS REQUIRING PRECLEARANCE.—No State
11 or political subdivision may carry out any of the following
12 activities unless the requirements of subsection (b) have
13 been met:

14 (1) Eliminating the only polling place or voter
15 registration site on the Indian lands of an Indian
16 Tribe.

17 (2) Moving or consolidating a polling place or
18 voter registration site on the Indian lands of an In-
19 dian Tribe to a location 1 mile or further from the
20 existing location of the polling place or voter reg-
21 istration site.

22 (3) Moving or consolidating a polling place on
23 the Indian lands of an Indian Tribe to a location
24 across a river, lake, mountain, or other natural

1 boundary such that it makes travel difficult for a
2 voter, regardless of distance.

3 (4) Eliminating in-person voting on the Indian
4 lands of an Indian Tribe by designating an Indian
5 reservation as a permanent absentee voting location,
6 unless—

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

9 (B) the Indian Tribe requests such a des-
10 ignation.

11 (5) Removing an early voting location or other-
12 wise diminishing early voting opportunities on In-
13 dian lands.

14 (6) Decreasing the number of days or hours
15 that an in-person or early voting location is open on
16 the Indian lands of an Indian Tribe or changing the
17 dates of in-person or early voting on the Indian
18 lands of an Indian Tribe.

19 (b) PRECLEARANCE.—

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

22 (A) the impacted Tribal Government sub-
23 mits to the Attorney General the Tribal Govern-
24 ment's written consent to the proposed activity
25 described in subsection (a);

1 (B) the State or political subdivision insti-
2 tutes an action in the United States District
3 Court for the District of Columbia for a declar-
4 atory judgment, and a declaratory judgment is
5 issued, establishing that the specified activity
6 described in subsection (a) that the State or po-
7 litical subdivision desires to carry out neither
8 has the purpose nor will have the effect of deny-
9 ing or abridging the right to vote on account of
10 race or color, or membership in a language mi-
11 nority group; or

12 (C) the chief legal officer or other appro-
13 priate official of such State or political subdivi-
14 sion submits a request to carry out the specified
15 activity described in subsection (a) to the Attor-
16 ney General and the Attorney General has not
17 interposed an objection within 60 days after
18 such submission, or upon good cause shown, to
19 facilitate an expedited approval within 60 days
20 after such submission, the Attorney General has
21 affirmatively indicated that such objection will
22 not be made.

23 (2) NO LIMITATION ON FUTURE ACTIONS.—

24 Neither an affirmative indication by the Attorney
25 General that no objection will be made, nor the At-

1 torney General's failure to object, nor a declaratory
2 judgment entered under this section, nor a written
3 consent issued under paragraph (1)(A) shall bar a
4 subsequent action to enjoin enforcement of an activ-
5 ity described in subsection (a). In the event the At-
6 torney General affirmatively indicates that no objec-
7 tion will be made within the 60-day period following
8 receipt of a submission, the Attorney General may
9 reserve the right to reexamine the submission if ad-
10 ditional information comes to the Attorney General's
11 attention during the remainder of the 60-day period
12 which would otherwise require objection in accord-
13 ance with this section. Any action under this section
14 shall be heard and determined by a court of 3 judges
15 in accordance with the provisions of section 2284 of
16 title 28 of the United States Code and any appeal
17 shall lie to the Supreme Court.

18 **SEC. 8. TRIBAL VOTER IDENTIFICATION.**

19 (a) TRIBAL GOVERNMENT IDENTIFICATION.—If a
20 State or political subdivision requires an individual to
21 present identification for the purposes of voting or reg-
22 istering to vote in an election for Federal office, an identi-
23 fication card issued by a federally recognized Tribal Gov-
24 ernment, the Bureau of Indian Affairs, the Indian Health
25 Service, or any other Tribal or Federal agency issuing

1 identification cards to Indian voters shall be treated as
2 a valid form of identification for such purposes.

3 (b) VALIDITY OF TRIBAL IDENTIFICATION CARD.—

4 An individual shall not be required to show that a Tribal
5 identification card includes a residential address or an ex-
6 piration date in order for such Tribal identification card
7 to be considered valid for purposes of voting or registering
8 to vote. The voter may instead separately designate the
9 voter's appropriate voting precinct through a description
10 of the voter's address that conforms with the regulations
11 for national mail voter registration forms, as established
12 under section 9428.4(a)(2) of title 11, Code of Federal
13 Regulations.

