

**MINUTES
of the
THIRD MEETING
of the
ELECTION REFORM TASK FORCE**

**September 8-9, 2005
City of Gallup
Pueblo of Laguna**

The third meeting of the Election Reform Task Force for the 2005 interim was called to order by Representative Edward C. Sandoval, co-chair, on Thursday, September 8, 2005, at 10:10 a.m. in the commissioners' meeting room at the McKinley County Courthouse in Gallup.

Present

Sen. Linda M. Lopez, Co-Chair
Rep. Edward C. Sandoval, Co-Chair
Rep. Janice E. Arnold-Jones
Sen. Dianna J. Duran
Rep. Mary Helen Garcia
Mary Herrera
Melinda Hughes
Leland Lehrman
Jim Noel
Charlotte Roybal
Karen P. Smyer
Mario Trujillo
Claire Weiner

Advisory Members

Sen. Rod Adair (9/9)
Rhoda Coakley
Rep. Kandy Cordova
Sen. Dede Feldman
Rep. James Roger Madalena
Rep. W. Ken Martinez
Rep. Debbie A. Rodella (9/9)

Absent

Joe Goldberg
Audrey Jaramillo
Sen. Gerald Ortiz y Pino
Mary Ann Sedillo
Rebecca Vigil-Giron, Sec. of State

Sen. Ben D. Altamirano
Rep. Justine Fox-Young
Rep. Ted Hobbs
Denise Lamb
Rep. Ben Lujan
Rep. Kathy A. McCoy
Sen. Mary Kay Papen
Sen. Michael S. Sanchez
J. Fred Vigil

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Evan Blackstone

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Thursday, September 8 - McKinley County Courthouse, Gallup

Call to Order, Welcome and Introductions

Representative Edward C. Sandoval, co-chair, called the meeting to order, Representative Patricia A. Lundstrom welcomed the task force to Gallup and members of the committee and the audience introduced themselves.

County Clerk and Poll Worker Training

Ernie Marquez, director, Bureau of Elections, Office of the Secretary of State, briefed the task force on what his office is doing in the area of training county clerks and poll workers on the proper method of conducting elections. He mentioned such training is critical in view of the problems that occurred throughout the state in 2004 and the election procedures and requirements that were changed as a result of Laws 2005, Chapter 270. He stressed the importance of ensuring a uniform system in counties across the state; consistency in procedures and requirements is essential. Mr. Marquez stated that these concerns were considered by his office when drafting the 2006 Election Reform Training Manual for county clerks. Mr. Marquez reviewed the manual, which has recently been completed by his office, that addresses election day procedures and ethics training. Mr. Marquez also noted that both the federal Help America Vote Act (HAVA) and Laws 2005, Chapter 270 require the production of training guides for poll workers. The Bureau of Elections is currently working on the production of a DVD that will be distributed as well as a training manual for election day procedures.

Questioning and discussion by task force members included commentary on the following:

- the inconsistency of commercially produced training manuals and the necessity for other manuals for voting machines;
- production costs and funding sources for the training manuals and the number of copies that have been printed;
- issues concerning the substantive content of the manuals, including the acceptance of public comment and any relation to the New Mexico Administrative Code;
- issues related to Native American voting, including the development of a training CD in the Navajo and pueblo languages, the location of polling places in chapters of the Navajo Nation and in pueblos, translators for non-English speaking Native Americans, Native American voting coordinators and the recruitment of poll workers in Indian country;
- voter ID and potential problems with that requirement in Native American communities;
- funding for Native American voting assistance efforts;
- creating incentives to attract poll workers and the training of poll workers, including the utilization of community colleges and reimbursement for attendance at training

- sessions;
- the difficulty in recruiting poll workers who tend to be older and how more complicated election procedures make it more difficult to recruit poll workers;
- the use of high school students as poll workers; and
- absentee ballots.

