

Voting Rights and Access in South Dakota



A Report of the
South Dakota Advisory Committee to the
U.S. Commission on Civil Rights

July 2023

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. They are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

Acknowledgments

The South Dakota Advisory Committee (Committee) deeply appreciates the contributions of each of the speakers who presented to the Committee during their public meetings in connection with this topic. The Committee is also grateful to members of the public who spoke during the selected periods of public comment, and those who shared testimony in writing. The Committee sincerely appreciates and recognizes the work of U.S. Commission on Civil Rights intern Elizabeth Charlet for her work on our report.

South Dakota Advisory Committee to the U.S. Commission on Civil Rights

The South Dakota Advisory Committee to the U.S. Commission on Civil Rights submits this report regarding voting rights and access in South Dakota for South Dakota's Tribal, disability, and New American immigrant communities. The Committee submits this report as part of its responsibility to study and report on civil rights issues in South Dakota. The contents of this report are primarily based on testimony the Committee heard during public meetings held via videoconference on July 27, 2022; September 12, 2022; September 26, 2022; October 17, 2022; and November 14, 2022. The Committee also includes related testimony submitted in writing during the relevant period of public comment.

This report begins with a brief background of the issues to be considered by the Committee. It then presents primary findings as they emerged from this testimony, as well as recommendations for addressing areas of civil-rights concerns. This report is intended to focus on voting rights and access in South Dakota. Specifically, the Committee sought to examine whether certain voting laws, policies, or practices in South Dakota restrict the exercise of voting or create barriers to voting without justification causing a disparate impact on individuals on the basis of race, color, national origin, or disability for South Dakota's Tribal, disability, and New American immigrant communities. While additional important topics may have surfaced throughout the Committee's inquiry, those matters that are outside the scope of this specific civil rights mandate are left for another discussion.

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Overview

On March 14, 2022, the South Dakota Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to undertake a study of voting rights and access in South Dakota. The focus of the Committee's inquiry was to learn about specific barriers to voting along with recommendations for addressing those barriers. From a civil rights perspective, the Committee sought to consider voting rights and voter access in South Dakota on the basis of race, color, national origin, or disability for South Dakota's Tribal, rural, and New American immigrant communities.

As part of this inquiry the Committee heard testimony via videoconferences held on July 27, 2022; September 12, 2022; September 26, 2022; October 17, 2022; and November 14, 2022.¹ The following report results from a review of testimony provided at these meetings, combined with written testimony submitted during this timeframe. It begins with a brief background of the issues to be considered by the Committee. It then identifies primary findings as they emerged from this testimony. Finally, it makes recommendations for addressing related civil rights concerns. This report focuses specifically on voting rights and access in South Dakota. While other important topics may have surfaced throughout the Committee's inquiry, matters that are outside the scope of this specific civil rights mandate are left for another discussion. This report and the recommendations included within it were adopted by a majority of the Committee, with a vote of 6 to 0, and 1 abstention on May 8, 2023.²

Background

The right to vote is the bedrock of American democracy and a fundamental civil right under the United States Constitution and its laws. It is, however, a right that has proven fragile and in need of both Constitutional and robust statutory protections, as well as periodic review by our civil rights agencies and institutions.

American Indians have been without the right to vote longer than they have had the right to vote. American Indians could not be U.S. citizens when the country ratified its Constitution in 1788.

¹ Meeting records and transcripts are linked in the Appendix.

Briefing before the South Dakota Advisory Committee to the U.S. Commission on Civil Rights, July 27, 2022, (web-based), Transcript (hereinafter cited as "*Transcript I*").

Briefing before the South Dakota Advisory Committee to the U.S. Commission on Civil Rights, September 12, 2022, (web-based), Transcript (hereinafter cited as "*Transcript II*").

Briefing before the South Dakota Advisory Committee to the U.S. Commission on Civil Rights, September 26, 2022, (web-based), Transcript (hereinafter cited as "*Transcript III*").

Briefing before the South Dakota Advisory Committee to the U.S. Commission on Civil Rights, October 17, 2022, (web-based), Transcript (hereinafter cited as "*Transcript IV*").

Briefing before the South Dakota Advisory Committee to the U.S. Commission on Civil Rights, November 14, 2022, (web-based), Transcript (hereinafter cited as "*Transcript V*").

² See Appendix C for Committee Member Statements.

In 1823, in *Johnson v. M'Intosh*,³ the Supreme Court used the "Doctrine of Discovery" for the first time as a legal concept.⁴ The "Doctrine of Discovery" can be traced back to the 15th century when the Catholic Church sanctioned the colonization of non-Christians,⁵ and impacted future decisions regarding land rights and sovereignty for American Indians. Chief Justice John Marshall cited the "Doctrine of Discovery" as the basis for the federal "Trust Doctrine" which deemed Tribal nations as "domestic dependent nations" in 1832.⁶ Chief Justice Marshall further described the federal/Tribal relationship as "that of ward to his guardian."⁷ It was not until March 30, 2023, 500 years after a papal decree used the "Doctrine of Discovery" to justify colonial conquests, that the Vatican officially repudiated the Doctrine as not part of the Catholic Faith.⁸ Rev. David McCallum, executive director of Rome's Program for Discerning Leadership, describes this move by the Vatican as, "renounc[ing] the mindset of cultural or racial superiority which allowed for that objectification or subjection of people, and strongly condemns any attitudes or actions that threaten or damage the dignity of the human person."⁹

The Fifteenth Amendment to the U.S. Constitution was passed in 1870, granting all U.S. citizens the right to vote regardless of race. In 1887, the United States enacted the Dawes Act, also known as the General Allotment Act. The Dawes Act "set out general plans for Indian land administration, Indian education, and Indian citizenship. And in each area, it proposed actions that promised to hasten Native assimilation."¹⁰ Section 6 of the Dawes Act promised that every American Indian born within the territorial limits of the United States who received allotments from the government and had embraced civilized life was "declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens."¹¹

The struggle for citizenship and the rights that come with it, including the right to vote, encountered efforts in the late 19th century by the courts and policy makers to fashion a legal status for American Indians that fell short of full rights of citizenship, including voting, because American Indians were characterized as a "backward, dependent people."¹² Historian Frederick Hoxie said that "local lawmakers had an additional incentive: to maintain their control over a

³ See *Johnson v. M'Intosh*, 21 U.S. 543 (1823).

⁴ "What is the Doctrine of Discovery?" Indigenous Values Initiative. <https://doctrineofdiscovery.org/what-is-the-doctrine-of-discovery> (accessed April 3, 2023).

⁵ Ibid.

⁶ See *Cherokee Nation v. Georgia*, 30 U.S. 1, 17 (1831).

⁷ *Id.*

⁸ "PBS News Hour." Public Broadcasting Services. <https://www.pbs.org/newshour/politics/vatican-formally-rejects-doctrine-of-discovery-after-indigenous-calls> (accessed April 3, 2023).

⁹ "Religion." National Public Radio. <https://www.npr.org/2023/03/30/1167056438/vatican-doctrine-of-discovery-colonialism-indigenous> (accessed April 3, 2023).

¹⁰ Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (p. 71) Lincoln, Nebraska: University of Nebraska Press.

¹¹ See General Allotment Act, 25 U.S.C.S. § 349 (1887).

¹² Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (pp. 230-231) Lincoln, Nebraska: University of Nebraska Press.

minority whose freedom might disrupt the racial status quo within their communities. State officials were most active in the areas of voting rights, laws affecting school attendance, and regulation of interracial marriage.”¹³

Despite the promise of the Dawes Act, American Indians did not receive U.S. citizenship until 1924.¹⁴ “Even with the passing of this citizenship bill, Native Americans were still prevented from participating in elections because the Constitution left it up to the states to decide who has the right to vote. After the passage of the 1924 citizenship bill, it still took over forty years for all fifty states to allow Native Americans to vote.”¹⁵ South Dakota was one of the last states in the nation to officially grant full voting rights to all American Indians, in 1951.¹⁶ It was not until 1965, when President Johnson signed into law the Voting Rights Act, that American Indians received federal protection from voter disenfranchisement.¹⁷

The voting rights of American Indians in South Dakota have taken many political and legal detours, as set forth in *Bone Shirt v. Hazeltine*, 524 F.3d 863 (8th Cir. 2008). The U.S. District Court for South Dakota found as follows: “In 1890, the South Dakota Supreme Court held that county commissioners of organized counties had no authority to establish election precincts in bordering unorganized counties.”¹⁸ It continued, “[s]oon thereafter, the legislature passed a law granting residents of unorganized counties the right to vote in state and national elections, except that ‘the provisions of this act shall not apply to any unorganized county within the boundaries of any Indian reservation.’”¹⁹ Further, the Court found that “three of the most populous reservation counties, Shannon [now called Oglala Lakota], Todd, and Washabaugh (now part of Jackson County), did not become organized until the late 1970s and early 1980s.”²⁰ The Court went on to find that “the law forbidding county commissioners from creating election precincts in unorganized reservation counties remained on the books until 1939.”²¹ Also, “Indians living on trust land in organized counties were ineligible to vote as late as 1932.”²²

¹³ Ibid.

¹⁴ See Indian Citizenship Act, Pub. L. No. 68-175, § 1401, 43 Stat. 253 (1924); 8 U.S.C.A. § 1401(b).

¹⁵ “The Right to Vote.” Library of Congress. <https://www.loc.gov/classroom-materials/elections/right-to-vote/voting-rights-for-native-americans> (accessed April 12, 2023).

¹⁶ See 1 J.N. 58 (Feb. 27, 1951 Act repealing portion of South Dakota code relating to certain disabilities of Indians); *Bone Shirt v. Hazeltine*, 524 F.3d 863 (8th Cir. 2008).

¹⁷ See 42 U.S.C. § 1973 (1965).

¹⁸ *Bone Shirt v. Hazeltine*, 336 F.Supp.2d 976, 1021 (8th Cir. 2004) (citing *State ex rel. Dollard v. Board of County Comm’rs*, 46 N.W. 1127 (S.D. 1890)).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 1022.

