



Count Every Vote New Mexico

2010 Election Report

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www.counteveryvotenm.org

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Executive Summary

A broad array of local and national nonpartisan organizations and attorneys came together to form New Mexico's nonpartisan Election Protection coalition under the banner of Count Every Vote New Mexico (www.counteveryvotenm.org). The following report details the work done by this coalition and suggests several potential reforms to improve the election administration process in New Mexico. The following reforms are proposed:

- 1) Allow County Clerks to consolidate precincts into vote centers;
- 2) Create a permanent absentee voter list;
- 3) Allow qualified citizens to register at early voting sites;
- 4) Provide better translation services on reservations and coordination with tribal elections.

The report also notes that proposals to require photo ID at the polls fail to address a real-world problem. Such proposals would prove to be expensive in the midst of New Mexico's current budget crunch. They would also unfairly impede certain qualified voters from casting a ballot.

Background

Established in 2008 under the leadership of Common Cause New Mexico, Count Every Vote New Mexico (CEVNM) is a collaborative non-partisan election protection program designed to monitor New Mexico elections and assist voters with the electoral process. It brings together Hispanic, Native American, women's rights, disability, civic and legal groups in a project designed to protect the rights of all qualified New Mexicans to cast a ballot.

CEVNM was created because New Mexico's history with elections has sometimes been problematic. In 2002, problems with new Sequoia touch-screen machines led to a loss of nearly 13,000 ballots. These votes were recovered by Sequoia representatives after transporting the voting memory card to their corporate offices. The episode led to a lawsuit to end the use of electronic voting machines that do not provide for a voter verifiable and auditable paper trail. New Mexico policy makers subsequently adopted a statewide optical scan paper ballot system, a major step forward in improving the integrity of New Mexico's election administration process.

In 2004, a series of electoral mishaps occurred at the Pueblo of Laguna. This included a failure to process the registration forms of approximately 300 new voters, voter registration cards that were not received, rejected registration forms that were not properly processed, discrepancies between state and county voter lists, and a lack of envelopes from the county for provisional ballots.

In 2008, during the primary election, 182 ballots went missing in Cibola County, calling into question the legitimacy of a state senate race that was ultimately decided by five votes. During the 2008 general election, approximately 2,500 voters were deprived of their right to vote absentee due to a failure in one county to send out their ballots in a timely fashion. Likewise, some Native Americans who were entitled to have alternative early voting sites on tribal lands were denied that right.

Yet despite these problems, administrators in New Mexico have made enormous progress in improving the election process within the state. Still, there is much work to be done. Part of the mission of CEVNM is to sort out emotional assertions from verifiable facts regarding election administration in the state, so administrators and voters can make informed decisions about the nature of the election process in New Mexico.

During 2010, CEVNM once again reached out to tens of thousands of voters statewide, with a focus on serving major population centers in the state as well as vulnerable populations in more remote areas. CEVNM has support from members of both major political parties. It is relied upon by nonprofit organizations and the media for accurate election information.

Modeled after a similar program created by Common Cause Colorado, CEVNM interfaces with election administrators around the state to assess election preparedness. It also engages in media work designed to educate voters about registration deadlines, early voting locations and other crucial election information. Finally, CEVNM trains and deploys observers to monitor polling sites on Election Day so any problems that arise can be identified and fixed in a timely manner.

Pre-Election Day Program

In 2010, program representatives once again met with non-partisan groups conducting election-related work in the run-up to the general election. Many of these groups used descriptions of CEVNM's services on materials distributed to voters, helping the program to reach thousands of additional New Mexicans.

In addition to looping in veteran voter protection volunteers from previous elections, the program recruited numerous new volunteers from within Common Cause New Mexico's membership as well as from groups such as the League of Women Voters of New Mexico, the SouthWest Organizing Project, the All-Indian Pueblo Council and the Native American Voters Alliance. CEVNM hired recent University of New Mexico graduate Mario Atencio to head up the volunteer coordination effort. Program representatives were also allowed to observe several poll official trainings in multiple counties.