Problems with Precinct Level Reporting

Coni Jo Lyman, chief deputy clerk of Curry County, addressed the task force regarding the problems imposed by the reporting requirements of Laws 2003, Chapter 378. That legislation requires the county clerk of each county to report to the secretary of state the total votes in each precinct for each candidate and ballot question by: 1) voters who vote in person on election day, 2) absentee voters who vote early in person; and 3) absentee voters who vote by absentee ballot by mail. Ms. Lyman explained the burden imposed on poll workers to comply with the requirements of Laws 2003, Chapter 378 in the elections of 2004. In Curry County, 30 percent of the voters voted by absentee ballot. In the primary election of 2004, poll workers spent two-and-a-half hours signing tapes. The reporting requirements of Laws 2003, Chapter 378 delayed the reporting of voting results and wrecked the budget of the Curry County Clerk's Office. Ms. Lyman indicated that in her opinion, only the candidates themselves and demographers benefited from the reporting of voting results at the precinct level. One other significant problem with reporting voting at the precinct level as required by Laws 2003, Chapter 378 was that in the 2004 primary election, the reporting of voting by type of voter in individual precincts could have lead to identifying how more than 600 individual voters voted, which would violate those voter's constitutional right to secrecy of the ballot.

Questioning and discussion by task force members included commentary on the following:

- concerns relating to the workload burden placed on county clerks and the costs to the counties as a direct result of the reporting requirements;
- how extending the reporting deadline by 40 days might alleviate election night delays but would not resolve the problems associated with compromising the secrecy of the ballot;
- use of the data generated by precinct level reporting;
- precinct voting reporting in other states; and
- reporting of undervotes and overvotes.

Public Comment

Comments from members of the public concerned the capabilities of voting machines currently used in McKinley County and the need for adequate poll worker training.

Minutes

Upon a motion by Senator Dianna J. Duran seconded by Jim Noel, the minutes of the August 15, 2005 task force meeting were unanimously approved.

Random Checks of Voting Machines, Auditing and Automatic Recounts

Paul Stokes, coordinator, United Voters of New Mexico, presented the task force with suggestions for revisions to the current statutory language regarding procedures for the random checks of voting machines. A copy of his itemized recommendations are contained in the

meeting file.

Costs of Recounts and Recount Procedures

Bob Walsh was scheduled to present to the task force current statutory procedures for the recounting of election results. Mr. Walsh was unable to attend the meeting and his written comments were summarized for the task force by Evan Blackstone. Mr. Blackstone stated that Mr. Walsh's comments indicated that recounts by hand are the most reliable way to check and verify election results. He briefly summarized Mr. Walsh's numerous proposed revisions to current law that are intended to facilitate recounts of election results. Mr. Blackstone explained that the revisions would allow any voter to apply for a recount or recheck of votes cast for a certain office or constitutional amendment. Additionally, the amendments aim to reduce the cost of recount and recheck proceedings by changing the calculation for the deposit an applicant for a recount or recheck must submit to the secretary of state. Finally, Mr. Blackstone reviewed Mr. Walsh's comments that propose the implementation of mandatory recounts if the difference between the number of votes received by the top two candidates for an office is less than two-tenths percent of the total votes cast for that office.

Because Mr. Walsh was not present at the meeting, Senator Linda M. Lopez suggested the committee revisit issues related to recount procedures and costs at a later meeting date.

Costs of Implementation

Mr. Marquez briefed the task force of the cost of implementing the third-party registration requirements of Laws 2005, Chapter 270 and of the cost of random voting machine checks. A recheck of the results of two percent of the voting machines statewide would cost approximately \$66,500. Following Mr. Marquez's presentation, the task force members discussed problems related to the use of third-party agents to register voters, including the problem of having to accept federal voting registration forms.

Recess

Following the presentation of Mr. Marquez on implementation costs, the task force recessed this meeting at 4:25 p.m.

Friday, September 9 - Tribal Administration Building, Pueblo of Laguna

The third meeting of the Election Reform Task Force for the 2005 interim was reconvened by Representative Sandoval on Friday, September 9, 2005, at 9:10 a.m. in the tribal administration building of the Pueblo of Laguna.

Welcome and Introductions

Roland Johnson, governor of the Pueblo of Laguna, welcomed the task force to the pueblo. He noted that although Native Americans were given the right to vote in 1924, it was not until 1948 that Native Americans in New Mexico were permitted to vote, a significant right and privilege. The Pueblo of Laguna has taken steps to educate its members regarding their right to vote and has added registered voters such that the pueblo now represents a significant percentage of the voters in Cibola County. Following Governor Johnson's remarks, members of the task force and the audience introduced themselves.

