

INSIGHT

# Voting on Tribal Lands

## Barriers to Native American Turnout

By **Chelsea N. Jones and Coryn Grange** NOVEMBER 19, 2024

**F**or centuries, the United States denied Native Americans full and equal participation in federal elections. Reflecting this history, Native voter turnout consistently lags that of other groups. This report uses millions of voter records from 2012 to 2022 to document growing disparities in voter participation between people who live on Native American tribal lands and those who do not. Voter turnout during that period was substantially lower for people living on tribal lands, particularly those where Native Americans are concentrated.

One hundred years ago, in 1924, Congress passed the Indian Citizenship Act, which conferred citizenship on Native Americans born in the United States. Voting rights, however, were still dictated by state law, allowing continued exclusion and discrimination. Some states disenfranchised Native Americans who did not pay state taxes or required people to sever ties with their tribal nations to be eligible to vote. Others used strategies, such as literacy tests and gerrymandering, that were superficially race neutral yet had a greater impact on people of color.<sup>1</sup> Collectively, state laws stifled Native American political influence by limiting political participation to those who fully integrated into mainstream U.S. culture and by enacting policies that inhibited Native community building.<sup>2</sup>

The Voting Rights Act of 1965 instituted federal oversight of state voting policies and curbed generations of

### At a Glance

- >> Voter participation in federal elections from 2012 to 2022 averaged 11 percentage points less on tribal lands than in other parts of the states we studied.
- >> Turnout is lowest on tribal lands with the greatest share of Native voters.
- >> Barriers to mail and early voting on tribal lands contribute to disparities in the use of these voting options.

race-based disenfranchisement. The law drastically increased voter registration and turnout among Black and Latino people nationwide.<sup>3</sup> However, it did not address many of the unique barriers faced by Indigenous communities.

Native American voter participation did not particularly benefit from the Voting Rights Act until 1975, when Congress added Section 203 to the law. The provision extended coverage to “language minorities,” which included Native Americans. The minority language provi-

sions of Section 203 require, in jurisdictions with a certain percentage of voters with limited English proficiency, that election material and oral assistance be provided in non-English languages, including traditional Indigenous languages.<sup>4</sup> Section 203, and subsequent lawsuits to implement it, increased rates of registration and turnout in some jurisdictions.<sup>5</sup>

Despite such progress, the difficulty in using the Voting Rights Act to address other issues, like the immense distances to polling places for residents of tribal lands, continues to produce disparities in voter turnout.

Inadequate collection of data on Native Americans has resulted in limited research into the quantitative effect of the compounded barriers to voting that these citizens face. Given these limitations, this report takes a novel approach to studying Native American political participation in U.S. elections. There are nearly 1.3 million American Indian or Alaska Native people living on federally recognized tribal lands in the United States.<sup>6</sup> We use snapshots of state voter records from 2012 to 2022 for 21 states with populous tribal lands. We use data on U.S. Census-designated, federally recognized American Indian Reservations, which we refer to broadly as *tribal lands*.

Tribal lands are racially and ethnically diverse and do not collectively represent the 10 million people who identify as American Indian or Alaska Native. As a result of mid-century termination policies, during which the federal government ceased to recognize more than 100 tribes' sovereignty, hundreds of thousands of Native Americans were forced to relocate to urban areas.<sup>7</sup> However, it still remains crucial to understand how hurdles to participation on tribal lands impact the 13 percent of Native Americans who live there.<sup>8</sup> Of the tribal lands we study, 53 percent of the population in 2020 identified as Native. Many of the barriers faced by residents of tribal lands, like the denial of tribal identification cards as acceptable forms of voter ID, are relics of discrimination that have gone unaddressed by governments at all levels and weaken the voting strength of Native communities.<sup>9</sup>

The geographic isolation of rural tribal lands is one of the largest obstacles to voting. Election offices are typically located outside of tribal lands; for instance, on the Pyramid-Lake Reservation in Nevada and the portion of the Navajo Nation in Utah, these offices are more than 100 miles away.<sup>10</sup> Some reservation residents, like members of the Karuk Tribe in California, must drive across dangerous terrain to access their county seats for election services.<sup>11</sup>

Voting by mail is also difficult. Many tribal lands use nonstandard addresses that do not contain house numbers or street names and often go unserved by postal carriers. To overcome this, some voters share post office boxes; however, several jurisdictions do not mail ballots to P.O. boxes.<sup>12</sup> Moreover, most post offices are far from homes on tribal lands and have limited hours of operation.<sup>13</sup>

In addition, many tribal land residents face exacerbated socioeconomic vulnerabilities, such as low levels of post-secondary education and high rates of household poverty and homelessness.<sup>14</sup> People who struggle with such conditions often lack the resources required to vote and thus are less likely to cast ballots.<sup>15</sup>

These long-standing factors make tribal lands a critical case study on systemic inequities in election administration. Our study finds that, from 2012 to 2022, average turnout among individuals who live on tribal lands was 11 percentage points lower than that of their off-tribal-land counterparts. In 2020, for example, had the nearly 900,000 voters on the tribal lands we studied turned out at the same rate as others in their states, roughly 160,000 more votes would have been cast. In addition, turnout was lower on tribal lands with higher shares of Native American adults. Voters on tribal lands were also 7 percentage points less likely than those not on tribal lands to vote by mail or vote early. The U.S. government's persistent inaction to improve voting conditions for Native Americans has resulted in widespread disenfranchisement and furthered a legacy of mistrust in the political system.<sup>16</sup>

## The High Cost of Casting a Vote on Tribal Lands

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In the early 1800s, Native tribes controlled about 150 million acres of land. In the century that followed, the U.S. government passed the Indian Removal Act, forcibly removing Native Americans from their lands, and later the Dawes Act, which divided Native lands into small parcels to be reallocated to assimilated Indigenous families, sold to private buyers, or kept by the U.S. government.<sup>17</sup> Through litigation and activism, Native Americans have regained rights to nearly 60 million acres of their original land.

