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Committee on House Administration
Subcommittee on Elections
“Voting in America: Access to the Ballot in New Mexico”
New Mexico State Capitol
490 Old Santa Fe Trail
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Written Testimony of
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Thank you, Chairman Butterfield, Ranking Member Steil, and Distinguished members of the Committee for holding this important hearing today. I am honored to be here with you and Representative Leger Fernandez, thank you for all of your efforts on this committee. My name is Ahtza Dawn Chavez. I am Diné from Sanostee, NM, born for Kewa Pueblo. I am the Executive Director of NAVA Education Project, a 501(c)3 organization. Since the inception of our organization, its work has focused on creating economic prosperity, protecting sacred sites and natural landmarks, and expanding the franchise for Native American Working Families through grassroots community organizing. NAVAEP was founded in 2010, but our roots go back to the 1990’s and the fight to prevent the expansion of a highway through the Petroglyph National Monument on the Westside of Albuquerque. The petroglyphs are a place of prayer and hold deep significance to Pueblo Peoples. An intertribal and multicultural coalition of community organizers successfully prevented construction for several years. During this time, the fight made them aware of the need to mobilize and actively promote civic engagement among Native Americans. This eventually led to the registration of approximately 5,000 voters, a majority of which were Native American, who were able to defeat a street bond for the first time in over 20 years. Unfortunately, soon after there was a mass purge of the voter rolls and over 80% of those 5,000 registrants were removed from voter registration lists. Mayor Martin Chavez placed the bond on the ballot in 2005 and paved the way for the destruction and displacement of a large portion of the Petroglyph escarpment. This battle and the subsequent desecration of one of our most significant and revered Sacred Sites was a formative experience that led us to become the organization that we are today. Our present organizational structure includes both a 501(c)(3) and a 501(c)(4) allowing us to build up issues, perform education, and to work in and between election cycles to advise Native American communities on pertinent issues and to build their understanding and engagement.

Currently, our organizations are based out of Albuquerque and Shiprock, NM but we actively collaborate with communities from all 23 Tribes, Nations, and Pueblos as well as the Urban Native populations.

The Presidential Election of 2020 will be marked in history as being one of the most challenging as we faced a global pandemic and widespread threats to secure elections. However, in the face of these challenges there was a tremendous increase in participation from non-traditional, people of color (BIPOC), and young voters. People of Color in Arizona, Texas, and Georgia showed out and made their voices heard despite the consistent yearly efforts to limit our access to the ballot. Black, Indigenous, and people of color (BIPOC) voters' participation in the 2020 elections made history and made the difference towards victory in key battleground states. The collective participation of peoples from historically disenfranchised communities, even in the face of calculated efforts to shut them out, demonstrated impressive strength and showed that when we work in coalition, we can be the deciding factor in every single election.

In New Mexico during the 2020 primary elections, despite historically high turnout, Native communities faced massive challenges which highlighted the inequities in our election code. New Mexico has the third highest percentage of American Indian and Alaska Native (AIAN) residents. New Mexico's urban center, Albuquerque, has the 6th largest population of urban AIAN residents in the Nation. Regardless of whether they live in urban or rural communities, New Mexico's Native population has had to contend with significant obstacles that prevent them from full political participation. These obstacles include but are not limited to geographic isolation, physical and natural barriers, poor or non-existent roads, technological barriers, low levels of educational attainment, depressed socio-economic conditions, homelessness, housing insecurity, non-traditional mailing addresses, lack of resources, and discrimination.¹ In addition to the vast inequalities that Native Peoples face election year after election year, our communities were overwhelmed and devastated by the COVID-19 pandemic. For a time, the Navajo Nation had the highest per capita rates of infection and deaths. The majority of tribal communities shut down their borders to prevent further spread of COVID-19 among residents, a practice that continues through 2022. Many of our families lost entire generations of relatives to the pandemic. Research from Johns Hopkins showed that Native people were disproportionately impacted by COVID-19. The devastating loss of life and spread of illness forced tribal leaders to make the impossible choice between conducting elections that would affect every aspect of our future and the collective health and safety of our communities, upon which the survival of our languages, cultures, and traditional practices depends on. Tribal leaders also had to fight against election code which was outdated and written specifically to target Native communities who have the sovereign ability to run their own governments. Native voters throughout the state, but especially those living on reservations, were placed in the position to prioritize their health over civic duty, decisions that are not made

¹ Tucker, J., De Leon, J. and McCool, D., 2021. *Obstacles At Every Turn*. [online] Vote.narf.org. Available at: <https://vote.narf.org/wp-content/uploads/2020/06/obstacles_at_every_turn.pdf>

lightly and ultimately should not have been necessary if voting was more equitable.

In 2020, the New Mexico Primary elections put the historical inequalities that Native Peoples face at the forefront for all to see and many of the clear inequities that exist in our election code became starkly apparent. This was unfortunately an election where we saw dozens of polling sites close, a lack of broadband access to request absentee ballots, and poor rural addressing. As a result, turnout dropped by up to 80% in many of our communities, even those with a strong history of engagement like Acoma, and Kewa (Santo Domingo Pueblo). The way the election code was written, meant that there were no legal options that allowed our people to vote safely during a pandemic. In June of 2020, immediately following the primary election, thanks to the quick action of our state legislature, the commitment of Common Cause, Amber Carrillo, and our Secretary of State, we were able to pass a temporary fix to our election code, and the positive impacts were immediate. By the time we got to the general election in 2020, we were finally able to tell people where to vote, how to vote, when to register, how to make sure their ballot was counted, and all the different new options to return their ballots, like absentee ballot drop boxes.