Pueblo of Laguna Voter Registration Efforts; Voting Irregularities in 2004

Cathy Gorospe of the Laguna Development Corporation described the Pueblo of Laguna and the voter registration and education efforts the pueblo had undertaken prior to the 2004 elections, including a get out the vote rally at the Route 66 Casino. As a result of those efforts, more than 500 additional voters were registered for the 2004 elections. She then turned to irregularities experienced by the Pueblo of Laguna in the 2004 elections. Pre-election problems included approximately 300 new voters whose registration forms had not been processed, voter registration cards were not received until October 26 and rejected registration forms were not properly processed. She observed that state-mandated time lines had not been met by the Cibola County Clerk's Office. Election day problems included voters who had not received their registration cards, discrepancies between state and county voter lists and a lack of envelopes from the county for provisional ballots. As a result of these problems and inadequate training of election staff, Ms. Gorospe believed many ballots from the pueblo were not counted for the election. She also noted that the Pueblo of Acoma had missed three pages of the voting list for much of the day. Regarding Laws 2005, Chapter 270, she noted that village and precinct boundaries should be the same in order to minimize voter confusion regarding polling places and that many voters use post office boxes rather than street addresses.

Margaret Cerno, village voting coordinator for the Pueblo of Laguna, gave a PowerPoint presentation that outlined the complaints of voting irregularities and the investigation by the U.S. Department of Justice. Copies of related correspondence are contained in the meeting file. Lucille Hooper, tribal secretary for the Pueblo of Laguna, commented on the pueblo's voter registration and education efforts. She commented that voters in the pueblo should be informed of their rights to ensure that their votes are counted in every election. Ms. Hooper also called on the county commission to address problems concerning disenfranchised voters in Cibola County. She emphasized the need for increased training of county clerks and poll workers. She stated that poll workers in Laguna are tribal members that speak the native language and that they need more training to become familiar with the election process.

Eileen Martinez, Cibola County clerk, admitted that there had been problems during the 2004 election, but she thought those issues had been resolved at a June meeting with the U.S. Department of Justice and the Secretary of State's Office. The staff of her office has changed since that time and she has hired a member of the Pueblo of Laguna as her chief deputy. She indicated that she continues to be willing to meet with tribal members to ensure that the problems of 2004 will not be repeated.

Questioning and discussion by task force members included commentary on the following:

- the capability of Cibola County to utilize batch entries for updating voter information for the Secretary of State's Office and the availability of a T-1 line for that purpose;
- the use of physical addresses as required by state law and the possibility of utilizing GPS/GIS locators statewide for every domicile;
- whether sufficient resources are available for the training of county clerks and poll workers statewide;
- the receipt of voter registration cards after the commencement of early voting;
- the need to educate county commissioners regarding election problems as they control the purse strings;
- expanding the time period for early voting;

- the lack of a minimum time requirement between the receipt of a voter registration form and mailing a voter registration card and of consequences if the voter registration process is not done properly;
- inadequate procedures for resolving problems with flawed voter registration forms; and
- the failure to advise voters why their registration forms had been rejected.

Implementation of Voter ID Requirements and Cost

Mr. Marquez addressed the voter ID requirements of Laws 2005, Chapter 270. Information that may be required include a verbal or written statement by the voter of the last four digits of the voter's social security number, name and year of birth. Mr. Marquez estimates that there are 6,000 currently registered voters in New Mexico without social security numbers who will be required to obtain such numbers to re-register in the event they are ever purged from a voter list. He also noted that the law requires new voter ID cards to be sent out to all registered voters 40 to 60 days before a primary election at an estimated cost of \$1.625 million. The county clerks mail out the cards and are reimbursed for the cost by the Secretary of State's Office. Martin Aguilar, Native American voting rights coordinator with the Bureau of Elections, noted that elections officials have discussed with tribal officials the need for photo identification cards for voters.

Questioning and discussion by task force members included commentary on the following:

- amending state law so that voter ID cards do not have to be sent out so often;
- the Secretary of State's Office taking on the burden of mailing voter ID cards rather than the county clerks;
- the specific costs for printing and mailing voter ID cards;
- ID cards provided by tribes and pueblos; and
- the requirements of Laws 2005, Chapter 270 for voter identification at the polls.

Adjournment

There being no further business, the third meeting of the Election Reform Task Force for the 2005 interim was adjourned at 1:10 p.m.