Today the federal government recognizes the sovereignty of 574 Native American and Alaska Native tribes, which have jurisdiction over 324 federally recognized tribal lands. Native tribes manage their own systems of government that maintain government-to-government relationships with the U.S. government.<sup>18</sup> Native Americans are citizens of their tribes and of the United States; they can participate in their tribe's elections and in federal, state, and local elections.

Extractive federal policies targeting the stability of Indigenous communities have resulted in depressed socioeconomic conditions across tribal lands and among Indigenous people generally.<sup>19</sup> About a quarter of Native Americans live in poverty, the highest rate among all racial groups.<sup>20</sup> This is especially evident in Arizona, Montana, New Mexico, North Dakota, and South Dakota, where many Native American communities are desig-

nated by the Department of Housing and Urban Development as racially or ethnically concentrated areas of poverty.<sup>21</sup> This designation indicates census tracts in which the population is more than 50 percent nonwhite and more than 40 percent of residents live at or below the poverty line.<sup>22</sup>

Even on tribal lands, economic resources are fewer where Native Americans are concentrated. The census collects data on tribal block groups, one of the smallest geographic units measuring demographic data on reservations and off-reservation trust lands.<sup>23</sup> An analysis of 2022 tribal block groups shows that tribal lands are racially and ethnically diverse and that economic resources on tribal lands vary by the racial makeup of the population. Tribal block groups where Native Americans make up more than 75 percent of the population have an average household income of about \$43,000, nearly \$25,000 less than those where they make up less than 25 percent of the population.

We observe a similar trend with other resources needed to participate in politics. The geographic isolation of rural tribal lands requires most residents to travel far to cast a vote, making a vehicle essential. Vehicle access also varies by the racial makeup of a tribal block group. Tribal block groups that are predominantly Native American have about 10 percentage points more homes without a vehicle than those that are predominantly non-Native.

Put plainly, even on Indigenous lands, racial disparities persist. The conditions facing Native American communities have resulted in less access to the key resources needed to cast a vote, relative to other communities on tribal lands.

The combination of distant polling places and disparate access to vehicles raises the cost of voting for people living on tribal lands.<sup>24</sup> Scholars show that where voting costs are high, participation is low.<sup>25</sup> These conditions underline the need for policy interventions that address the electoral impacts of historical disenfranchisement.

## Data and Methodology

The centuries of discriminatory policymaking that have inhibited Native American representation and sovereignty also translate into inadequate data collection on their political participation. Most studies of political participation use postelection surveys and state-collected voter records, also known as voter files, to estimate voter turnout. Few national postelection surveys collect data from a sufficient number of Native Americans to draw meaningful conclusions about their political behavior.<sup>26</sup> Similarly, only nine states collect information on voters' self-identified race at registration.<sup>27</sup> Among those states, only three have large enough tribal land populations to

meet our sampling threshold.<sup>28</sup> For states that do not collect self-identified race on voter records, researchers typically predict the likelihood that a person is Asian, Black, Latino, white, or "some other race" using a method called Bayesian Improved Surname Geocoding.<sup>29</sup> This method does not disaggregate Native American voters and is thus unfit as a tool for estimating participation.

Gaps in data and culturally insensitive analyses can entrench misguided narratives about residents of tribal lands and contribute to ineffective or even detrimental policy.<sup>30</sup> American Indians and Alaska Natives are under-enumerated by the census.<sup>31</sup> On reservations alone, they were undercounted by 5 percent in the 2010 decennial census and by nearly 6 percent in 2020 — undercounts that exceeded those of any other group.<sup>32</sup> This is due largely to high mobility rates; the cultural bias in the survey, such as the census's reliance on a model of residence and family structure that is based on the nuclear family and does not reflect variances across tribal nations; and distrust of the federal government.<sup>33</sup>

Contributing to the difficulty of enumeration is the complexity of accurately locating households in tribal communities. Nonstandard addresses, which include descriptions (e.g., "Located 15 miles NW of Mile Marker 7 US Hwy 491") and P.O. boxes, can make it challenging to discern whether voters live on or close to tribal lands.<sup>34</sup>

Recognizing these issues, we attempt to provide a comprehensive understanding of voter turnout on tribal lands with the data available. Our use of the term *tribal land* is based on the boundaries ascribed under the census definitions of federally recognized American Indian Reservations (AIRs), according to "tribal treaties, agreements, executive orders, federal statutes, secretarial orders and/or judicial determinations," and American Indian Trust Lands, or "areas for which the United States holds title in trust for the benefit of a tribe (tribal trust land) or for an individual American Indian tribal member."<sup>35</sup>