The State of South Dakota defended the *Bone Shirt* case in 2004, saying “Tribal members look to their own Tribal governments as their primary and most personal areas of political participation and not to the state.”²³ The Court stated in response to this argument:

Although this may indeed be true, it neither undermines nor excuses the continued discrimination in South Dakota that has impeded Indians’ ability to vote and elect candidates of their choice. Indians’ connectedness to the tribe and Tribal government does not justify any dilution of Indian voting strength under the current legislative plan.

Defendants further argue that the “special relationship of the Indian tribes and the United States is a significant reason that Tribal members declined to participate in State political matters.” Any “special relationship” that may exist does not negate the effect of discrimination on Indians in South Dakota. Furthermore, this case does not center on Indians’ choice to get involved in state political matters. The case focuses on whether Indians have an equal opportunity for involvement in such matters. Even if a “special relationship” exists, the long history of discrimination against Indians has wrongfully denied Indians an equal opportunity to get involved in the political process.²⁴

Indeed, as the U.S. District Court alluded to, the long denial and late development of “modern” American Indian political rights helped form the eventual tripartite system of citizenship for American Indians. As one of our Committee’s expert witnesses, Dr. Jean Reith Schroedel, Professor of Politics and Policy at Claremont Graduate University, said in her published book, *Voting in Indian Country*, which was referenced in her biography submitted to the Committee:

[M]any maintain citizenship status within those indigenous nations, resulting in their holding tripartite citizenship: U.S. citizenship, state citizenship, and Native Nation citizenship. Individuals who belong to federally recognized Native Nations also have very specific rights based on that citizenship status that are recognized by U.S. law and enshrined in treaties and other legal compacts entered into with the U.S. government. Having access to the ballot box is a necessary element in protecting treaty rights, as well as Natives’ fundamental rights as U.S. citizens.

This “tripartite system” has served as one of the justifications for ignoring or deferring American Indian voting rights, as demonstrated in the *Bone Shirt* case. Despite federal and state laws being very clear about the legal bases for the continued existence of American Indian reservations and

²³ *Id.*

²⁴ *Id.*

Tribal governments, racially stereotypical views persist regarding American Indians and reservations. Dr. Schroedel talks about this in her book:

The civic status of indigenous people in the United States is still being shaped by economic and social processes rooted in actions of people long dead. [Paul] Pierson described this phenomenon as a “stickiness” that inhibits change in social relations even after the root causes are long past. While most people recognize that economic and social relations in the South are still affected by the legacy of slavery, there is little understanding of how Euro-American westward expansion and the displacement of indigenous peoples still shape relations among the descendants of both groups in much of the country. Moreover, there continue to be conflicts over land and mineral resources as well as cultural and social practices.²⁵

Indeed, a century or more of automatic reflexivity by dominant society in South Dakota’s political and economic affairs undercuts American Indian political presence, as do many of the past and present unconscious and conscious stereotypes of American Indians. These processes still exist as a drag upon the efforts of American Indians in South Dakota to become full participants in the electoral and political system.

Witness Nicole Hansen, an attorney and voting rights advocate, testified:

South Dakota has historically been one of the worst offenders of Native voting rights. When Congress established the Dakota Territory in 1868, the territory limited voting qualifications to free, White, male citizens of the United States. After becoming a state, South Dakota approved a state constitutional amendment in 1890 with the same restrictions. The state continued to maintain laws expressly denying the vote to Native people until the 1940s. Even after those laws were repealed, the state effectively denied the vote to Native Americans in certain county elections until 1975, through a discriminatory residency requirement.²⁶

Despite the passage of various laws designed to protect voter rights, American Indians still face obstacles today in exercising their right to vote. American Indian voting rights, voter empowerment, voter protection, and voter engagement continue to be critical civil rights issues. In fact, some non-profit organizations maintain these four categories as civil rights priorities.²⁷

In 2020, the Colorado-based Native American Rights Fund (NARF), a nonprofit which arose from the “War on Poverty” programs of the United States in the 1960s, and which is dedicated to American Indian issues across a wide spectrum of the law, released a report providing detailed

²⁵ Schroedel, Jean Reith. (2020). *Voting in Indian Country*, at 8-9. Philadelphia, Pennsylvania: Philadelphia University Press, Inc.

²⁶ Hansen Testimony, *Transcript I*, p. 10.

²⁷ “About.” Four Directions. <http://www.fourdirectionsvote.com/about/> (accessed March 15, 2022).

information regarding the obstacles American Indians face in the electoral process including registering to vote, casting votes, and having their votes counted.²⁸ Evidence was collected over multiple hearings and testimony taken from more than 120 witnesses from Tribes across the United States including Tribes located in South Dakota.²⁹

In its report, NARF concluded that general barriers to political participation include the following: geographic isolation, physical and natural barriers, distance and travel time, limited hours of non-Tribal government offices, technological barriers and the digital divide, low levels of educational attainment, homelessness and housing insecurity, lack of addresses and non-traditional mailing addresses, lack of resources and funding, discrimination against American Indians, and depressed socio-economic conditions.³⁰

The Eighth Circuit Court of Appeals recognized in *Stabler v. City of Thurston* that disparate socioeconomic status is connected to American Indians' low level of political participation.³¹ Similarly, in *Thornburg v. Gingles*, the Supreme Court held that less education and lower socioeconomic status "hinders [a group's] ability to vote."³² Only 17% of American Indian students enroll in college, while the national average is about 70%.³³ Of the American Indian students who do start college, 82% drop out before they finish; this may be attributed to the lack of academic and financial resources available to many American Indian students.³⁴

The 2020 NARF report, updated in 2022, also highlighted obstacles that American Indian voters in South Dakota specifically face. For example, it cites in the *Bismarck Tribune* that—"Natives living on the Rosebud Sioux Reservation in South Dakota have to drive an average of 44.8 miles to obtain a state identification card, compared to 16.8 miles for non-Natives."³⁵ In South Dakota, a voter may complete an affidavit requiring the voter to provide their name and address in lieu of personal identification,³⁶ but these affidavits are not consistently offered and voters are not made

²⁸ Dr. James Thomas Tucker, Jacqueline De Leon, Dr. Dan McCool, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters*, (Boulder: Native American Rights Fund, 2020), pp. 1-3. <https://vote.narf.org/obstacles-at-every-turn/>.

²⁹ Ibid.

³⁰ Dr. James Thomas Tucker, Jacqueline De Leon, Dr. Dan McCool, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters*, (Boulder: Native American Rights Fund, 2020), pp. 1-3. <https://vote.narf.org/obstacles-at-every-turn/>

³¹ Keltz Testimony, *Transcript III*, p. 9.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Dr. James Thomas Tucker, Jacqueline De Leon, Dr. Dan McCool, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters*, (Boulder: Native American Rights Fund, 2020), pp. 1-3. <https://vote.narf.org/obstacles-at-every-turn/>

³⁶ S.D. Codified Laws § 12-18-6.2 (2003).

aware of this option.³⁷ Another issue the NARF report discussed specific to South Dakota³⁸ is a lack of trust in local non-Tribal government, stating only five percent of American Indians trust local non-Tribal government.³⁹

South Dakota has nine reservations, and many American Indians also live in border towns and in urban areas in South Dakota. The nine reservations in South Dakota are: Cheyenne River, Crow Creek, Flandreau, Lower Brule, Rosebud, Pine Ridge, Sisseton-Wahpeton, Standing Rock, and Yankton. To date, there have been 25 voting rights cases in South Dakota with American Indian plaintiffs, the second largest number of cases in the country.⁴⁰ In nearly all of these cases, the American Indian plaintiffs either won or successfully settled.⁴¹

The 2020 general election year was accompanied by the public health crisis brought on by the COVID-19 pandemic. In response, federal, state, and local governments across the United States modified the existing infrastructure of absentee voting and voting by mail to increase voter accessibility.⁴² Changes to voting practices varied significantly by state, but common changes included expanding voter eligibility for absentee ballots, developing online absentee ballot request sites, mailing absentee ballots to the addresses of registered voters, providing prepaid postage for mailing ballots, and installing secure ballot drop boxes in local districts.⁴³ With the push to vote by mail amid the pandemic, many American Indian voters had to rely on cramped post offices with long lines.⁴⁴ The Rosebud Reservation—which spans roughly 2,000 square miles—has four small post offices scattered across that area.⁴⁵ Mail on larger reservations tends to be slow-moving, putting the people who live there at a disadvantage for having their votes counted.⁴⁶ Home delivery is rare on reservations, so people rely on post office boxes which require travel and reliable transportation.⁴⁷ Additionally, internet on Tribal land is very limited

³⁷ Kelty Testimony, *Transcript III*, p. 12; Returns Testimony, *Transcript II*, p. 21; Renville Testimony, *Transcript V*, p. 7; Hellwege Testimony, *Transcript I*, p. 7; Sims Testimony, *Transcript II*, p. 28; Islam Testimony, *Transcript IV*, p. 4.

³⁸ Dr. James Thomas Tucker, Jacqueline De Leon, Dr. Dan McCool, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters*, (Boulder: Native American Rights Fund, 2020), pp. 1-3.

<https://vote.narf.org/obstacles-at-every-turn/>

³⁹ *Ibid.*, at 102.

⁴⁰ Kelty Testimony, *Transcript III*, p. 8.

⁴¹ Kelty Testimony, *Transcript III*, p. 8.

⁴² Wendy R. Weiser, Eliza Sweren-Becker, Dominique Erney, & Anne Glatz. "Mail voting: What has changed in 2020," Brennan Center. <https://www.brennancenter.org/our-work/research-reports/mail-voting-what-has-changed-2020> (accessed January 21, 2022).

⁴³ *Ibid.*

⁴⁴ Stephen Gross and Pia Deshpande. "Voting by Mail Isn't so Easy on Native American Reservations," Associated Press. <https://apnews.com/article/election-2020-business-virus-outbreak-south-dakota-voting-rights-fa8d0806cdd22455648988736e71ac73> (accessed January 21, 2022).

