

ROBERT J. RIVERA, CPA, PC

CERTIFIED PUBLIC ACCOUNTANTS
6 CALLE MEDICO, SUITE 4
SANTA FE, NEW MEXICO 87505-4761

(505) 983-6002

FAX (505) 983-6474

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

The Honorable Mary Herrera
New Mexico Secretary of State
325 Don Gaspar, Suite 300
Santa Fe, New Mexico 87503

We have performed the procedures enumerated below, which were agreed to by the State of New Mexico, Secretary of State, solely to assist you in evaluating the following assertions related to the Secretary of State canvass summary of results of the 2010 State of New Mexico primary election conducted on June 1, 2010.

The State of New Mexico, Secretary of State's assertions relating to the state canvass summary of the results of the June 1, 2010 primary election follow:

1. The number of votes for each candidate on each county precinct canvass sheet agrees to the number of votes per the voting machine tapes and hand counted ballot tally sheets provided by the county.
2. The total number of voters listed on each county precinct canvass sheet agrees to the voting machine tapes and hand counted ballot tally sheets and the county clerk's roster signature certificate.
3. The total votes per candidate and total voters on each county precinct canvass sheet agrees to the totals per the county summary canvass sheet.
4. The number of votes for each contest, by party, and the total number of voters on each county precinct canvass sheet and county summary canvass sheet is added correctly to ensure the total number of votes for all candidates, by contest, does not exceed total votes cast, by party, for each contest (over-vote).
5. The total number of voters, by county, on the state-wide summary canvass sheet agrees to the total number of voters on each county summary canvass sheet.
6. The total number of votes, by county, for each candidate on the state-wide summary canvass sheet agrees to the total number of votes for each candidate on the county summary canvass sheet.
7. The number of votes for each candidate on the state-wide summary canvass sheet is mathematically correct.

This agreed-upon procedures engagement was performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.



Our procedures and findings were as follows:

We performed the procedures enumerated below to the State of New Mexico, Secretary of State canvass summary of the June 1, 2010 New Mexico primary election, for the Democratic and Republican parties, the contests contained in the attached executive office proclamation. As part of our procedures, we randomly selected for testing, ten percent (10%) of the total precincts in all counties for regular in-person election day voting, to test the overall accuracy of the vote count by contest. In addition, we performed the procedures enumerated below to either the absentee or early-vote precincts that correspond to the randomly selected precincts.

For the contests defined above, we have performed the following procedures for 1) each county precinct selected for testing, 2) each county summary canvass sheet, and 3) the state-wide summary canvass sheet.

1. We have agreed the total number of votes for each candidate, for each contest, on each county canvass sheet to the total number of votes reported on the voting machine tapes and hand counted ballot tally sheets provided by each county. We noted thirty-two (32) discrepancies in our review of all counties of the state.
2. We have agreed the total number of voters, by precinct, listed on each county canvass sheet, to the voting machine tapes and hand counted ballot tally sheets and the county clerk's signature roster certificate. We noted twenty-nine (29) discrepancies in our review of all counties of the state.
3. We have agreed the total number of votes for each contest, per candidate, and total voters on each county precinct canvass sheet to the totals on the county summary canvass sheet. There were no discrepancies noted.
4. We have agreed the total number of votes for each contest, by party, and the total number of voters on each county precinct canvass sheet and county summary canvass sheet to ensure that the total number of votes for all candidates, by contest, does not exceed total votes, by party, for each contest. We noted no discrepancies.
5. We have agreed the total number of voters, by county, on the state-wide summary canvass sheet to the total number of voters on each county summary canvass sheet. We noted no discrepancies.
6. We have agreed the total number of votes, by county, for each candidate, for each contest, on the state-wide summary canvass sheet to the total number of votes for each candidate on the county summary canvass sheet. We noted no discrepancies.
7. We have verified the mathematical calculations of the number of votes for each candidate on the state-wide summary canvass sheet. We noted no discrepancies.

The above discrepancies were corrected by either the county clerks or State Bureau of Elections personnel of the Secretary of State.

Other matters noted:

1. The county clerk of Los Alamos County did not report to the Secretary of State, the total votes in each precinct for each candidate by election day voters, by absentee voters who voted early in person, or by absentee voters who voted by absentee ballots by mail. (There are seventeen total Los Alamos County precincts.) Instead, only total votes for each candidate for the county (absentee early-in person, and absentee ballots by mail) were reported to the Secretary of State as one precinct.

In accordance with Section 1-6-10.2, NMSA 1978 Compilation, the county clerk shall report to the Secretary of State the total votes in each precinct for each candidate as follows:

- a. Vote totals by voters who vote in person on election day;
- b. Vote totals by absentee voters who vote early in person; and
- c. Vote totals by absentee voters who vote by absentee ballots by mail.

In accordance with Section 1-6-20, NMSA 1978 Compilation:

- a. the board of county commissioners shall adopt a resolution creating, for absentee voting purposes only, an absentee voter precinct for each county.
- b. Absentee voter precincts shall be identified by the name of the county.

There appears to be a conflict in statutory requirements between Section 1-6-10.2 and Section 1-6-20 relating to the reporting requirements for both absentee (early in person) and absentee (ballots by mail) imposed upon county clerks. Section 1-6-10.2 requires vote counts by precinct for each candidate, while Section 1-6-20 only requires vote counts by county for each candidate.

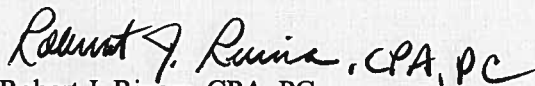
2. In accordance with the Laws 2008, Chapter 41, Section 1, an automatic recount of the vote is required when the canvass of returns for a federal or state office in a primary or general election indicates that the margin between the two candidates receiving the greatest number of votes for the office is less than one-half of one percent of the total votes cast for that office in that election.

There were no federal or state offices that required an automatic recount in accordance with Laws 2008, Chapter 41, Section 1.

* * * * *

We were not engaged to, and did not perform an examination, the objective of which would be the expression of an opinion on the accompanying assertions defined above. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

The report is intended solely for the use of the State of New Mexico, Secretary of State, and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.



Robert J. Rivera, CPA, PC

Santa Fe, New Mexico

June 21, 2010