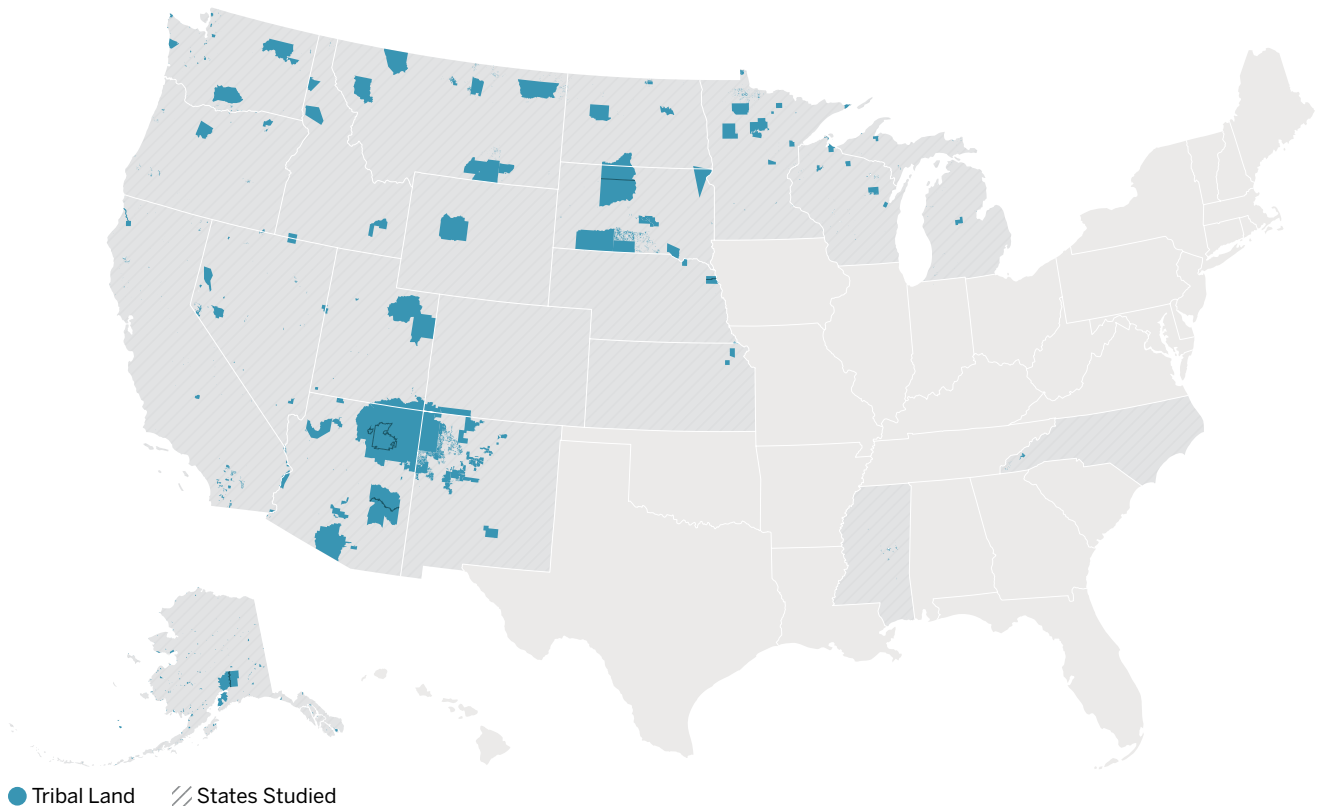
Under the census's designations, state AIRs are areas of land determined by state governments for tribes that are recognized as such in these states but are not recognized as sovereign nations by the federal government. State AIRs face burdens similar to those of federally recognized ones, but these lands can be geographically large while having only small concentrations of Native Americans; we therefore focus only on federally recognized AIRs.

This reasoning also contributes to our decision to exclude the state of Oklahoma from this study. The census designates most of Oklahoma's tribal lands as Oklahoma Tribal Statistical Areas; these encompass areas depicted by the census as former reservations and cover nearly the entirety of the state.<sup>36</sup>

Moreover, the boundaries for all tribal lands used in this study are based on the 2023 census designations. As in Oklahoma, these designations are not necessarily equivalent to and may sometimes diverge from reserva-

FIGURE 1

## States and Federally Recognized Tribal Lands Included in the Study



tion and trust land boundaries recognized and defined under federal law.<sup>37</sup> In total, our analyses include 21 states that have a tribal land population of at least 5,000 with more than 20 percent identifying as American Indian or Alaska Native, according to the 2020 decennial census (figure 1).<sup>38</sup>

### Voter File Data

To estimate voter turnout on tribal lands, we use registered voter files from the past six federal elections. Similar to the methodology used in the Brennan Center’s recent report *Growing Racial Disparities in Voter Turnout, 2008–2022*, we use snapshots of the registered voter file taken shortly after each election from data firms Catalist for the 2012 election and L2 for the 2014–2022 elections.<sup>39</sup> These state administrative records provide a count of cast ballots, which most closely reflects actual turnout. We do not rely on registration rates, which are subject to routine state-specific voter list maintenance practices that clean the rolls of regis-

trants who are no longer eligible to vote and can skew static state-to-state comparisons.<sup>40</sup>

Voter files also allow us to avoid sampling biases found in surveys, like the chronic undercount of Native Americans or their relegation to an “other” racial category.<sup>41</sup> In addition, the voter file provides geographic coordinates for the majority of registrants, which allows us to determine whether voters reside on tribal lands. We geolocate voters by spatially merging these coordinates with the 2023 census shapefile of tribal lands.

Across the six election years and 21 states, more than 440,000 addresses were missing coordinates, often due to being nonstandard. We resolved this gap by geocoding, spatially mapping, and matching cities to groups and communities within tribal lands (e.g., Navajo Chapters) for as many of the addresses as possible. In total, we were able to determine whether 93 percent of these addresses were on tribal lands. Of the sample missing coordinates, 11 percent of the unique addresses were matched to tribal lands, despite only 1 percent of the study population living on tribal lands.<sup>42</sup> These statistics highlight the gaps in data on Native Americans.

# Measuring Turnout on Tribal Lands

We determine turnout by dividing the total number of votes cast in an area by the total number of eligible voters residing there. Eligible voters consist of the citizen voting-age population (CVAP), as determined by the five-year American Community Survey (ACS) estimates for each election year at the block-group level, which roughly corresponds to a neighborhood. While the block-group level is one of the smallest geographic units provided by the census, the boundaries of tribal lands align with the smallest unit, the block level. Population figures for the voting-age population at the block level are published only in the decennial census.

To provide comparable numbers across elections, we use the most recent census-determined tribal land boundaries that match 2020 block borders across all election years. We assume that areas added to tribal lands within the past decade are demographically analogous to the lands they have been incorporated within.

We produce tribal land-specific CVAP estimates by state, employing a methodology originally developed by researchers for redistricting uses.<sup>43</sup> We first determine which 2020 and 2010 blocks are within tribal lands and use the Census Bureau's 2020 to 2010 block relationship file to assign 2020 tribal land blocks to their equivalent 2010 blocks. We then calculate a block's share of the voting-age population in the aggregate block group and multiply that share by the corresponding ACS CVAP block-group estimates.

