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HOUSE JOINT MEMORIAL 20
49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY
James Roger Madalena

A JOINT MEMORIAL

RECALLING THE HISTORY OF VOTING RIGHTS ISSUES THAT NATIVE AMERICAN NATIONS, PUEBLOS AND TRIBES HAVE WEATHERED IN NEW MEXICO AND URGING COUNTY GOVERNMENTS TO ENSURE THAT THEY COMPLY WITH FEDERAL LAW REGARDING NATIVE AMERICAN VOTING RIGHTS.

WHEREAS, Native Americans across the United States were granted citizenship status on June 2, 1924; and

WHEREAS, even so, a Pueblo of Isleta veteran of World War II was denied the right to vote in state elections in 1948; and

WHEREAS, the case against the Pueblo of Isleta man was built on state language prohibiting "Indians not taxed" from voting; and

WHEREAS, in the case of *Trujillo v. Garvey*, the state district court held that Native Americans in New Mexico are allowed to vote despite the constitutional language of the

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1 time; and

2 WHEREAS, in 1953, legislators first attempted to change
3 the state constitution's language that excluded Native
4 Americans from the right to vote in state elections; and

5 WHEREAS, that constitutional change was not approved until
6 1967, nearly twenty years later, well after congress passed the
7 Voting Rights Act of 1965, by which racial discrimination in
8 voting was prohibited across the country; and

9 WHEREAS, the Voting Rights Act of 1965, signed by
10 President Lyndon B. Johnson, prohibited "denial or abridgment"
11 of the right to vote by, for example, turning eligible voters
12 away from the polls, charging a poll tax or requiring a
13 constitutional literacy test of minority voters; and

14 WHEREAS, the 1965 act follows the language of the
15 fifteenth amendment to the United States constitution, which
16 was adopted just after the Civil War and contains special
17 enforcement provisions targeted at those areas of the country
18 where congress believed the potential for discrimination was
19 greatest; and

20 WHEREAS, states with a history of racial discrimination in
21 voting were prohibited from making any change without the
22 approval of the attorney general or a District of Columbia
23 court, based on a judgment of whether the proposed change had a
24 discriminatory purpose or would have a discriminatory effect;
25 and

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1 WHEREAS, ultimately, several counties in New Mexico were
2 put under the same special enforcement provisions that were
3 applied to the south; and

4 WHEREAS, these special enforcement provisions allowed the
5 United States attorney general to send election monitors to
6 monitor state elections in counties with Native American
7 voters; and

8 WHEREAS, since 1975, various New Mexico counties have
9 remained within the federal monitoring system for Native
10 American voting rights violations; and

11 WHEREAS, for thirty-five of the forty-two years since
12 1967, when the state recognized the right of tribal members to
13 vote in state elections, New Mexico has been under the scrutiny
14 of the federal government for its violations of the Voting
15 Rights Act of 1965; and

16 WHEREAS, under the Voting Rights Act Amendments of 1982,
17 the counties of Sandoval, Bernalillo, Cibola, McKinley and
18 Socorro were identified for federal monitoring from July 1982
19 through 2004 for redistricting plans, precinct boundaries and
20 polling places in Indian country; and

21 WHEREAS, certain tribes and pueblos still face barriers to
22 voting from county commissions, which have continued to read
23 New Mexico law narrowly and to enforce agreements loosely; and

24 WHEREAS, contracts ending the monitoring in January 2009
25 require counties to make all phases of the election process

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1 accessible to the Native American populations;

2 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
3 STATE OF NEW MEXICO that county commissions and county
4 attorneys be urged to comply with the letter and spirit of the
5 monitoring agreements made with the federal government to
6 prevent discrimination and to make voting accessible to all of
7 the eligible two hundred thousand Native Americans living in
8 New Mexico; and

9 BE IT FURTHER RESOLVED that county governments recognize
10 the federal government's view that counties are still obligated
11 to prevent discrimination, even after monitoring is lifted; and

12 BE IT FURTHER RESOLVED that all county governments read
13 and understand the voting rights provisions of New Mexico law;
14 and

15 BE IT FURTHER RESOLVED that copies of this memorial be
16 transmitted to the leadership of all New Mexico tribes, nations
17 and pueblos; the governor; the secretary of Indian affairs; the
18 county attorney and county commission of every New Mexico
19 county; and the voting rights section of the civil rights
20 division of the department of justice.

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