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

and unreliable, making it extremely difficult for Tribal members to register to vote or verify the status of their voter registration.⁴⁸

Other voting barriers may exist in South Dakota, such as voter education appearing to be mostly web-based.⁴⁹ Additional populations, such as South Dakota's New American immigrant communities and people with disabilities, may experience other voting barriers in South Dakota such as language access concerns at polling locations and voter services that may not be ADA accessible.⁵⁰

Methodology

As a matter of historical precedent, and in order to achieve transparency, Committee studies involve a collection of public, testimonial evidence and written comments from individuals directly impacted by the civil rights topic at hand; researchers and experts that have rigorously studied and reported on the topic; community organizations and advocates representing a broad range of backgrounds and perspectives related to the topic; and government officials tasked with related policy decisions and the administration of those policies.

Committee studies require Committee members to utilize their expertise in selecting a sample of panelists that is the most useful to the purposes of the study and will result in a broad and diverse understanding of the issue. This method of (non-probability) judgment sampling requires Committee members to draw from their own experiences, knowledge, opinions, and views to gain understanding of the issue and possible policy solutions. Committees are composed of volunteer professionals that are familiar with civil rights issues in their state or territory. Members represent a variety of political viewpoints, occupations, races, ages, and gender identities, as well as a variety of background, skills, and experiences. The intentional diversity of each Committee promotes vigorous debate and full exploration of the issues. It also serves to assist in offsetting biases that can result in oversight of nuances in the testimony.

In fulfillment of Committees' responsibility to advise the Commission of civil rights matters in their locales, Committees conduct an in-depth review and thematic analysis of the testimony received and other data gathered throughout the course of their inquiry. Committee members use this publicly collected information, often from those directly impacted by the civil rights topic of study, or others with direct expert knowledge of such matters, to identify findings and recommendations to report to the Commission. Drafts of the Committee's report are publicly

⁴⁸ Hellwege Testimony, *Transcript I*, p. 20.

⁴⁹ "State Voter Information Portal." South Dakota Secretary of State. <https://vip.sdsos.gov/VIPLLogin.aspx> (accessed March 10, 2023); "How to Vote in South Dakota." Rock the Vote. <https://www.rockthevote.org/how-to-vote/south-dakota/> (accessed March 10, 2023).

⁵⁰ Moit Testimony, *Transcript II*, p. 7; Sims Testimony, *Transcript II*, p. 28; Islam Testimony, *Transcript IV*, p. 4.

available and shared with panelists and other contributors to ensure that their testimony was accurately captured. Reports are also shared with affected agencies to request for clarification regarding allegations noted in testimony.

For the purposes of this study, **Findings** are defined as what the testimony and other data *suggested, revealed, or indicated* based upon the data collected by the Committee. Findings refer to a synthesis of observations confirmed by majority vote of members, rather than conclusions drawn by any one member. **Recommendations** are specific actions or proposed policy interventions intended to address or alleviate the civil rights concerns raised in the related finding(s). Where findings indicate a lack of sufficient knowledge or available data to fully understand the civil rights issues at hand, recommendations may also target specific directed areas in need of further, more rigorous study. Recommendations are directed to the Commission; they request that the Commission itself take a specific action, or that the Commission forward recommendations to other federal or state agencies, policy makers, or stakeholders.

Findings

In keeping with their duty to inform the Commission of (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,⁵¹ the South Dakota Advisory Committee submits the following findings to the Commission regarding voting rights and access in South Dakota. This report seeks to highlight the most salient civil rights themes as they emerged from the Committee's inquiry. A link to the complete meeting transcripts and written testimony received are included in the Appendix for further reference.

The Committee received testimony from voters, academics, researchers, government officials, and others directly familiar with voter rights and access in South Dakota during their briefings from July, 2022 through December, 2022. The following findings reflect major points in the testimony the Committee heard regarding voting issues for American Indian voters, voters with disabilities, and non-English speaking voters. The following findings inform the Committee's recommendations:

Barriers to Voting for American Indians Living in Tribal Areas

Widespread distrust of non-Tribal governments

1. Panelists reported a lack of trust in non-Tribal governments:

⁵¹ 45 C.F.R. § 703.2 (2018).

a. In a survey examining barriers faced by American Indian voters, only five percent of respondents in South Dakota expressed trust in non-Tribal governments.⁵²

b. The Committee heard testimony that this distrust in non-Tribal governments can be linked to a history of imposing harmful policies upon American Indians without their consent.⁵³ Such policies include (but are not limited to), the Trust Doctrine and the guardian-ward relationship, which led to deliberate governmental paternalism and enforced dependency upon Tribal peoples; the removal of American Indian children from their Tribal homes and placing them in boarding schools, resulting in traumatic and destructive consequences to the children and, in turn, their descendants; permitting corporations to pollute, strip mine, and leave radioactive waste near Tribal communities; periods of forced sterilization of American Indian women;⁵⁴ and gross mismanagement of Tribal trust funds, resulting in the largest class action suit in U.S. history, *Cobell v. Salazar*,⁵⁵ where the Department of the Interior and the Department of the Treasury were held liable, resulting in a \$3.4 billion settlement.⁵⁶

Dr. Julia Hellwege, Associate Professor of political science at the University of South Dakota and the Director of the Government Research Bureau gave an overview of both barriers and enhancements to voting by first saying that there are “social and cultural capital factors that make voting easier. I like to think of this as...buckets that fill our civic engagement or voter participation cup. [T]he more of these things you’re able to fill into your cup, the more likely you are to be a voter, [to] be someone who regularly goes out to vote.”⁵⁷ Hellwege asked the Committee to think about its charge, and “whether it is simply to stop...basic

⁵² Kelty Testimony, *Transcript III*, p. 8; Bordeaux Testimony, *Transcript II*, p. 10; Hellwege Testimony, *Transcript I*, p. 6; Schroedel Testimony, *Transcript I*, p. 18.

⁵³ Rappold Testimony, *Transcript III*, pp. 14-15; Iron Eyes Testimony, *Transcript III*, p. 22.

⁵⁴ Rappold Testimony, *Transcript III*, pp. 14-15.

⁵⁵ *Cherokee Nation v. Georgia*, 30 U.S. 1, 17-18 (1831) (“They may, more correctly, perhaps, be denominated domestic dependent nations. They occupy a territory to which we assert a title independent of their will, which must take effect in point of possession when their right of possession ceases. Meanwhile they are in a state of pupillage. Their relation to the United States resembles that of a ward to his guardian. They look to our government for protection; rely upon its kindness and its power; appeal to it for relief to their wants; and address the president as their great father. They and their country are considered by foreign nations, as well as by ourselves, as being so completely under the sovereignty and dominion of the United States, that any attempt to acquire their lands, or to form a political connection with them, would be considered by all as an invasion of our territory, and an act of hostility.”).

⁵⁶ Rappold Testimony, *Transcript III*, pp. 14-15.

⁵⁷ Hellege Testimony, *Transcript I*, p. 5.

legal barriers to voting, or if it is to really ensure that everyone is included and has an easy time and equal time to participate.”⁵⁸

Dr. Hellwege’s testimony suggested that when the Committee reaches its recommendations, it should consider funding those state and community efforts that include mobilization drives, registration drives, and...trust building exercises...that will take time. She said it is “a big cultural change, but it’s something that needs to happen.” Dr. Hellwege also said that “if we continue to build general social welfare so that people’s basic needs are met, after that they can start to build civic engagement.”⁵⁹ Dr. Hellwege added that “[t]he more you trust government, the more likely you are to have that efficacy that you matter to your government.”⁶⁰ She also suggested that individuals can be socialized into having civic skills if they have, for example, more flexible work arrangements.⁶¹

Dr. Schroedel also testified, after having conducted research on the ground in South Dakota primarily in 2014 and 2016, as follows: “There is a large body of academic research, both in the United States and cross-nationally, showing that political participation is significantly related to the amount of trust that one has in the fairness of the system.”⁶²

Dr. Schroedel testified that in a 2016 survey in South Dakota, Tribal respondents were asked which government entity they trusted most, Tribal, local, state or federal government. She testified that “Tribal governments were the most trusted. 66.7 percent said that they have the highest degree of trust in Tribal government. Federal government, 16.3 percent. State government, 7.95 percent, and then back down to the bottom, 5.02 percent in local government.”⁶³

Dr. Schroedel indicated survey results which listed specific experiences that helped lead to the lack of trust by American Indian citizens in South Dakota. She said what makes the lack of trust for local and state government “particularly troubling with respect to elections is that it is administered by local government, and if you do not trust that local government, how likely are you to participate?”⁶⁴ She also found a “very, very disturbing level of low political trust” among American Indian voters that their votes would count.”⁶⁵

⁵⁸ Ibid., 5.

⁵⁹ Ibid., 7.

⁶⁰ Ibid., 5.

⁶¹ Ibid., 5.

⁶² Schroedel Testimony, *Transcript I*, p 18.

⁶³ Ibid., 18.

⁶⁴ Ibid., 18.

⁶⁵ Ibid., 18.

This included the least trust in voting by mail, and the most trust in placing a ballot in a ballot box, although the distances to drive to cast that ballot in a box, and experiences of unfriendliness by poll workers and occasional posting of law enforcement officers at the polling sites were considered obstacles to such voting, as indicated by the surveys and testimony to the Committee by some American Indian witnesses.⁶⁶

As Dr. Schroedel said in response to a Committee question, “If you do not trust the county auditor, then you do not want that person to have discretion over whether your ballot counts...One of the first things is for county auditors to refrain from making derogatory comments about Native Americans, which happens in South Dakota, and just reinforces that lack of political trust that the auditor will count your ballot.”⁶⁷ In response to another Committee question, Dr. Schroedel said “the lack of trust and division in South Dakota between Native and non-Native communities, at least in some of the places I have been, is deeply rooted.” She said that her suggestion, if people want to begin doing something to repair, is to engage in sending very concrete signals to Native communities that South Dakota, at least a chunk of the population, are grappling with that deep history.⁶⁸

Racial discrimination

2. Multiple speakers shared that American Indians experience racial discrimination and intimidation when attempting to register and vote.⁶⁹ In *Bone Shirt v. Hazeltine*⁷⁰, the district court detailed racial discrimination faced by American Indians in South Dakota.⁷¹
 - a. Several panelists testified that American Indian voters often feel uncomfortable, intimidated, and/or not welcome entering the courthouse or the auditor’s office since the employees at these places are almost always not American Indians.⁷²

⁶⁶ Schroedel Testimony, *Transcript I*, p. 27; Bordeaux Testimony, *Transcript II*, p. 10.