Some 2020 blocks do not entirely match 2010 blocks and can be split among multiple blocks on the edges of tribal lands. This is more prevalent where tribal land borders changed after the 2010 redistricting cycle, often expanding to encompass newly added territories. While CVAP estimates for blocks that partially encompass tribal areas can to some extent be remediated through areal interpolation, these estimates have large errors in less densely populated areas due to residents being more heterogeneously distributed.<sup>44</sup> Since tribal lands are typically geographically remote, we use the most conservative estimates of tribal land populations prior to 2020 and do not include any blocks with spatial incongruities. Even the most conservative estimates of CVAP on tribal lands reveal troubling disparities in turnout.

While turnout on tribal lands by state can help us understand whether state-level restrictive voting laws disproportionately burden voters residing on tribal lands, such areas do not always comport with state boundaries. To estimate turnout for individual tribal lands, we use five-year ACS estimates at the census federally recognized AIR level. These estimates also include race, which allows us to analyze turnout based on the proportion of voting-

age American Indian or Alaska Native residents on each tribal land — our closest proxy for Native voter participation on tribal lands.

## Turnout Disparities on Tribal Lands

Our study confirms what Native voting rights advocates have long asserted: voter participation on tribal lands trails the rest of the country. We find this to be the case in every federal election studied, even when we use our most conservative estimates.<sup>45</sup>

We first explore turnout in all states in our sample except Alaska. Missing geographic data about the remote and sparsely populated areas that characterize most Alaskan tribal lands makes calculating the total number of eligible voters on each tribal land complicated. In addition, large Alaska Native villages that are mostly non-Native can skew overall turnout. As a result, we examine Alaska separately below.

Figure 2 plots turnout on and off tribal lands averaged across all sample states, excluding Alaska. Not only did turnout on tribal lands consistently lag turnout off tribal lands, but the gap grew. In 2012 the turnout gap was 18 percentage points; in 2020 it reached 21 percentage points, a decade-high disparity. Between the 2014 and 2022 midterm elections, the gap grew by 4 percentage points.

FIGURE 2

### Average Voter Turnout on and off Tribal Lands, 2012–2022

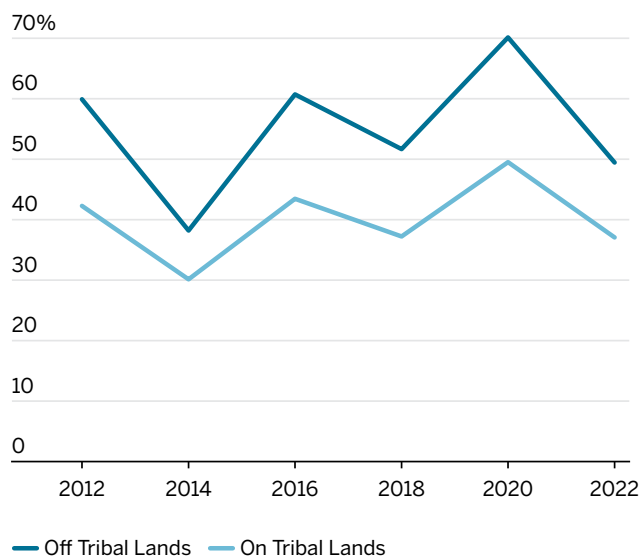
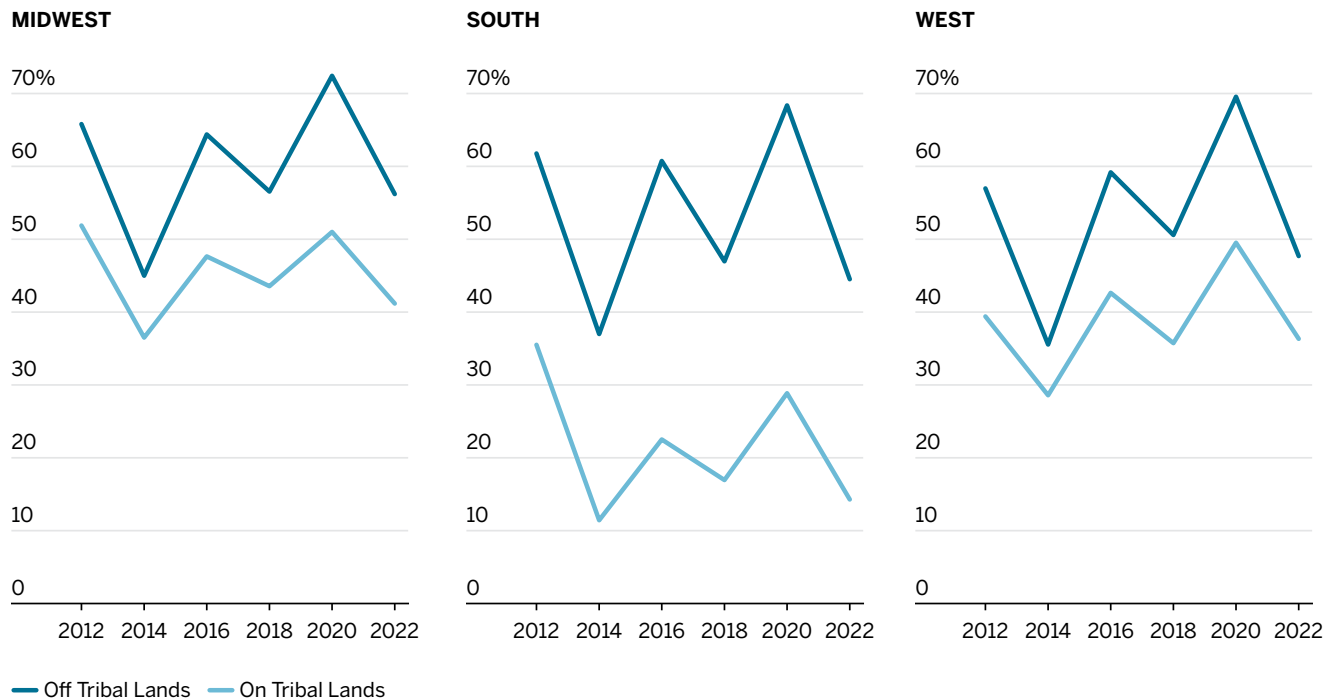


FIGURE 3

## Average Voter Turnout on and off Tribal Lands by Region, 2012–2022



Across all elections in the 20 states, the average gap was 15 percentage points. This translates to approximately 590,000 more votes that would have been cast on tribal lands if the turnout gap had not existed in the past six elections.