While the absentee ballot system had worked for many voters in the primary, and certainly was how some Native people voted, there's still a tremendous lack of trust, especially among voters of color that if they get their absentee ballot and drop it in the mail. They fear that by some mistake, delay, or illegal interference, their ballot will not reach their county clerk and that their efforts and decision to vote will have been for naught. Additionally, we know that for centuries there has been a lack of investment in infrastructure, in our roads, buildings, post offices, and addressing for some many of our rural, and tribal voters. Getting and sending mail isn't as simple as walking to the end of their driveway and can be an hours long journey going back and forth. Fortunately, part of what passed during the Special Session in June of 2020, was the ability for voters to pick up their ballot, fill it in at home and drop it off at an absentee ballot drop box. This was a crucial part of making sure that everyone had the ability to vote, as many of our people work long hours, making it difficult to vote at a more traditional voting location. This shift in the code allowed voters the front end accountability to see and confirm, "I know who has my ballot, I know their face, they know mine, and I can trust that my vote will count."

The last and possibly most important piece of the temporary fix was the provision that a polling location could not be removed from tribal lands without the written consent of a Tribe, Nation, or Pueblo. This prevented polling locations from being consolidated without anyone's prior knowledge and made sure that communities were able to disseminate information on the available voting locations before election day. This is something that was absolutely necessary as a long-term fix, because even before the pandemic, every single year our Tribal communities would have to scratch and fight with county clerks to maintain the few polling locations we currently have. With this provision we hope to do away with the crisis of election day panic, when our organization inevitably receives dozens of phone calls from panicked voters saying, "I've voted here every single year since I've lived here, but when I pulled up they were closed, where should I go?" At a

minimum, with this provision we would have the time necessary to let people know where they are supposed to be voting *before* election day.

While the fixes which were made in 2020 were very helpful in preventing many of the worst outcomes of the election, the provisions were mostly temporary, and set to expire in January of 2021 immediately following the certification of the November Elections. For NM Native Vote this was an opportunity to continue to push for equity ensuring legislation by codifying these crucial changes through the legislative process. We wanted to ensure that Tribal polling locations could remain open *even if* a Tribe utilizes their sovereign right to close their Tribal borders as they did during the pandemic to protect their communities. We hope to continue safeguarding voter access by adding greater resources for conducting elections on tribal land, while also creating a cleaned up and consolidated election code that refers specifically to Tribes, Nations and Pueblo's. The elimination of discriminatory deadlines for requesting polling locations to the Secretary of State, which had previously forced Tribes to work by a different set of rules than other cities and municipalities is another cause for concern. This becomes additionally complicated when you consider that many Pueblo Tribal leadership is appointed or elected on a year by year basis, turning over in December through early January. In practice, an end-of-term Pueblo Tribal leader is making decisions on behalf of incoming leadership.

While the provisions under the Native American Polling Place Protection Bill of 2021² were important, that did not present a full picture of how we expanded access to the ballot for Native people. While many of the voter access provisions which we stand in support of are not specific to tribal communities, the national trend to limit voter participation and general voter access will continue to disproportionately affect Native people, rural voters, and other communities of color. For many of us, our voting experience is not something which has been a welcoming right. Rarely is votership something with which we have a long positive family history of doing. The actual *right to vote* for Native Americans is relatively new, many of us have living family members who were born without the right to vote. It was only 74 years ago, in 1948, that Miguel Trujillo³ a WWII veteran from Isleta Pueblo, fought and won for the right to vote for Native Americans in New Mexico.

In 2019, we worked with many other BIPOC led community groups from all across New Mexico to help oversee the passage of provisions like Same Day Registration which was absolutely essential as we moved into a special election in New Mexico's first congressional district in 2021. At NM Native Vote we had a staff member who had moved in between the General Election in November of 2020, and the special election in June of 2021, and it slipped their mind that they needed to re-register. Under the old system we would have had an engaged and motivated voter who would have been forced to sit out the election, due to outdated registration information.

² <https://www.nmlegis.gov/Legislation/Legislation?Chamber=H&LegType=B&LegNo=231&year=21>

³ https://www.santafenewmexican.com/news/local_news/it-s-been-70-years-since-court-ruled-native-americans-could-vote-in-new-mexico/article_d0544a48-ef37-56ef-958f-eb81dcf01344.html

Thanks to the work done in 2019, this voter was able to register at a polling place on election day and vote at the same location. New Mexico has consistently made a firm commitment to ensure that any eligible voters who show up to a polling place will be able to cast a ballot and participate in their democracy. The supporting infrastructure is still a work in progress, like broadband, to make sure that same day voter registration can be applied equally and equitably around the state.

In January 2022, prior to the start of the thirty-day legislative session, Governor Michelle Lujan Grisham and New Mexico Secretary of State Maggie Toulouse Oliver announced that an expansive piece of voting rights legislation would be introduced. The bill introduced was Senate Bill 8, more commonly referred to as the New Mexico Voting Rights Act (NMVRA). The NMVRA contained numerous provisions that garnered the support of a coalition of diverse community groups. Together, our organizations mobilized communities across the state to support the NMVRA which would have expanded the franchise vote to more voters than ever before. It would have removed more barriers for registration and voter access than ever before. Unfortunately, that bill didn't pass this session, dying on the table at the finish line, thanks to a partisan filibuster. However, we will continue to work for greater voter participation and access. As a state, we are moving in the right direction, to cut red tape, and empower communities who have historically been shut out. As an organization which is rooted in promoting a better, more functional society for Native people, we have an obligation to the principles of Democracy. Everyone deserves a voice. We have an obligation to do better, and make sure that everyone has equitable access to participate in electing our leaders. As people who are interested in uplifting the voices of our community, we can move forward with care, and respect to the sanctity of the vote. We can do this while expanding franchise votership and making sure that every voter has the same access to all of their essential rights, regardless of race, gender, income, or lived experience.