⁶⁷ Schroedel Testimony, *Transcript I*, p. 21.

⁶⁸ *Ibid.*, 24.

⁶⁹ Russell Testimony, *Transcript II*, pp. 12-13; Returns Testimony, *Transcript II*, p. 26; White Mountain Testimony, *Transcript V*, p. 8; Iron Eyes Statement, at p. 1.

⁷⁰ See 1 J.N. 58 (Feb. 27, 1951 Act repealing portion of South Dakota code relating to certain disabilities of Indians); *Bone Shirt v. Hazeltine*, 524 F.3d 863 (8th Cir. 2008).

⁷¹ Russell Testimony, *Transcript II*, pp. 12-13.

⁷² Returns Testimony, *Transcript II*, p. 16; Moit Testimony, *Transcript II*, p. 7-8; Kelty Testimony, *Transcript III*, p. 10; Healy Testimony, *Transcript III*, p. 3.

- b. State statute requires counties to utilize Election Day precinct poll workers that reside within that precinct.⁷³ A county auditor shared that auditors try to use residents within a precinct as poll workers.⁷⁴

In her remarks before the Committee, Dustina Gill, Voting Rights Advocate from the Sisseton-Wahpeton Reservation, said, “I think a lot of our Native people have had negative situations with white people and it just kind of applies to, they apply to anything if they or somebody who they see an authority. So you're going to go vote and there's [white] people sitting at a table and they see them as that. So, it's intimidating. The unfriendly environment, we call it polite racism. It's not enough to put your finger on it, but we know what it is when you walk in and they're visiting with somebody who's voting in front of you and they're all talking and laughing and then it's your turn to go up and then there's silence. Nobody says a word and you just feel intimidated; you feel wrong. And a lot of people aren't going to put themselves in that situation unless they know somebody's going to accompany them. But it's hard to find people to do that all the time.”⁷⁵

- c. Panelists also testified that American Indian voters experience intimidation by law enforcement agencies at polling locations.⁷⁶

Distance to registration locations, polling locations, and absentee balloting locations

3. Distance to voter registration locations

- a. In her remarks before the Committee, Sara Frankenstein included the following slides explaining South Dakota voter registration law:⁷⁷

⁷³ Precinct superintendent and deputy to be registered voters and residents of precinct--Vacancy on precinct election board. A precinct superintendent or precinct deputy appointed under § 12-15-1 shall be a registered voter and a resident of the precinct for which the person is appointed. If the person in charge of the election is unable to appoint a sufficient number of members of the precinct election board who meet the requirements under § 12-15-3 by the time prescribed in § 12-15-1 [20 days before the election], a vacancy may be filled by appointing any registered voter of the county in which the precinct is located. *See S.D. Codified Laws* § 12-15-2 (2019).

⁷⁴ Halverson Testimony, *Transcript IV*, p. 9.

⁷⁵ Gill Testimony, *Transcript II*, p. 22.

⁷⁶ Schroedel Testimony, *Transcript I*, p. 27; Bordeaux Testimony, *Transcript II*, p. 10.

⁷⁷ Frankenstein Testimony, *Transcript IV*, p. 12.

Voter Registration

SDCL 12-4-2:

* * * * *

Voter registration shall be conducted by each county auditor and municipal finance officer. Voter registration shall be available at the secretary of state's office and at those locations which provide driver licenses; food stamps; temporary assistance for needy families; women, infants, and children nutrition program; medicaid; military recruitment; and assistance to the disabled as provided by the Department of Human Services.

78

SDLC 12-4-5.4:

Any person registering to vote shall provide the person's valid South Dakota driver license number or a South Dakota nondriver identification number on the voter registration form. If a person does not have a valid South Dakota driver license or a South Dakota nondriver identification number, the person shall provide the last four digits of the person's social security number on the voter registration form. If a person does not have a valid South Dakota driver license, a South Dakota nondriver identification number, or a social security number, the person may only register at the county auditor's office and shall sign a statement verifying the fact that the person does not have a valid South Dakota driver license, a South Dakota nondriver identification number, or a social security number. The statement shall be prescribed by the State Board of Elections.

79

- b. Multiple individuals reported that the distance to registration locations can be a large barrier to voting for American Indians who live in Tribal areas.⁸⁰

Dr. Schroedel, when referencing a study surveying 352 American Indians in South Dakota, noted: “[survey respondents] listed 309 specific instances of

⁷⁸ Frankenstein Testimony, at 11.

⁷⁹ Frankenstein Testimony, at 12.

⁸⁰ Hellwege Testimony, *Transcript I*, p. 8; Schroedel Testimony, *Transcript I*, p. 15; Gill Testimony, *Transcript II*, p. 3; Returns Testimony, *Transcript II*, p. 15.

problems that they personally had encountered. The most common one, by far the largest one, was difficulty in traveling to registration sites.”⁸¹

4. Distance to polling locations

a. The Committee heard testimony that each precinct polling place is designed to be a short distance to a voter’s home.⁸²

b. However, multiple individuals reported to the Committee that the distance to polling locations is a large barrier for American Indians when trying to vote.⁸³

Dr. Hellwege noted, “If you have to drive for a very long way, that can be very cumbersome, and voting isn't going to be the first thing on people's minds. And so, you want to make sure that it's easy to do this additional task.”⁸⁴ And Dr. Schroedel stated, “We asked people, as I said earlier, about how travel distance affected their ability to vote. 4% of the white respondents in [Jackson County] said that it seriously, severely impacted their ability to vote. And remember, there were some white people who lived outside of Kadoka. But among the Native respondents, 27% said [travel distance] severely impacted their ability to vote.”⁸⁵

5. Distance to absentee balloting locations

a. The South Dakota Secretary of State’s website includes the following information about absentee voting:

⁸¹ Schroedel Testimony, *Transcript I*, pp. 15-16.

⁸² Frankenstein Testimony, *Transcript IV*, p. 20.

⁸³ Hellwege Testimony, *Transcript I*, p. 8; Schroedel Testimony, *Transcript I*, p. 15; Gill Testimony, *Transcript II*, p. 3; Returns Testimony, *Transcript II*, p. 15.

⁸⁴ Hellwege Testimony, *Transcript I*, p. 6.

⁸⁵ Schroedel Testimony, *Transcript I*, pp. 16-17.

Q: How do I request an absentee ballot?

A: Registered South Dakota voters may request an absentee ballot by submitting an absentee ballot application form to your county auditor. State law requires absentee ballot applications to be notarized or accompanied by a copy of an acceptable photo ID to verify the identity of the applicant. Acceptable forms of identification mirror those required when voting at a polling location and include a South Dakota driver's license or non-driver ID card, passport or other picture ID issued by the United States government, tribal photo ID, or a current student photo ID issued by a South Dakota high school or postsecondary education institution. The South Dakota Absentee Ballot Application Form is available for download at https://sdsos.gov/elections-voting/assets/AbsenteeApplication_202012.PDF.

Q: What happens after I submit an absentee ballot application?

A: Upon verification of registered status and completed application by your county auditor, you will be mailed an absentee ballot packet. You will mark the ballot and place the voted ballot in the enclosed return envelope. You will then sign your name on the reverse side of the return envelope. This signature will be verified against the signature on the absentee ballot application to confirm the form was completed by the same individual. Once your county auditor receives your returned absentee ballot it is recorded in the statewide voter registration list. This prevents a voter from returning an absentee ballot and voting on Election Day. Absentee ballots are not opened until Election Day. Absentee ballots are removed from the return envelopes without unfolding the ballot and immediately placed in a secure ballot box to ensure voter privacy.

Q: Are absentee ballots postmarked by Election Day counted?

A: No. Per SDCL 12-19-12, absentee ballots must be received by the county auditor prior to the close of polls on Election Day. If an absentee ballot is received after the close of polls, it is not counted.

12-19-12. Delivery of absentee ballot to polling place after close of polls.

If an absentee ballot is delivered to a polling place after the polls are closed, the absentee ballot may not be counted or opened.

86

b. In her remarks before the Committee, Sara Frankenstein included slides further explaining South Dakota absentee voter law and the steps that the state has taken to include more absentee balloting locations.⁸⁷

South Dakota Election Law

- SD does NOT have “early voting”
- SD has no-excuse absentee voting, 46 days
 - Must apply for an absentee ballot
 - Can turn in the application in person, by mail, or have someone return it in person for you.
 - Can be done in-person using ExpressVote machines for those with disabilities.
 - Those with disabilities can use an absentee messenger.

88

⁸⁶ “Elections and Voting.” South Dakota Secretary of State. <https://sdsos.gov/elections-voting/upcoming-elections/faqs.aspx> (accessed April 12, 2023).

⁸⁷ Frankenstein Testimony, *Transcript IV*, pp. 14-15.

⁸⁸ *Ibid.*, at 3.

South Dakota Election Law

- There are no mail-in ballots in SD, only absentee ballots.
- What's the difference?
 - Absentee ballots are not counted if you die before Election Day. SDCL 12-19-9.2
 - Absentee ballots must be applied for – they are not automatically sent to you.
 - Precinct polling places are not open before Election Day for absentee voting.

89

Absentee addresses

When voting absentee, your absentee ballot can be sent to any address you would like.

90

Auditor Satellite Offices

- “Satellite offices” is the term used for a county auditor to have a second office for turning in absentee ballots.