The Covid-19 pandemic exacerbated the inequities faced by tribal land residents, who experience insufficient access to clean water, lack of health resources in Native languages, inadequate housing, and high poverty rates.<sup>46</sup> These circumstances led to disproportionately high infection and mortality rates among Native Americans.<sup>47</sup> The disparity in health outcomes on tribal lands cannot be divorced from the disparity in turnout during the 2020 election — the pandemic may have compounded the effects of barriers to enfranchisement on tribal lands. All told, the magnitude and growth of the turnout gap between voters on and off tribal lands highlight how these obstacles to participation are not being redressed.

Figure 3 demonstrates that these patterns in turnout are not explained by regional differences.<sup>48</sup> Tribal lands in the Midwest, South, and West all saw voter participation grow at slower rates over the study period compared with areas not on tribal lands. The South saw the largest gaps in turnout, though these results reflect only two small reservations, the Eastern Cherokee and Mississippi Choctaw Reservations, with high Native population shares.

## Turnout by Tribal Land

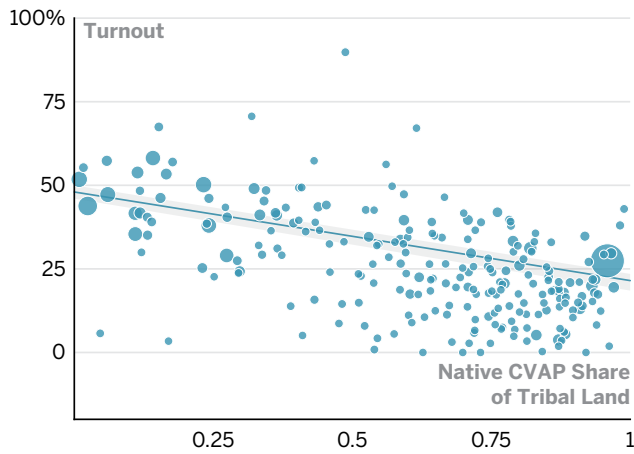
Figure 4 demonstrates the relationship between the Native population share and voter participation rates.<sup>49</sup> Tribal lands with the greatest share of Native CVAP had the lowest turnout rates, and those with the smallest share of Native CVAP had the highest rates. This relationship held for all federal elections. Even when controlling for median household income, median age, and adult population with at least a bachelor's degree, as well as state fixed effects (variables that remain static within a state), we see a significant relationship between turnout and the proportion of Native CVAP. Simply put, among all tribal lands in the sample, voter turnout is lowest where Native voters are concentrated.

Figure 5 maps tribal lands by share of Native CVAP and separates average turnout into five bins based on these population shares. Turnout drops for each 20 percent increase in Native CVAP share. Participation rates between tribal lands with the smallest Native populations (less than 20 percent) and those with the largest Native populations (more than 80 percent) differed by 33 percentage points in presidential elections and 25 percentage points in midterm elections. These findings demonstrate that Native Americans living on tribal lands