14 (c) ONLINE REGISTRATION.—If a State or political
15 subdivision requires an identification card for an indi-
16 vidual to register to vote online or to vote online, that
17 State or political subdivision shall consider an identifica-
18 tion card as described in subsection (a) to be a valid form
19 of identification for the purpose of registering to vote on-
20 line or voting online.

21 **SEC. 9. BILINGUAL ELECTION REQUIREMENTS.**

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

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

1 (2) by striking subsection (c) and inserting the
2 following:

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

5 “(1) IN GENERAL.—Whenever any State or po-
6 litical subdivision subject to the prohibition of sub-
7 section (b) of this section provides any registration
8 or voting notices, forms, instructions, assistance, or
9 other materials or information relating to the elec-
10 toral process, including ballots, it shall provide them
11 in the language of the applicable minority group as
12 well as in the English language.

13 “(2) EXCEPTIONS.—

14 “(A) IN GENERAL.—

15 “(i) In the case of a minority group
16 that is not American Indian or Alaska Na-
17 tive and the language of that minority
18 group is oral or unwritten, the State or po-
19 litical subdivision shall only be required to
20 furnish, in the covered language, oral in-
21 structions, assistance, translation of voting
22 materials, or other information relating to
23 registration and voting.

24 “(ii) In the case of a minority group
25 that is American Indian or Alaska Native,

1 the State or political subdivision shall only
2 be required to furnish in the covered lan-
3 guage oral instructions, assistance, or
4 other information relating to registration
5 and voting, including all voting materials,
6 if the Tribal Government of that minority
7 group has certified that the language of
8 the applicable American Indian or Alaska
9 Native language is presently unwritten or
10 the Tribal Government does not want writ-
11 ten translations in the minority language.

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

20 **SEC. 10. FEDERAL OBSERVERS TO PROTECT TRIBAL VOT-**
21 **ING RIGHTS.**

22 (a) AMENDMENT TO THE VOTING RIGHTS ACT OF
23 1965.—Section 8(a) of the Voting Rights Act of 1965 (52
24 U.S.C. 10305(a)) is amended—

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

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

5 (3) by inserting after paragraph (2) the fol-
6 lowing:

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

13 (b) PUBLICLY AVAILABLE REPORTS.—The Attorney
14 General shall make publicly available the reports of a Fed-
15 eral election observer appointed pursuant to section
16 (8)(a)(3) of the Voting Rights Act of 1965 (52 U.S.C.
17 10305(a)(3)), as added by subsection (a), not later than
18 6 months after the date that such reports are submitted
19 to the Attorney General, except that any personally identi-
20 fiable information relating to a voter or the substance of
21 the voter’s ballot shall not be made public.

22 **SEC. 11. TRIBAL VOTING CONSULTATION.**

23 The Attorney General shall consult annually with In-
24 dian Tribes regarding issues related to voting in elections
25 for Federal office.

1 **SEC. 12. ATTORNEYS' FEES, EXPERT FEES, LITIGATION EX-**
2 **PENSES.**

3 In a civil action under this Act, the court shall award
4 the prevailing party, other than the United States, reason-
5 able attorney fees, including litigation expenses, reason-
6 able expert fees, and costs.

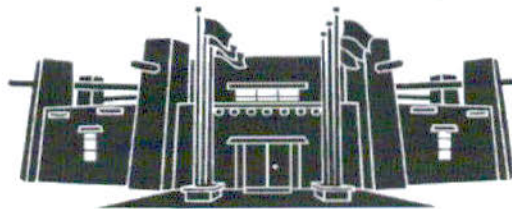
7 **SEC. 13. SEVERABILITY; RELATIONSHIP TO OTHER LAWS.**

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

14 (b) 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. 14. AUTHORIZATION OF APPROPRIATIONS.**

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



MEMORANDUM

To : Hon. Amber Kanazbah Crotty, Council Delegate
Navajo Nation Council

From : 
Ron Haven, Attorney
Office of Legislative Counsel

Date : December 23, 2019

Re : AN ACTION RELATING TO NAABIK'ÍYÁTI'; SUPPORTING PROPOSED
"NATIVE AMERICAN VOTING RIGHTS ACT OF 2019" AS INTRODUCED
THROUGH U.S. SENATE BILL 739 AND HOUSE OF REPRESENTATIVE
BILL 1694

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution drafted is legally sufficient. However, as with all legislation, it can be subject to review by the courts in the event of proper challenge. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment.

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Ahéhee'.

OLC # 19-577-1