SDCL 12-19-7:

A voter voting an absentee ballot shall mark it and fold it without revealing the marks to any other person. The voter shall place the voted ballots in the return envelope provided and seal the envelope. The voter shall sign the statement on the return envelope. The voter shall either mail the ballot, deliver it in person or have it delivered to the person in charge of the election.

91

⁸⁹ Ibid., at 4.

⁹⁰ Ibid., at 17.

⁹¹ See *Frankenstein Testimony*, at 22; S.D. Codified Laws § 12-4-2 (2002).

Counties using satellite offices on reservations with HAVA funds

- You can verify which counties have HAVA-funded satellite offices yourself at <https://sdsos.gov/elections-voting/voting/help-america-vote-act-grant-board.aspx>.



92

c. Multiple individuals reported to the Committee that the distance to absentee ballot drop-off locations can still be a barrier to voting for American Indians who live in Tribal areas.⁹³

Dr. Hellwege noted, “[S]o working with Tribes to place satellite voting locations on reservations, working with Tribes to make sure that Native voters or Native people can register within their reservation, that they don't have to go to a polling or a county office in a border town where they've experienced racism in the past, and working with Tribes to attempt to have these satellite voting locations staffed by Tribal citizens who will make voters feel comfortable, are all things that I've heard just work.”⁹⁴

Ms. Gill shared with the Committee, “[O]ur reservation was eligible for three different satellite voting centers on the South Dakota side, our three counties we were going for. And we started with Roberts County, and they denied it. And when I had tried to meet with them, they were like, ‘Well, we're going to meet and we'll let you know.’ So then they had said it was denied, and I asked for it in writing so we could

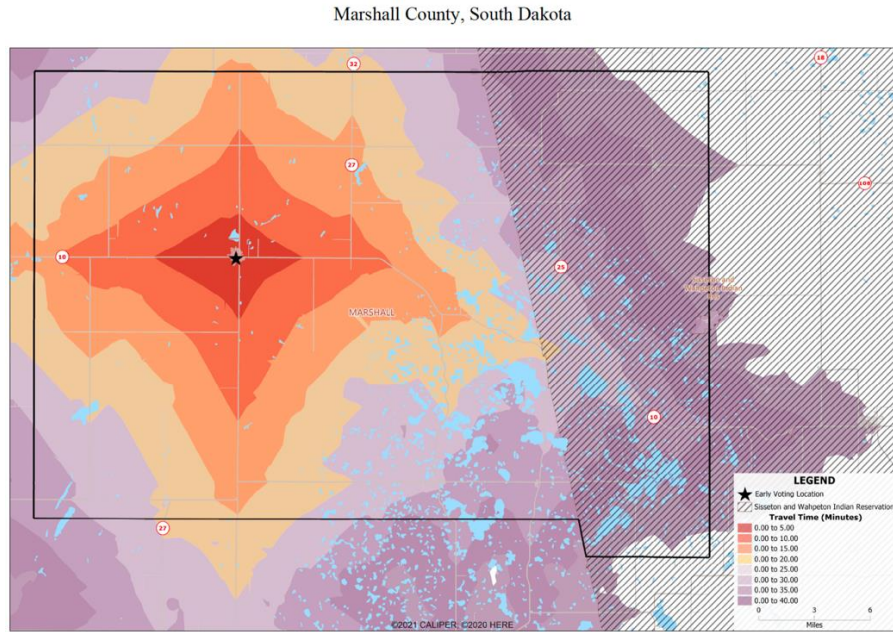
⁹² Frankenstein Testimony, at 23; SDCL 12-4-5.4 (2020) https://sdlegislature.gov/Statutes/Codified_Laws/2040485.

⁹³ Hellwege Testimony, *Transcript I*, p. 8; Schroedel Testimony, *Transcript I*, p. 15; Gill Testimony, *Transcript II*, p. 3; Bordeaux Testimony, *Transcript II*, p. 9; Returns Testimony, *Transcript II*, p. 15; Puetz Testimony, *Transcript II*, p. 29.

⁹⁴ Hellwege Testimony, *Transcript I*, p. 27.

follow up, I didn't get that either... We didn't really have anyone to go to help us. It's still where it was then, it didn't go anywhere, nothing's changed.”⁹⁵

For counties without a satellite office on Tribal land, American Indians may have to drive farther on average than their non-American Indian counterparts to cast an absentee ballot in person at their county courthouse. The following maps, provided by Samantha Kelty, Staff Attorney for the Native American Rights Fund, reflect such statistics:



Drive Time Rings Map

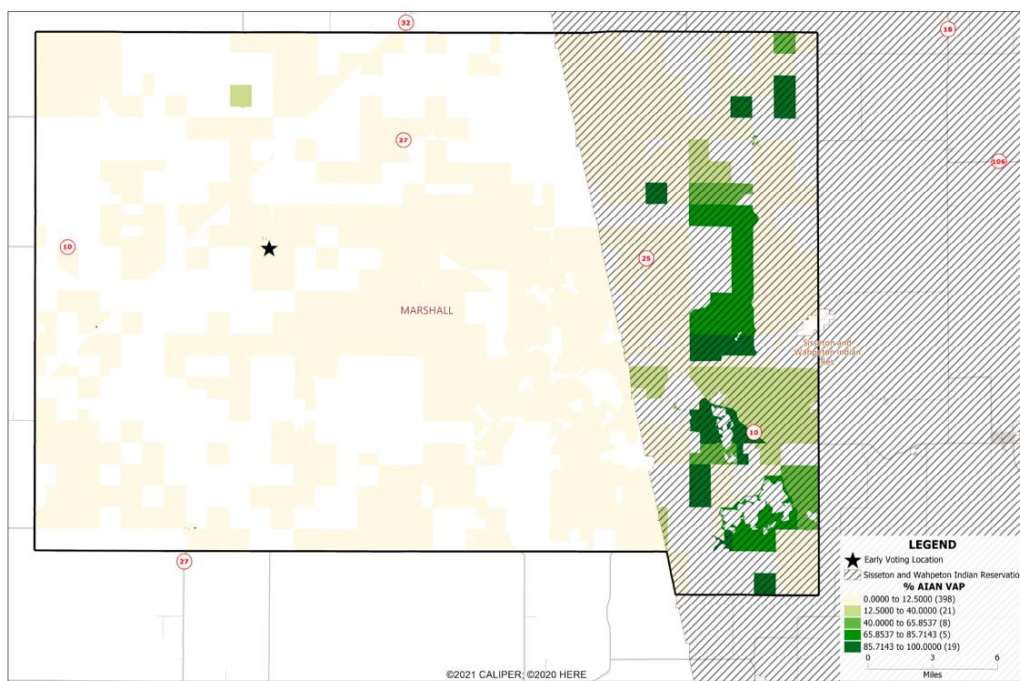
Page 1

96

⁹⁵ Gill Testimony, *Transcript II*, p. 5.

⁹⁶ Kelty, Written Statement for the First Briefing before the South Dakota Advisory Committee to the US Commission on Civil Rights, July 27, 2022, at 8. (hereinafter Kelty Statement.)

Marshall County, South Dakota

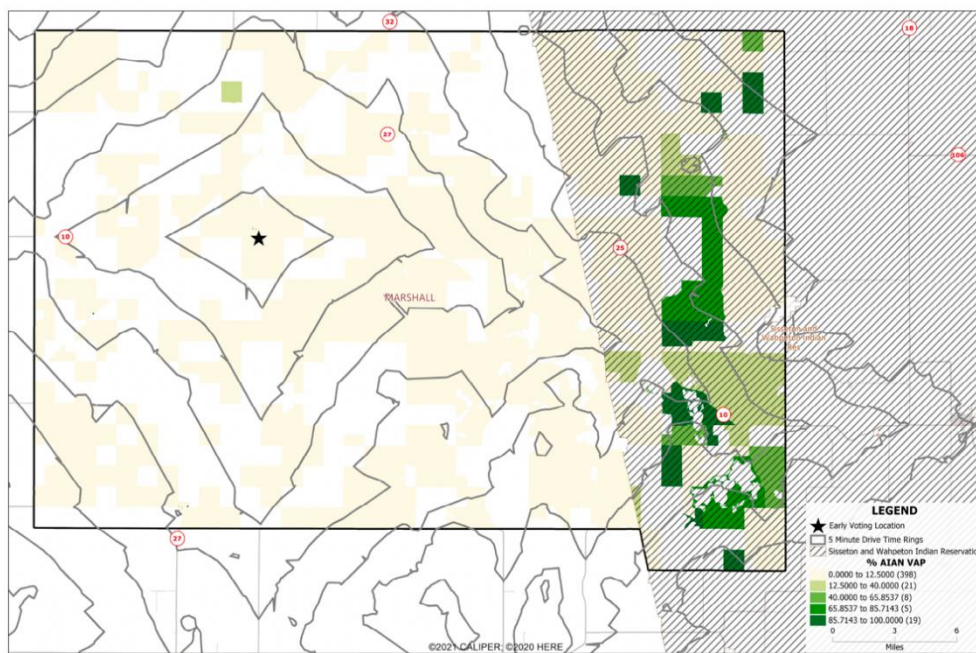


Demographics Map

Page 1

97

Marshall County, South Dakota



Drive Time Rings and Demographics Map

Page 1

98

⁹⁷ Kelty Statement, at 9.

⁹⁸ Kelty Statement, at 10.

Ms. Gill and Dr. Hellwege agreed on the need for satellite voting locations for Tribal communities, with Dr. Hellwege noting the need for permanency, sharing that “having satellite locations that are permanent investments in those communities would be even better.”⁹⁹

Voter identification confusion and lack of appropriate poll worker training

6. There is no identification required to register to vote in South Dakota.¹⁰⁰ If a voter does not have identification, they simply need to fill out an affidavit.¹⁰¹ This is explained on the South Dakota Secretary of State’s website:

Q: Does South Dakota allow *same day voter registration*, which allows voters to register and cast a ballot on Election Day?