During the week before the general election, CEVNM held three in-person trainings and two webinars to inform and equip volunteers for Election Day poll-monitoring assignments. The program garnered considerable earned media attention from local TV, public radio, print and online media. Working with national partners at the Lawyers Committee for Civil Rights Under Law and the National Association of Latino Elected Officials, the program also integrated with voter information hotlines (866-OUR-VOTE in English and 888-VE-Y-VOTA in Spanish). These lines were operational before and throughout the absentee and early voting period. They were even more crucial as voter service tools on Election Day.

Election Day Program

As was true in 2008, on Election Day in 2010, the program deployed a team of volunteers around the state to monitor and help resolve problems at the polls. This field team consisted of 42 volunteers and was deployed in six counties: Bernalillo, Cibola, Doña Ana, Rio Arriba, Sandoval and Santa Fe.

On Election Day, CEVNM tracked volunteer and hotline activity from a command center at the offices of Nordhaus Law Firm in downtown Albuquerque. We also shared information throughout the day with a nonpartisan poll-monitoring program operated from the University of New Mexico's political science department. The program organized two local media check-in calls, one at 10 am and one at 4 pm. Reports from our program received TV, radio, print and online coverage on Election Day and the day after.

2010 Election Administration Problems

New Mexico's 2010 General Election was relatively trouble-free. Thankfully serious problems – including widespread voting machine failures, challenges to voters on a large scale and mass confusion regarding registration issues – did not materialize. This was due in large part to the professional work accomplished by New Mexico's County Clerks and the supporting role played by CEVNM.

However, although no major systemic problems materialized on Election Day, many isolated election issues cropped up throughout the state. Below is a list of problems CEVNM identified – either through field observers or the voter information hotlines – on Election Day. CEVNM then worked with County Clerk offices to troubleshoot these issues.

- 1) Poll workers in several polling locations throughout the state demanded that voters show a photo ID before they could receive a ballot. These demands were contrary to state election law, which only requires a simple verbal ID. In all of these instances, County Clerks worked quickly to reprimand the poll workers and stop these illegal requests from occurring.
- 2) In Santa Fe County, there was some confusion regarding an elementary school that was no longer being used as a polling location. In this instance, CEVNM volunteers worked with the County Clerk's office to post additional signage, directing voters to the correct polling place.
- 3) In Bernalillo County, a man claiming to be a member of the Democratic Tea Party behaved in a threatening manner toward poll officials and voters. He was asked to leave the polling place, and he complied.
- 4) At some of the polling locations in Diné Chapter Houses in Sandoval County, a CEVNM volunteer reported that the ballot was not adequately translated into Diné, as required by state law.
- 5) At another location in Bernalillo County, at the To'hajiilee Navajo Chapter, CEVNM observers noted that there were not enough translators to serve a high number of Diné speakers. In some cases, voters were turned away at this location, which was adjacent to a tribal election polling place, and not given adequate information about where or how to vote in the non-tribal elections. After communicating with the County Clerk's office, poll officials began handing out provisional

ballots to such voters, as required by law. (Turnout was higher than expected among Diné voters because the Navajo Nation was simultaneously holding a presidential election.)

- 6) At one polling location in Bernalillo County, a visually impaired voter was turned away at the polls without being given access to the Automark machine (which is designed to assist voters with visual or hearing impairments).
- 7) In multiple counties, CEVNM volunteers noted that campaigning was occurring too close to polling locations, contrary to state law. In several cases, campaigners were actually blocking entrances to polling locations. In all of these instances, poll officials acted promptly to push back campaigners beyond the 100-foot line required by state election law.
- 8) At one polling location in Sandoval County, poll officials made repeated derogatory remarks about one of the gubernatorial candidates. A reprimand from the County Clerk's office quickly rectified this problem.
- 9) A CEVNM observer reported that poll officials at one location in Bernalillo County started closing down the site an hour before closing time. County Clerk representatives quickly stopped this from occurring.
- 10) There were isolated reports of broken optical scanners throughout Election Day. At one location in Bernalillo County, poll officials piled up ballots next to the scanner instead of putting them into the emergency slot as required by state law. The County Clerk's office quickly notified the precinct judge, and the poll officials began following the correct procedure.
- 11) At one location in Bernalillo County, an advocate for a candidate for the state house of representatives staked out the polling site all day long and behaved in such an intimidating manner that municipal and county police were called to the scene. Law enforcement remained on hand to monitor the man's behavior until after the site closed.
- 12) In one instance, a polling location in Bernalillo County wasn't opened on time because the presiding judge had car trouble. Similarly, in Doña Ana County a polling place opened late because poll workers found the building (a fire station) locked.
- 13) Federal observers were assigned to monitor polling locations in areas with high Native American populations. At two such locations, they had to be asked to move back because they were crowding and intimidating some voters.