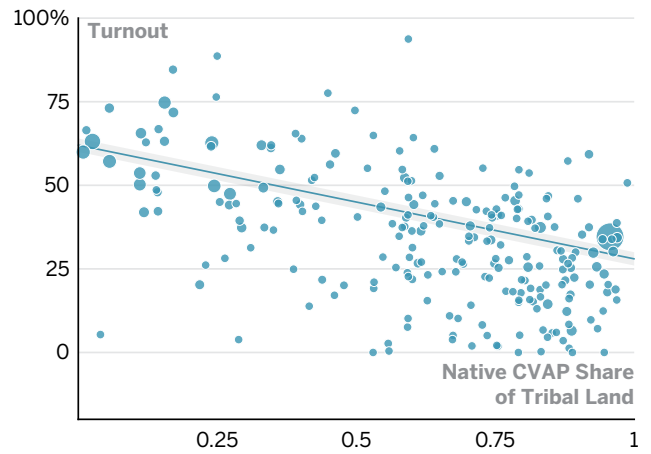
**FIGURE 4**

## Turnout Rates on Tribal Lands by Native CVAP Share, 2012–2022

**MIDTERM**



**PRESIDENTIAL**



**Tribal Land CVAP**



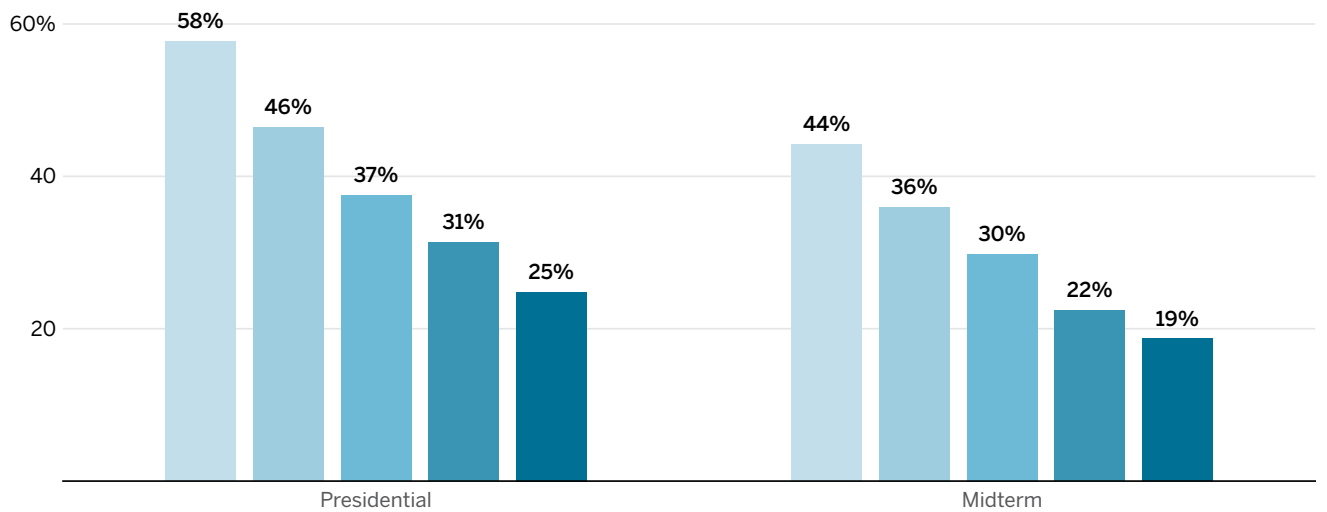
**Tribal Land CVAP**



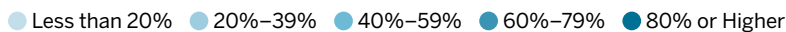
**Note:** Results are weighted by a tribal land's CVAP. Tribal lands with a CVAP below 50 were removed due to the high errors incurred when measuring turnout in areas with a very low population. Ten instances across all election years and tribal lands where turnout was above 100 percent were capped at 100 percent. These are likely due to 5-Year ACS estimates not reflecting the most recent year's CVAP estimates. The P-value is < 0.001 and R-squared equals 0.500.

**FIGURE 5**

## Average Turnout by Election and Native CVAP Share, 2012–2022



**Native CVAP Share of Tribal Land**



are uniquely disenfranchised and demobilized from participating in federal elections.

Reflecting the impact of discrimination, states with histories of regressive policies aimed at undermining Native American rights had a larger turnout gap between tribal and nontribal elections.<sup>50</sup> As previously demonstrated, predominantly Native American tribal lands have lower average incomes and less access to vehicles than do predominantly non-Native ones. Compounded together, these factors could explain why tribal lands with high Native population shares had significantly lower voter participation rates.

## Voter Participation on Alaskan Tribal Lands

Alaska is home to more than 180,000 members of federally recognized tribes and the greatest percentage of American Indian or Alaska Native residents of any state. Native Americans made up 22 percent of the Alaskan population in 2020.<sup>51</sup> Due to the geographic isolation of most Alaska Native villages, challenges to fair and democratic representation on Alaskan tribal lands can often be more daunting than on tribal lands in the Lower 48 states.

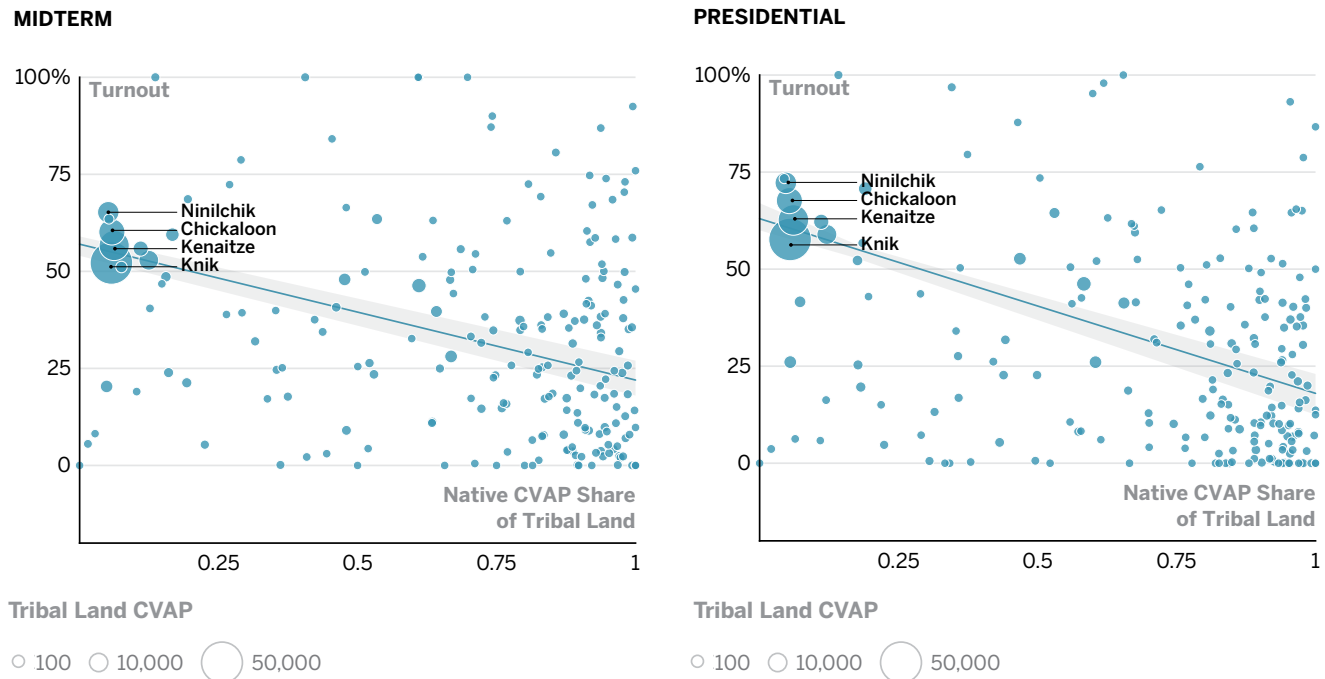
The average population of the 227 Alaska Native villages and one federally recognized AIR (Metlakatla–Annette Island Reservation) that constitute tribal lands in Alaska is less than 500 people.<sup>52</sup> Most villages can be accessed only by boat or plane, which makes voting by mail difficult.<sup>53</sup> For example, residents of Alaska Native villages in the western Aleutian Islands have to travel more than 1,000 miles to reach the nearest elections office.<sup>54</sup>

The disenfranchising effects of Alaskan tribal lands’ remote locations are compounded by inclement weather and the frequency of nonstandard addresses. In Alaska approximately 11 percent of registrants from the 2022 voter file had nonstandard addresses. This finding highlights not only the ubiquity of nonstandard addresses but also the data inequities that arise when one tries to understand voter turnout on Alaskan tribal lands.