A: No. South Dakota does not allow *same day voter registration*. The deadline to register to vote in South Dakota is 15 days prior to the election in which you wish to cast a ballot.

Q: Do I need an ID to vote?

A: Yes. SDCL 12-18-6.1 requires voters to present a valid form of personal identification when requesting a ballot. Acceptable forms of identification include a South Dakota driver’s license or non-driver ID card, passport or other picture ID issued by the United States government, tribal photo ID, or a current student photo ID issued by a South Dakota high school or postsecondary education institution. If a voter is unable to present one of the forms of identification above, they may complete a personal identification affidavit, which must be signed by the voter under the penalty of perjury. The maximum penalty for perjury is 2 years imprisonment and a \$4,000 fine.

12-18-6.1 Voters required to provide identification before voting.

When the voter is requesting a ballot, the voter shall present a valid form of personal identification. The personal identification that may be presented shall be either:

- (1) A South Dakota driver’s license or nondriver identification card;*
- (2) A passport or an identification card, including a picture, issued by an agency of the United States government;*
- (3) A tribal identification card, including a picture; or*
- (4) A current student identification card, including a picture, issued by a high school or an accredited institution of higher education, including a university, college, or technical school, located within the State of South Dakota.*

12-18-6.2 Affidavit in lieu of personal identification.

If a voter is not able to present a form of personal identification as required by SDCL 12-18-6.1, the voter may complete an affidavit in lieu of the personal identification. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the form of the affidavit. The affidavit shall require the voter to provide his or her name and address. The voter shall sign the affidavit under penalty of perjury.

102

⁹⁹ Hellwege Testimony, *Transcript I*, p. 23; Gill Testimony, *Transcript II*, p. 5.

¹⁰⁰ S.D. Codified Laws 12-4-5.4 (2020) (“Any person registering to vote shall provide the person’s valid South Dakota driver license number or a South Dakota nondriver identification number on the voter registration form. If a person does not have a valid South Dakota driver license or a South Dakota nondriver identification number, the person shall provide the last four digits of the person’s social security number on the voter registration form. If a person does not have a valid South Dakota driver license, a South Dakota nondriver identification number, or a social security number, the person may only register at the county auditor’s office and shall sign a statement verifying the fact that the person does not have a valid South Dakota driver license, a South Dakota nondriver identification number, or a social security number. The statement shall be prescribed by the State Board of Elections.”); Frankenstein Testimony, *Transcript IV*, p. 13.

¹⁰¹ Frankenstein Testimony, *Transcript IV*, p. 14.

¹⁰² “Elections and Voting,” South Dakota Secretary of State. <https://sdsos.gov/elections-voting/upcoming-elections/faqs.aspx> (accessed April 12, 2023).

a. In her remarks before the Committee, Ms. Frankenstein included slides further explaining registration to vote in South Dakota even if the voter has no personal identification.¹⁰³

Voter Registration

SDLC 12-4-5.4:

Any person registering to vote shall provide the person's valid South Dakota driver license number or a South Dakota nondriver identification number on the voter registration form. If a person does not have a valid South Dakota driver license or a South Dakota nondriver identification number, the person shall provide the last four digits of the person's social security number on the voter registration form. If a person does not have a valid South Dakota driver license, a South Dakota nondriver identification number, or a social security number, the person may only register at the county auditor's office and shall sign a statement verifying the fact that the person does not have a valid South Dakota driver license, a South Dakota nondriver identification number, or a social security number. The statement shall be prescribed by the State Board of Elections.

104

No ID is required to register to vote.

3a			
4	Date of Birth (Required): Month / Day / Year	5	Telephone Number
7	Choice of Party – See information in the box below:	8	Email Address
		6	South Dakota Driver License Number (Required) If you do not have a current SD Driver License, provide the last 4 digits of Social Security Number
<small>Choice of Party Information: If you are currently registered to vote and you leave the choice of party field blank, you will remain registered with your current party affiliation. If you are not currently registered to vote and you leave the choice of party field blank, you will be entered as an</small>			

105

b. Multiple individuals testified to the Committee that there is widespread confusion and a lack of knowledge within American Indian communities, and perhaps as well as with poll workers, about the use of affidavits in lieu of any type of identification.¹⁰⁶

¹⁰³ Frankenstein Testimony, *Transcript IV*, p. 13.

¹⁰⁴ Frankenstein Statement, at 12.

¹⁰⁵ *Ibid.* at 14.

¹⁰⁶ Hellwege Testimony, *Transcript II*, p. 6; Schroedel Testimony, *Transcript I*, p. 15; Returns Testimony, *Transcript II*, p. 16, 21; Renville Testimony, *Transcript V*, p. 7; Kelty Testimony, *Transcript III*, p. 12; Sims Testimony, *Transcript II*, p. 28; Islam Testimony, *Transcript IV*, p. 4; Halverson Testimony, *Transcript IV*, p. 8; Iron Eyes Statement, at 3.

Non-standard addresses

7. Multiple individuals highlighted that the use of non-standard addresses by American Indians living in Tribal areas can cause delays.¹⁰⁷
 - a. While many non-standard addresses allow election officials to easily identify correct voting districts, when neither a physical description nor a 911 address is used, election officials cannot immediately place a registered voter into the proper voting districts.¹⁰⁸
 - b. The Committee heard testimony that 80% of American Indians living in Tribal areas reported that their mailed ballot did not arrive.¹⁰⁹
 - c. Several panelists shared that absentee voting is challenging for those who have a non-standard address.¹¹⁰ Although voters with non-standard addresses can request an absentee ballot be sent to any address,¹¹¹ voters living in Tribal areas are less likely to be able to mail their absentee ballots because many American Indians in South Dakota lack direct mail service. In addition, South Dakota does not provide pre-paid postage.¹¹²

Kellen Returns from Scout, Finance Director for the Great Plains Tribal Chairmen's Association, shared the following:

I think that there's strong evidence to support Tribal communities, just rightfully so, don't have very much faith in this process or very much trust in their votes being counted. And so the absentee ballot challenges for Tribal communities are not only trusting that your ballot will be received at county auditors, but here's a list of other obstacles that Tribal members must face. You have to have it notarized by public notary. You have to obtain postage. If you don't have a absentee ballot form to request to your county auditor, you need a printer or access somewhere where they have a printer.¹¹³

Ms. Kelty's comments echo Mr. Return's concerns:

¹⁰⁷ Halverson Testimony, *Transcript IV*, p. 8; Iron Eyes Statement, at 3.

¹⁰⁸ Halverson Testimony, *Transcript IV*, p. 8.

¹⁰⁹ Schroedel Testimony, *Transcript I*, p. 16.

¹¹⁰ Returns Testimony, *Transcript II*, p. 16; Moit Testimony, *Transcript II*, pp. 7-8; Kelty Testimony, *Transcript III*, p. 10; Healy Testimony, *Transcript III*, p. 3.

¹¹¹ Frankenstein Testimony, *Transcript IV*, p. 14.

¹¹² Returns Testimony, *Transcript II*, p. 16; Moit Testimony, *Transcript II*, pp. 7-8; Kelty Testimony, *Transcript III*, p. 10; Healy Testimony, *Transcript III*, p. 3.

¹¹³ Returns Testimony, *Transcript II*, p. 16.

Absentee voting is not equally open to Native voters in South Dakota. Native voters may feel uncomfortable, intimidated, or not welcome going into the courthouse or auditor office in the county seat, which is frequently non-Native, to pick up or drop off their absentee ballots. Moreover, voters on reservations have to travel vast distances to the county seats. For example, in Marshall County, the average travel burden in minutes and miles for Native Americans to drop off their absentee ballot at the county auditor's office for early voting is more than double that of white voters.

Voters on reservations are also less likely to be able to mail their absentee ballots. First, many Native people in South Dakota lack direct mail service. Instead, many Native voters in South Dakota rely on post office boxes to receive mail. Second, people on reservations have to travel longer distances to post offices. Finally, post offices serving reservations in South Dakota must serve far larger populations than post offices in rural off reservation communities. While numerous states provide postage prepaid envelopes to voters, South Dakota does not. This makes absentee voting out of reach for many Native American voters on reservations where there are a dearth of post offices and limited hours those post offices are open to purchase stamps.¹¹⁴

- d. Multiple individuals shared examples of challenges with registering to vote for those with non-standard addresses:¹¹⁵

Chase Iron Eyes, Co-Director and Lead Counsel for Lakota's Peoples Law Project noted, "[W]e found instances where people's voter registrations were simply thrown the trash because they did not have a 911 address."¹¹⁶

Dr. Schroedel stated:

Among the people who were registered to vote, that was 352 of our respondents. We asked them about a range of different kinds of difficulties they might have experienced, even though they did manage to get registered. These people listed 309 specific instances of problems that they personally had encountered. The most common one, by far the largest one, was difficulty in traveling to registration sites, that was

¹¹⁴ Kelty Testimony, *Transcript III*, p. 10.

¹¹⁵ Halverson Testimony, *Transcript IV*, p. 8; Schroedel Testimony, *Transcript I*, pp. 15-16; Iron Eyes Testimony, *Transcript III*, p. 7; White Mountain Testimony, *Transcript V*, p. 4; Iron Eyes Statement, at 1.

¹¹⁶ Iron Eyes Testimony, *Transcript III*, p. 7.

followed by a lack of required ID, that they found it difficult to describe a non-traditional residence without a traditional address. And then, a number of them also said that they did not get a registration card initially when they tried to register, but that was among the people who have managed to register...

Very few people on reservations in South Dakota or in other large reservations, actually get their mail at home. It's nontraditional mail service, which means they have to then drive or get transportation to go to a post office. You also have to pay to have a post office box. Otherwise, it's general delivery. If you do not have a post office box, that piece of mail only stays there for one month and then it's either returned or it's thrown out, and if you are poor, you may have a mailbox that is multiple families sharing a box. So, the chance that there's a reasonable chance that somebody else might pick up, accidentally, your ballot. Voting by mail generally is really problematic in a logistic sense on reservations because of the lack of residential mail delivery.¹¹⁷

Ms. Halverson, County Auditor with Lyman County, shared:

Reservations tend to have what we refer to as non-standard addresses. When you're dealing with non-standard addresses, we allow them to register to vote at those non-standard addresses, but we, as auditors and as the election staff working with the registration lists, can have a difficult task locating where they would be within each voting district, whether that is a precinct boundary line, whether that is a commissioner district boundary line, water district line, school district line.