As noted, the 2011 General Election in New Mexico was largely trouble-free. CEVNM representatives noted that the poll official trainings required by County Clerk's have become increasingly sophisticated and interactive over the last several years. Multi-media presentations make such trainings more effective for poll officials and almost certainly make it more likely that the information being presented is recalled on Election Day.

Looking Forward

New Mexico has made enormous strides in recent years to improve its election processes. With specific regard to the 2010 general election, the state's 33 County Clerks should be commended for running a smooth and efficient election.

That said, there are numerous ways in which elections in New Mexico can and should be improved. Below is a list of statutory changes that should be considered in 2011.

- 1) **Vote Centers** – The New Mexico County Clerk's Affiliate is advocating for a bill that would allow County Clerks to consolidate up to ten precincts for voting purposes into a vote center. Under this proposal, a voter would be able to vote at any vote center within their county of residence. In this sense, it's similar to the way early voting now works in New Mexico. Such a law would be beneficial in three primary ways. First, it would give voters more flexibility in choosing where to vote. For example, a voter could choose a site that's close to where they work or go to school rather than an assigned site close to where they live. Second, this proposal would

dramatically cut-down on the need to issue provisional ballots, since many voters are issued these ballots because they show up on Election Day at a polling place that hasn't been assigned to them, but that is located within their county of residence. Third, this law would concentrate election administration expertise at every vote center. Particularly in New Mexico's larger counties, Election Day is an enormous administrative undertaking involving hundreds and in some cases thousands of poll officials. Consolidating precincts into vote centers would allow a county clerk to place their best and brightest administrators at *every* voting location in a county, meaning there would always be at least one or two experts on hands to clarify state election law and ensure that it's being properly followed.

- 2) **Permanent Absentee List** – The County Clerk's Affiliate is advocating for a bill that would allow certain voters to be placed on a permanent absentee list, including the elderly, the disabled and those who can't read. This bill would clarify existing law so that some of New Mexico's most vulnerable voters would continue to have access to the election process.
- 3) **Early Voting Day Registration** – CEVNM continues to believe that New Mexico should allow qualified citizens to register to vote at early voting sites. A proposal that has evolved over the last two legislative sessions would make this possible, giving New Mexicans greater access to the democratic process. CEVNM believes that the current registration deadline – 28 days before Election Day – is arbitrary and places an unnecessary obstacle in the path of young and new voters who want to cast a ballot. This bill has the support of both Republican and Democratic County Clerks.

Tribal Translation and Election Coordination

Better attention should also be given to providing sufficient quantity and quality of translation services for polling places located on or near Native American reservations. In addition, when tribal elections are held concurrently with nontribal elections, poll workers at nontribal polling places located on or near reservations should be aware that many voters may not be registered in the same place for tribal and nontribal elections. In such situations, voters may not be able to vote at nontribal polling places near where they must vote for tribal elections. To prepare for this, county poll workers should receive additional training on the proper information and procedures for referring voters to their assigned polling places. They should also be trained to offer a voter a provisional ballot when the nontribal polling place is within the same county as the voter's registered address.

A Note on Voter ID

CEVNM's position is that New Mexico's current voter ID law, which requires most voters to simply state their name, address and date of birth to receive a ballot, is adequate. Proposals to require all voters to show a photo ID at polling locations seem to be a solution in search of a problem. Elderly voters who no longer drive or travel often don't own a photo ID in the form of a driver's license or passport. New Mexico also has a high population of Native American voters, many of whom do not own a photo ID. To ensure that legitimate voters from these populations are allowed to cast a ballot, the state of New Mexico would have to issue additional photo IDs. Given that no academic research exists to show that requiring such IDs would improve election security, this law would be pointless, expensive and a detriment to the democratic process in that it would impede legitimate voters from casting a ballot.