To delineate tribal land boundaries, we use census-defined Alaska Native Village Statistical Areas, which reflect Alaska Native villages that are “eligible to receive services from the Bureau of Indian Affairs” and “recognized pursuant to the Alaska Native Claims Settlement Act (ANCSA) as either a Native village or Native group.”<sup>55</sup> We map and analyze 221 Alaska Native villages and the Metlakatla–Annette Island Reservation, according to 2023 census boundaries. Determining CVAP according

**FIGURE 6**

### Turnout Rates of Alaska Native Villages by Native CVAP Share, 2012–2022



**Note:** Results are weighted by a tribal land’s CVAP. Sixty-one instances across all election years and Alaskan tribal lands where turnout was above 100 percent were capped at 100 percent. The P-value is <0.001 and R-squared equals 0.507.



to 2020 decennial block boundaries prior to 2020 leads to conservative estimates, as census blocks in rural areas can be vast. For example, the largest 2010 block in the United States was in Alaska and covered an area of 8,500 square miles.<sup>56</sup> Therefore, for CVAP estimates between 2012 and 2018, we only use blocks that are within the borders of the Alaskan tribal lands, as using areal interpolation to infer CVAP in blocks with spatial incongruities would yield large errors.

Aggregated turnout on Alaskan tribal lands can be inflated by large Alaska Native villages that have few Native residents and are unrepresentative of the geographically isolated areas that define most Alaskan tribal lands. The Knik, Chickaloon, Kenaitze, and Ninilchik Alaska Native villages are situated close to the state's most populous city, Anchorage; they average a CVAP greater than 10,000 across the six election years but are only 5 to 6 percent Native. They bear little resemblance to the rest of the Alaskan tribal lands we study, which average a CVAP of less than 400 and are mostly Native. Given these dissimilarities, we measure turnout by the share of the Native CVAP.

Similar to the other 20 states in our sample, Alaska shows a negative correlation between voter turnout and the share of Native voters. Voter turnout on Alaskan tribal lands was lowest where Native voters are most concentrated, and highest where tribal lands are largely non-Native. As demonstrated in figure 6, the Knik, Chickaloon, Kenaitze, and Ninilchik Alaska Native villages had a voter turnout rate roughly twice that of Alaskan tribal lands with the highest percentage of Native voters.

Residents of many Alaskan tribal lands must contend with the acute disenfranchising effects of living in geographically isolated areas. Compared with the contiguous states studied, the effects are especially severe in Alaska: the difference in turnout based on Native share is one-third larger.

## Mail and Early Voting on Tribal Lands

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People encountering barriers to in-person voting on Election Day may instead vote by mail or vote early if permissible in their state.<sup>57</sup> For those on tribal lands, however, these choices are limited. Centralized early voting centers located in city centers and county seats are often farther away than Election Day polling places, and mail voting poses its own set of hurdles, which highlight the systemic disinvestment in electoral resources on tribal lands.

Only six states in our sample have instituted universal vote by mail, whereby every registered voter is automatically mailed a ballot.<sup>58</sup> Applying for a mail ballot is particularly difficult for rural tribal land residents with nonstandard

addresses. Some election administrators have rejected voter registration applications and mail ballot applications from voters using these addresses.<sup>59</sup> Voters could potentially use P.O. boxes, but some jurisdictions do not accept P.O. boxes on voter registration forms or refuse to send election mail to boxes shared by multiple voters.

Mail delivery in rural areas can be infrequent and irregular, and people with nonstandard addresses often go without mail service completely.<sup>60</sup> For Alaska Native villages, road conditions during inclement-weather months can make mail pickup and delivery infeasible. Post offices and ballot drop boxes are often located outside tribal lands, and some rural post offices have limited business hours, with even shorter hours for mail pickup.<sup>61</sup> In addition, Native-language voters who can vote by mail often lack assistance to correctly complete English-language mail ballots, and postage costs for returning ballots impose a financial burden on low-income voters.

To mitigate the barriers to mail voting on tribal lands, individuals and community groups with access to transportation often collect completed mail ballots from their neighbors and return the ballots on their behalf. Though this practice can increase political participation among tribal voters, 15 states have restrictions on returning a ballot on behalf of another person; Alabama bans any form of ballot collection.<sup>62</sup>

Ballot collection was at the center of the landmark Supreme Court ruling in *Brnovich v. Democratic National Committee* in 2021. The case challenged two of Arizona's voter policies. One policy banned individuals outside a voter's household or caregiving team from returning a ballot on that voter's behalf. The other effectively discarded ballots cast outside of their precise precinct, even in federal and statewide elections, even though Native voters were twice as likely to vote outside their precinct than were white voters in the 2016 election.<sup>63</sup> Undeterred by the hurdles that restrictions on ballot collection and out-of-precinct ballots create for tribal voters, the Court upheld both policies, arguing that the magnitude of the burden that these policies posed on voters of color was not substantial enough to block a restrictive law.<sup>64</sup> Downplaying the plight of Native voters, Justice Samuel Alito wrote for the majority that "mere inconvenience cannot be enough to demonstrate a violation of Section 2."<sup>65</sup> In this way, the Court increased the cost of voting for Native voters and weakened Section 2 of the Voting Rights Act.

## Mail and Early Voting by Voter Residence

To examine early and mail voting participation rates, we select from our sample of 21 states a subset of 9 states that offer mail voting options but are not universal,

meaning that voters must apply to receive a mail ballot.<sup>66</sup> States are also excluded if voter records do not denote a voter’s ballot type. Because some states do not adequately differentiate between ballots cast using mail or early voting, we combine votes cast using these two options. We analyze more than 100 million voter records.

On average, voters who live on tribal lands used early and mail voting options 7 percentage points less than their counterparts not on tribal lands (see figure 7). This gap is especially pronounced in presidential elections, which draw a larger and more diverse group of voters. Early and mail voting in presidential elections was on average 10 percentage points lower among tribal land voters.