Those non-standard addresses can create problems in making sure that every resident is able to vote on everything that they are eligible for. I'm not sure that I have a solution in working with those non-standard addresses other than finding maybe more multiple ways to be working with the Tribal members or working with other state officials who

¹¹⁷ Schroedel Testimony, *Transcript I*, pp. 15-16.

can somehow correlate our registration systems, things of that nature.¹¹⁸

Purging voter lists

8. Speakers shared that the South Dakota law specifying when and why voters can be purged from registration lists¹¹⁹ disproportionately affects American Indians.¹²⁰
 - a. This process is also governed by the National Voter Registration Act. Ms. Halverson noted, “there are some address verifications that happen. If we can't get mail to the registration address you are listed at, and you haven't voted in eight years, then we purge those names from the list.”¹²¹
 - b. The law¹²² also specifies that voters are also removed from registered voter lists if they do not vote for eight consecutive years and the voter does not respond to a mailing sent to their mailing address.¹²³

Limited access to technology and registration concerns

9. Although voters are able to register at every driver's license station, town or city finance office, public assistance agency, Department of Human Services offices, military recruitment offices, county auditor's office, satellite county auditor's office, and polling place on Election Day without needing access to a printer and a stamp,¹²⁴ multiple speakers shared that American Indians living in Tribal areas have limited access to the technological resources to be able to register to vote using the online registration form.¹²⁵

Over-representation in the criminal justice system

10. American Indians disproportionately experience barriers to voting as they are overrepresented in the South Dakota criminal justice system both pre- and post-incarceration.¹²⁶ Ms. Gill also noted that American Indians with a criminal history

¹¹⁸ Halverson Testimony, *Transcript IV*, p. 8.

¹¹⁹ S.D. Codified Laws § 12-4-19.1-4 (2005).

¹²⁰ Bordeaux Testimony, *Transcript II*, p. 11; Halverson Testimony, *Transcript IV*, p. 7.

¹²¹ Halverson Testimony, *Transcript IV*, p. 8.

¹²² S.D. Codified Laws § 12-4-19.1-4 (2002).

¹²³ Bordeaux Testimony, *Transcript II*, p. 11; Halverson Testimony, *Transcript IV*, p. 7; Hellwege, Written Statement for the 1st Briefing before the South Dakota Advisory Committee to the US Commission on Civil Rights, July 27, 2022, (hereinafter Hellwege Statement.)

¹²⁴ Frankenstein Testimony, *Transcript IV*, p. 40; SDCL § 12-4-2.

¹²⁵ Schroedel Testimony, *Transcript I*, p. 23.

¹²⁶ Hansen Testimony, *Transcript I*, pp. 11-12; Returns Testimony, *Transcript II*, p. 17; Hellwege Testimony, *Transcript I*, p. 6; Gill Testimony, *Transcript II*, p. 27; Iron Eyes Testimony, *Transcript III*, p. 7; Rappold Testimony, *Transcript III*, p. 16; Kelty Testimony, *Transcript III*, p. 10; Iron Eyes Statement, at pp. 1-2.

particularly experience intimidation when voting due to longstanding issues of intimidation and distrust of those in positions of authority.¹²⁷

- a. Speakers shared that there is a practice of counting incarcerated persons as residents of the facility where they are being held at the time of the census as opposed to their last known address prior to imprisonment.¹²⁸ This practice gives disproportionate political power to residents of districts where prisons and jails are located, and it reduces the political power of communities where people resided prior to incarceration.¹²⁹
- b. Individuals in jail awaiting trial are eligible to vote but are often unaware of their right to vote or experience challenges in doing so.¹³⁰

Political representation concerns

11. Speakers shared that American Indian voting power is diluted in South Dakota due to redistricting, or as some described, “gerrymandering.”¹³¹

- a. In 2000, Charles Mix County failed to redistrict its commissioner district lines that had been in place since 1968, resulting in a malapportionment of 19.02%, diluting American Indian voting power.¹³² Despite the American Indian population constituting one-third of Charles Mix County, no American Indian had previously been elected to the three-person commission, but was after Charles Mix County re-districted appropriately.¹³³
- b. In 2002, a United States District Court held that the state legislature had redistricted House Districts 26 and 27 in a manner that diluted American Indian voting power.¹³⁴
- c. Under the Trump administration, the only case brought by the DOJ voting section was in South Dakota.¹³⁵ Defendants agreed that the method of electing the Chamberlain School Board resulted in American Indian voters having less

¹²⁷ Gill Testimony, *Transcript II*, p. 22.

¹²⁸ Hellwege Testimony, *Transcript I*, p. 8; Kelty Testimony, *Transcript III*, pp. 9-10.

¹²⁹ Ibid.

¹³⁰ Hansen Testimony, *Transcript I*, p. 14.

¹³¹ Hansen Testimony, *Transcript I*, pp. 11-12; Hellwege Testimony, *Transcript I*, p. 6; Rappold Testimony, *Transcript III*, p. 16; Kelty Testimony, *Transcript III*, p. 10; Iron Eyes Statement.

¹³² Russell Testimony, *Transcript II*, p. 13.

¹³³ Ibid.

¹³⁴ Russell Testimony, *Transcript II*, pp. 12-13; 1 JN 58 (Feb. 27, 1951, Act repealing portion of South Dakota code relating to certain disabilities of Indians). See, also, *Bone Shirt v. Nelson*, 336 F.Supp. 2d 976, Aff’d. *Bone Shirt v. Nelson*, 24 F.3d 863 (8th Cir. 2008).

¹³⁵ *United States v. Chamberlain Sch. Dist.*, No. 4:20-cv-4084, 2020 U.S. Dist. LEXIS 221538 (D. S.D. 2020).

opportunity than other members of the electorate to participate in the political process and to elect candidates of their choice.¹³⁶

- d. The Committee heard testimony that in the 2020 census, there was an extreme undercount of American Indians resulting in underrepresentation.¹³⁷
- e. A speaker shared that at the Rapid City Community Committee hearing during the redistricting process in 2021, elected municipal leaders made offensive comments noting they did not want to share legislative districts with American Indians.¹³⁸
- f. In May of 2022, in a case brought by the Rosebud Sioux Tribe and the Oglala Sioux Tribe, a United States District Court ruled that agencies of the State of South Dakota failed to comply with the NVRA's mandates which allow voters to register at various state and federal agencies.¹³⁹

Race-based language concerns for American Indians

- 12. Monolingual speakers of American Indian languages face challenges when attempting to vote due to South Dakota's "English Only" law and due to a lack of language assistance.¹⁴⁰
- 13. Section 203 of the Voting Rights Act was intended to protect access to the ballot for language minorities; however, the Committee heard testimony that no jurisdiction in South Dakota currently meets the coverage formula under Section 203.¹⁴¹
- 14. In South Dakota, approximately 11,000 people speak an American Indian language at home, and approximately 1,000 of them speak English less than very well according to ACS data.¹⁴²

Barriers to Voting for People with Disabilities

Privacy concerns

¹³⁶ Russell Testimony, *Transcript II*, p. 13.

¹³⁷ Hansen Testimony, *Transcript I*, p. 10; Returns Testimony, *Transcript II*, p. 14; Kelty Testimony, *Transcript III*, p. 8; Islam Testimony, *Transcript IV*, p. 5.

¹³⁸ Returns Testimony, *Transcript II*, p. 18.

¹³⁹ Hansen Testimony, *Transcript I*, p. 11.

¹⁴⁰ Kelty Testimony, *Transcript III*, pp. 12-13; Islam Testimony, *Transcript IV*, pp. 6-7; Hellwege Testimony, *Transcript I*, p. 6.

¹⁴¹ Kelty Testimony, *Transcript III*, p. 12.

¹⁴² Ibid.

15. Section Three of the South Dakota Constitution¹⁴³ includes language ensuring secrecy in voting, which corresponds to the Help America Vote Act¹⁴⁴ which affirms an individual's right to vote privately and independently.¹⁴⁵
16. Speakers shared that people with print disabilities, such as people who are blind or visually impaired, people with an intellectual disability, and/or people with a physical disability, are not able to vote privately and independently due to the absentee ballot application and absentee ballot requiring a pen or pencil system.¹⁴⁶
17. South Dakota has a messenger system for voting that allows a trusted individual to pick up a ballot for an individual and deliver it to be counted.¹⁴⁷

Physical access concerns

18. People with disabilities shared that they experience physical barriers to accessibility when trying to vote.¹⁴⁸ People who use wheelchairs testified that courthouses are not always physically accessible to them.¹⁴⁹
19. Although South Dakota has ExpressMark machines that may help people with disabilities vote,¹⁵⁰ the Committee heard testimony that voting machines, such as the AutoMark machines used before the ExpressMark machines, were not accessible to people who use wheelchairs, or staff did not know how to set them up appropriately.¹⁵¹
20. Current signage font size and posting requirements are intended to be accessible for people with disabilities;¹⁵² however, the Committee heard testimony that people with print disabilities note that signage is often too small or posted too high to read.¹⁵³

Lack of appropriate training for poll workers

¹⁴³ S.D. Const. art. 7, § 3.

¹⁴⁴ 52 U.S.C. 20901 to 21145 (2002).

¹⁴⁵ *Id.*

¹⁴⁶ Moit Testimony, *Transcript II*, p. 7, 39; Kelty Testimony, *Transcript III*, pp. 12-13; Kelty Testimony, *Transcript III*, p. 12; Islam Testimony, *Transcript IV*, pp. 6-7; Hellwege Testimony, *Transcript I*, p. 6.

¹⁴⁷ Frankenstein Testimony, *Transcript IV*, p. 19.

