

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

**November 10-11, 2005
Room 307, State Capitol
Santa Fe**

The fifth meeting of the election reform task force for the 2005 interim was called to order by Representative Edward C. Sandoval, co-chair, on Thursday, November 10, 2005, at 9:15 a.m. in room 307 of the State Capitol in Santa Fe.

Present

Sen. Linda M. Lopez, Co-Chair
Rep. Edward C. Sandoval, Co-Chair
Rep. Janice E. Arnold-Jones (11/10)
Sen. Dianna J. Duran
Rep. Mary Helen Garcia
Mary Herrera
Melinda Hughes
Leland Lehrman
Jim Noel
Sen. Gerald Ortiz y Pino
Charlotte Roybal
Karen P. Smyer
Mario Trujillo
Rebecca Vigil-Giron, Secretary of State
Claire Weiner

Absent

Joe Goldberg
Audrey Jaramillo
Mary Ann Sedillo

Advisory Members

Sen. Rod Adair
Rep. Kandy Cordova (11/10)
Sen. Dede Feldman
Rep. Ted Hobbs (11/10)
Denise Lamb (11/10)
Rep. James Roger Madalena (11/11)
Rep. Kathy A. McCoy
Rep. Debbie A. Rodella
J. Fred Vigil

Sen. Ben D. Altamirano
Rhoda Coakley
Rep. Justine Fox-Young
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. Mary Kay Papen
Sen. Michael S. Sanchez

Staff

Jon Boller
Evan Blackstone
Tim Crawford

Ramona Schmidt

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Thursday, November 10, and Friday, November 11

Federal Election Law Issues

Richard Delheim, an attorney with the civil rights division of the United States department of justice, explained how Section 203 of the federal Voting Rights Act applies to New Mexico, noting that throughout the state, ballots must be written in both English and Spanish, and that 11 counties are required to provide translators for various Native American languages, most of which are not written languages. He said that the purpose of Section 203 is to allow minority language groups to more fully participate in the election process, and that the civil rights division has worked closely with New Mexico over the years. Six counties have been or are currently working under federal consent decrees or letters of agreement that outline how those counties can ensure that the requirements of Section 203 are fulfilled, which include Bernalillo, Cibola, McKinley, San Juan, Sandoval and Socorro counties, he said.

Mr. Delheim also commented on the federal Help America Vote Act (HAVA) requirements for voting systems, noting that while the department of justice had issued a memorandum opinion on compliance as it pertains to disabled voters, an opinion had not been issued as it concerns Section 203 requirements. He said that voting systems for disabled voters do not have to be the same as those for nondisabled voters, as long as both systems allow the two groups the same opportunity for access and participation (the memorandum is in the meeting file). Asked when New Mexico must purchase the HAVA-compliant voting systems, Mr. Delheim replied that congress set the deadline for January 1, 2006, and that all states should be making their best effort at having the new systems in place by then.

Election Day Voter Registration

Matt Brix, executive director, common cause New Mexico, Ludovic Blain, associate director, democracy program, and Ashley Moore, secretary, university of New Mexico young Democrats, explained how election day registration would work. Also participating by phone was Jackie Gonzales, the Laramie county clerk in Wyoming, one of the states that has implemented election-day registration. Ms. Moore said students are often frustrated when they are unable to register right before an election, and that election-day registration would increase the turnout of young voters. Mr. Blain informed the committee that six states already have election-day registration and that it has several advantages, including increased voter participation, reduction in third-party registration agent problems, simplification of polling place procedures in that fewer people have to vote on provisional ballots and simplification of vote counting due to fewer provisional ballots being used. Ms. Gonzales explained how the system

works in Wyoming. A representative from the league of women voters said the organization is very supportive of removing barriers to voting, and that Wisconsin has had election-day registration since 1976. Members of the task force expressed concern about the possibility of fraud, and asked the presenters to send the task force a white paper on how to prevent fraud. Asked if any states have abandoned election-day registration, Mr. Blain said that Ohio and Oregon have done so. Senator Adair cited an audit of Wisconsin's election process that indicated that approximately 1,800 out of 45,000 cards were returned as undeliverable following the election, which may mean that many people registering to vote on election day were not using valid addresses. Senator Lopez suggested that the proponents do an analysis of the Wisconsin system so that the legislature could properly evaluate the pros and cons of the system. Several members of the task force expressed support for the idea of election-day registration and suggested that if the legislature could not get to the issue during the upcoming short legislative session, the task force should look carefully at the issue next interim.

Legislative Proposals

Jon Boller and Evan Blackstone, task force staffers, presented the task force with a list and drafts of possible amendments to the Election Code that were based on task force discussions over the interim. Representative Sandoval and Senator Lopez asked that those amendments that deal with potential problems that need to be addressed before the 2006 election be considered first. The task force acted on those 13 issues and left 10 issues to be discussed during the December meeting. The following is a list of the amendments endorsed by the task force. Unless otherwise indicated, these amendments were adopted without objection by the members of the task force.

PROVISIONS OF THE CLEAN-UP BILL APPROVED AT THE NOVEMBER MEETING

- 1) Require the secretary of state to mail voter identification cards to all registered voters between 60 and 75 days before the general election. (Section 1-11-12.1 NMSA 1978)
- 2) Allow for separate precinct board training manuals or sections of the standard manual for the different voting systems used in each county and eliminate references to canvassing. (Section 1-2-4 NMSA 1978)
- 3) Strike "voter identification card" from Section 1-4-5.1 NMSA 1978.
- 4) Extend to state law federal HAVA exemption from ID requirements for first-time registrants by mail who are disabled or overseas military. (Section 1-6-4 NMSA 1978)
- 5) Remove provision in Subsection G allowing electronic transmission of absentee ballots. (Section 1-6-5 NMSA 1978)
- 6) Repeal provisions allowing absentee mail ballots to be delivered on election day to the voter's precinct and clarify hours that absent voter precinct polling place may be open. (Sections 1-6-

10, 1-6-14, 1-6-23 and 1-12-8.2 NMSA 1978) (By a vote of 9 to 6)

7) Remove "recheck" from Section 1-14-22 NMSA 1978.

8) Have an appeal of county clerk decisions to not count a provisional ballot go to the secretary of state and notify voter how to appeal that decision. (Section 1-12-25.2 NMSA 1978) (By a vote of 12 to 3)

9) Require a county clerk to supply the district attorney and secretary of state with the names and registration receipt numbers for voters who came to vote with their registration receipts but whose certificates of registration were not found. (Section 1-12-8.1 NMSA 1978)

10) Allow voting systems used to meet disability and language access requirements of HAVA to use audio confirmation of the voter's ballot choices, extend deadline for purchase of new voting systems until 2007 and treat the voter verifiable and auditable paper trail as if it were a ballot. (Section 1-9-7.1 NMSA 1978)

11) Repeal provisions on absentee ballot application distribution and collection by third parties. (Section 1-6-4.3 NMSA 1978) (By a vote of 13 to 2)

12) Support appropriation for new staff positions in the bureau of elections and a special appropriation for implementation of provisions of Laws 2005, Chapter 270. (By a vote of 13 to 2)

The committee adjourned at 1:00 p.m. on Friday, November 11.