The gap persisted even during the height of the pandemic, when many states expanded options for voting.<sup>67</sup> In 2020 about 72 percent of voters living outside of tribal lands in the nine states studied voted by mail or early. However, only about 61 percent of tribal land voters did so; the remainder voted in person on Election Day despite the public health threat. As previously discussed, Covid-19 had the most acute effect on Native Americans, further increasing the cost of voting for people who already faced unique barriers to mail and early voting.<sup>68</sup>

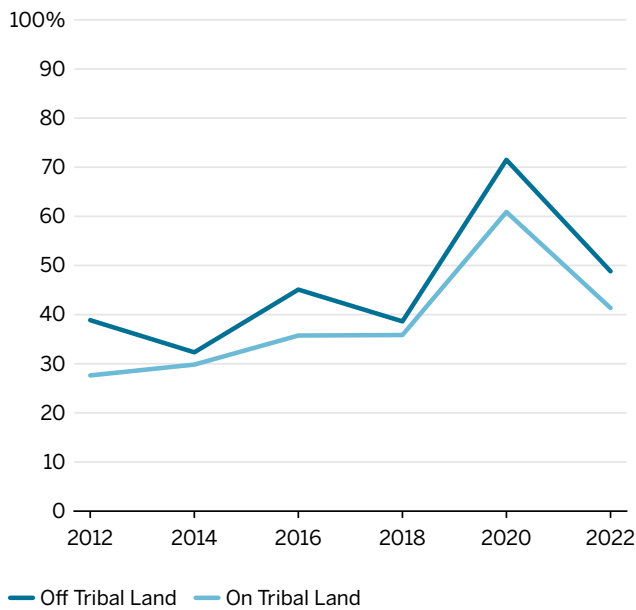
## Backpedaling on Voting Access

Policymakers have rolled back many of the expansions made to mail and early voting access in 2020. For instance, the 12 states that proactively sent mail ballot applications to voters in 2020 ended this policy for the 2022 elections, and 3 additional states outlawed the practice.<sup>69</sup> These cumulative policy changes may explain why the 2022 gap in early and mail voting between voters on and off tribal lands was the largest in a midterm election over the past 10 years.<sup>70</sup> The gap was largest in Arizona, where voters on tribal lands used mail and early voting options 28 percentage points less than their off-tribal-land counterparts did.

Following the 2020 election, lawmakers in Arizona made it harder to remain on absentee voting lists, imposed stricter signature requirements for mail ballots, and limited the number of mail ballots a person could return for other people.<sup>71</sup> Figure 8 shows that between 2012 and 2022, the gap in mail and early voting between voters on and off tribal lands in Arizona hovered around 36 percentage points, which is almost 30 percentage points higher than the average for all nine states in our

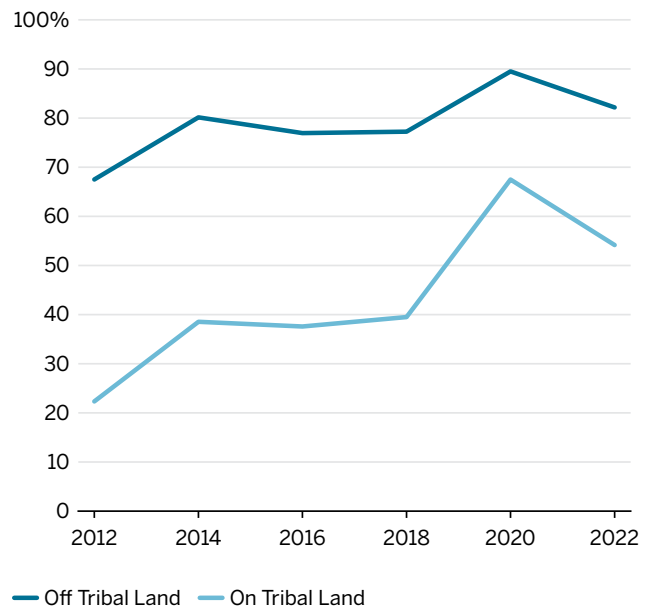
**FIGURE 7**

### Share of Votes Cast Early or by Mail on and off Tribal Lands, 2012–2022



**FIGURE 8**

### Share of Votes Cast Early or by Mail on and off Tribal Lands in Arizona



subset. In 2020 rates of mail and early voting increased for all Arizona voters, yet a gap of 22 percentage points remained between voters on and off tribal lands. The gap grew again in 2022, as restrictions prevailed and many voters returned to in-person voting. Without intervention, access to mail voting and other provisions that could expand Native political participation may be fettered by restrictive voting laws like those passed in Arizona.

## Conclusion

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For far too long, Native Americans have faced barriers to voting that impede their full political participation. While de jure disenfranchisement of Native Americans no longer exists, de facto disenfranchisement continues to flourish, as is evident in the turnout gap between voters on and off tribal lands.

Our analyses reveal not only that turnout on tribal lands was lower than turnout off tribal lands in every federal election during the past decade, but that voter participation was especially low on tribal lands with large shares of Native voters. We find that voters on tribal lands voted early and by mail at lower rates than did their off-tribal-land counterparts, likely a result of compounded barriers prohibiting mail voting access.

These findings underscore federal, state, and local governments' continued failure to adequately represent residents of tribal lands. This, in turn, reinforces a cycle of voter antipathy and distrust. Policy interventions need to be tailored to address the specific barriers faced by these communities, especially in areas such as Alaska Native villages where the turnout gap is exacerbated.

To uphold the American promise of a democracy that represents all its people and respects the sovereignty and self-determination of tribes, Congress must codify federal legislation like the Native American Voting Rights Act, which would allow full electoral participation on tribal lands.<sup>72</sup> The act would ensure that equitable in-person voting options are available in every precinct on tribal lands. It would also prohibit restrictive voter ID laws that exclude tribal IDs, increase language assistance for Native-language speakers in registration and voting, allow tribes to designate a central address for voters with nonstandard residential addresses, and expand options for ballot collection. Critically, the law would also prohibit the consolidation or closure of voting locations on tribal lands without tribal approval and ensure that tribes and their members have tools to enforce the act's protections. Congress must pass the Native American Voting Rights Act to finally address the unjust barriers that continue to disenfranchise Native people.

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