¹⁴⁸ Returns Testimony, *Transcript II*, p. 16; Iron Eyes Testimony, *Transcript III*, p. 7; Kelty Testimony, *Transcript III*, p. 9; Moit Testimony, *Transcript II*, p. 7; Sims Testimony, *Transcript II*, p. 28; Hellwege Testimony, *Transcript I*, p. 4; Iron Eyes Statement.

¹⁴⁹ Sims Testimony, *Transcript II*, p. 28.

¹⁵⁰ Frankenstein Testimony, *Transcript IV*, p. 11.

¹⁵¹ Sims Testimony, *Transcript II*, p. 28.

¹⁵² Frankenstein Testimony, *Transcript IV*, p. 17.

¹⁵³ Moit Testimony, *Transcript II*, p. 7; Sims Testimony, *Transcript II*, p. 28.

21. The Committee heard testimony from people with disabilities that poll workers are often not trained and unhelpful about the needs and rights of people with disabilities.¹⁵⁴

Barriers to Voting for Non-English Speakers

Language-based access concerns

22. Multiple speakers shared their concerns regarding language discrimination with the Committee.¹⁵⁵ South Dakota statute SDCL § 12-16-2 states that all official ballots shall be printed in the English language.¹⁵⁶
23. Section 203 of the Voting Rights Act protects access to the ballot for individuals who do not speak English, but no jurisdiction in South Dakota currently meets the coverage formula under Section 203 to require ballot materials in languages other than English.¹⁵⁷
- a. South Dakota was one of three states that did not have a Complete Count Committee or state-level funding to conduct the 2020 Census, raising questions about efforts to capture complete Census data.¹⁵⁸
 - b. The Committee heard testimony highlighting the importance of complete Census counts in determining whether ballot materials will be available in languages other than English.¹⁵⁹
 - c. Efforts to assess English proficiency in households indicate that voting materials should be provided in American Indian languages and Spanish.¹⁶⁰

Lack of appropriate training and/or oversight of poll workers

24. Poll workers may be unaware that individuals who do not speak English are allowed to bring an interpreter with them to vote.¹⁶¹ Voters may, however, bring notes or a translated ballot into the polling place to help them fill out their official ballot.

¹⁵⁴ Hellwege Testimony, *Transcript I*, p. 7; Returns Testimony, *Transcript II*, p. 26; Sims Testimony, *Transcript II*, p. 28; Islam Testimony, *Transcript IV*, p. 4.

¹⁵⁵ Kelty Testimony, *Transcript III*, pp. 12-13; Kelty Testimony, *Transcript III*, p. 12; Islam Testimony, *Transcript IV*, pp. 6-7; Hellwege Testimony, *Transcript I*, p. 6.

¹⁵⁶ Islam Testimony, *Transcript IV*, p. 4.

¹⁵⁷ Kelty Testimony, *Transcript III*, p. 12.

¹⁵⁸ Islam Testimony, *Transcript IV*, pp. 5-6.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid., p. 6.

¹⁶¹ Hellwege Testimony, *Transcript I*, p. 7; Returns Testimony, *Transcript II*, p. 26; Sims Testimony, *Transcript II*, p. 28; Islam Testimony, *Transcript IV*, p. 4.

25. Depending on an interpreter to vote conflicts with Section Three of the South Dakota Constitution¹⁶² which includes language ensuring secrecy in voting. This language corresponds with the Help America Vote Act (HAVA)¹⁶³ which affirms an individual's right to vote privately and independently.¹⁶⁴ However, this right is less accessible to people who do not speak English in South Dakota and who would like an interpreter to vote.¹⁶⁵

Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.¹⁶⁶ In keeping with these responsibilities, and given the testimony heard on this topic, the Committee submits the following recommendations to the Commission:

1. The U.S. Commission on Civil Rights should send this report and issue a formal request to Congress and the President to:
 - a. Pass the Native American Voting Rights Acts (NAVRA) or similar legislation which would provide a federal grant program to help establish state level American Indian voting task forces to address unique voting issues on Tribal land. For state and federal elections, NAVRA would also ensure that states designate at least one polling place and registration site on Tribal lands. In addition, NAVRA would require federally funded or operated facilities on Tribal lands to serve as designated voter registration sites as well as increasing ballot drop boxes on Tribal lands.
 - b. Continue to replenish each state's Help American Vote Act (HAVA) funding in order for the State of South Dakota and its counties to fund voter-enhancement efforts and enforce that these funds are being used.
 - c. Fund research to study American Indian voting practices to help develop strategies for promoting engagement.

¹⁶² S.D. Const. art. 7, § 33.

¹⁶³ 52 U.S.C § 20901 - 21145 (2002).

¹⁶⁴ Moit Testimony, *Transcript II*, p. 7.

¹⁶⁵ Islam Testimony, *Transcript IV*, p. 4.

¹⁶⁶ 45 C.F.R. § 703.2 (2018).

- d. Reinstate pre-clearance requirements of the Voting Rights Act to ensure neither the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group.
 - e. Develop grant programs to fund non-profit advocacy organizations to provide training for non-governmental observers at polling locations to support voting rights access for individuals.
 - f. Create and fund U.S. Postal service locations throughout reservations to create more adequate access to the mail.
 - g. Discontinue the practice of counting incarcerated persons as residents of the facility where they are being held at the time of the census as opposed to their last known address prior to imprisonment.
 - h. Require that the Federal Bureau of Prisons conduct "Know Your Rights" seminars for individuals leaving federal custody, to educate those individuals on their voter eligibility and how to register to vote.
2. The U.S. Commission on Civil Rights should send this report and issue a formal request to the Department of Justice:
- a. To oversee and enforce South Dakota's compliance with all applicable voting laws.
 - b. Ensure that individuals who are in jail awaiting prosecution, or for non-qualifying convictions, can readily register to vote and cast a ballot.
3. The U.S. Commission on Civil Rights should send this report and issue the following recommendations to the South Dakota State Legislature, the South Dakota Secretary of State, and the South Dakota Governor to:
- a. Ensure that state, county, and municipal law enforcement do all they can to avoid appearing at polling places where there are significant numbers of American Indian voters who may be present, unless there is reasonable cause for law enforcement to be present. Even if there is reasonable cause to be present, law enforcement officers should be urged to do everything in their power to avoid intimidating American Indian voters.
 - b. Ensure that the State of South Dakota take affirmative measures to increase American Indian voting participation in state, county, municipal, and federal elections, due to the long and relatively recent history of disenfranchisement or discouragement of American Indian voting in South Dakota. For example, the

State of South Dakota and its elected officials should consider supporting the “Remove the Stain” act to signal to American Indians that the state is confronting its history and attempting to address the long-standing issues that have led to the lack of trust that American Indians’ experience in non-Native governments.

- c. Ensure that South Dakota annually contribute, through remedial legislation, to the cost of increasing American Indian voting. The state should not rely solely upon federal funding to reverse damage to American Indian voting caused by South Dakota’s history of first excluding and then only gradually permitting American Indian voting in state and local elections held in South Dakota, and to continue that commitment until voter participation is relatively equivalent *per capita* to that of non-Native Americans in South Dakota, based upon federal demographic data.
- d. Ensure that South Dakota make publicly known its affirmative commitment to increasing American Indian participation in voting, and to continue that commitment until voter participation is relatively equivalent *per capita* to that of non-Native Americans in South Dakota, based upon federal demographic data.
- e. Statutorily designate Indian Health Service locations and Veteran’s Affairs Medical Centers as voter registration sites.
- f. Enact legislation and allocate funding to create a non-partisan “Complete Count Committee” to ensure accurate census counts.
- g. Amend the HAVA reimbursement administrative rules to allow county reimbursement for pre-paid postage for absentee voting and voter registration.
- h. Repeal any South Dakota state law impeding the translation of ballots in languages other than English.
- i. Amend the HAVA reimbursement administrative rules to allow county reimbursement for ballot translating services.
- j. Ensure that the South Dakota Secretary of State's office design and distribute a 1-page infographic on "How to Vote" in South Dakota for use on election day. This infographic should be available at all County auditor offices and voting locations on election day. The infographic should explain which IDs are permitted when voting, how to fill out an affidavit to vote without an ID, as well as other relevant information that has traditionally only been available through the Secretary of State's website.
- k. Critically examine the eligibility requirements for “snow-bird voting.”

- l. Fund and develop state-wide poll worker training that is consistent across jurisdictions.
 - m. The Legislature or Board of Elections should define "serving a sentence" as found in SDCL 12-4-18 to clarify when one is eligible to register or re-register to vote. Further, that the Secretary of State prepares appropriate instruction for its implementation.
4. The U.S. Commission on Civil Rights should issue the following recommendations to counties and municipalities to:
- a. Conduct voter education and registration drives.
 - b. Include the voices of American Indians by reaching out to Tribal governments and Tribal leaders for recommendations to improve engagement. Encourage American Indians to work at polling locations and run for office.
 - c. Urge Tribal leaders to hold Tribal elections on the same day as county, state, and federal elections.
 - d. In order to improve the sense of accessibility and approachability for American Indian voters, ensure that South Dakota counties with polling and county auditor offices where American Indians register to vote and/or cast their absentee ballots, shall ensure that there are reasonable numbers of American Indians as officials within the auditor's office and in polling locations.
 - e. Consult with the Rocky Mountain ADA Center and Disability Rights South Dakota for guidance in applying for infrastructure grants that could be used to make polling locations and registration sites ADA compliant.
 - f. Use HAVA funds to hire more trained election staff to work with auditors.
 - g. Encourage counties with reservation land to utilize HAVA funding to create satellite offices in order to offer in-person voting services on reservation land, with approval and in conjunction with the respective Tribes.

Appendix

Materials related to the Committee's study are available at the following link:

<https://tinyurl.com/2p95z3t2>

A. Briefing materials

- a. Transcript
- b. Agenda
- c. Minutes
- d. Panelist Presentation Slides
- e. Recordings

B. Written Testimony

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