

(Amended)

Minutes

State Board of Elections Meeting

State Capitol, Pierre

August 25, 2004

The meeting was called to order by chair Chris Nelson at 8:30a.m.on August 25, 2004 with the following members responding:

Present

Absent

Chris Nelson

Gail Brock

Beth Benning

Carol Klumper

Linda Lea Viken

Karen Layher

Richard Casey

Kea Warne, Election Supervisor, Secretary of State's staff; Jennifer Jacobson, HAVA Coordinator; Chad Heinrich, Deputy Secretary of State; Sue Roust, Minnehaha County Auditor; Karen Doerr, Potter County Auditor; Patty McGee, Sully County Auditor; Julie Pearson, Pennington County Auditor; Dwight Neuharth, SD County Officials; Robert Kean, SD Advocacy Services; Marilyn Teske, Stanley County Democrats; Bill Lynch, ASBSD; Shellie Baker, Hughes County Auditor; Bret Healy, Four Directions Committee; Monica Drapeau, Native American Voter Project; Judy Olson Duhamel, SD Democratic Party; Jason Schulte, SD Democratic Party; Sherri Sundem Wald, Office of Attorney General; Connie Konrad, Hyde County Auditor; Dixie Tomac, City Council Box Elder; Tom Katus, NPTVEP/REI; Barry LeBeau, United Sioux Tribes; Kim Morin, Native Voters Project; Vivian E. Smith, NA Voters Project; Lisa Skye, Daschle Campaign; Gwen Herman, Rosebud Sioux Tribe; Kara Cody, Senator Tom Daschle; Willard Bryan, Native Voters Project; Jim, Native Voters Project; Chip Gunnille, Native Voters Project.

Moved by Brock and seconded to approve the minutes of the March 26, 2004 meeting. Passed.

Review of the opt out certifications submitted by Marshall, Roberts, Grant, Tripp and Codington county auditors pursuant to SDCL 12-3-12. Nelson suggested reviewing this requirement in state law because this is superseded by federal law.

A rules hearing was declared open.

Written comments submitted by Charles Colombe, President, Rosebud Sioux Tribe; Tracy Warren; James D. Leach, Attorney representing Senator Tom Daschle and Jennifer Ring, Executive Director ACLU of the Dakotas.

Moved by Viken and seconded to approve the changes to ARSD 5:02:04:08 which remove the requirement of including a facsimile ballot in the first notice of municipal election, so that this rule is consistent with statute that requires this to be published the week prior to the election. Passed

Moved by Viken and seconded to change ARSD 5:02:05:22 by incorporating suggestions from Jim Leach's written testimony. The suggestions were to have the voter's affirmation for a Provisional Ballot to be in this format:

My name is:ÂÂÂÂÂÂÂÂÂÂÂÂÂÂÂÂÂÂ_____ . I live at:_____.

My mailing address is: _____.

I can be called day and night at these telephone or message numbers:_____.

I registered to vote in approximately (write in approximate year)_____ at or with (write in person or location)_____.

I understand that if the election authority determines that I am not eligible to vote in this precinct, my vote will not be counted. I understand that my vote may not be secret if only one provisional ballot is cast in the precinct. I affirm under penalty of perjury that this information is correct to the best of my knowledge.

Signature of Voter

Date

To be completed by a precinct election worker:

Precinct number _____ Type of ballot provided to voter _____

Signature of precinct worker

Motion Failed. This will be addressed at the next board of elections rules hearing.

Moved by Viken and seconded to promulgate ARSD 5:02:05:26 for the mandatory posting of a voter identification sign in 36 point type or larger, to be posted on all entrances of a polling place and one posted inside for every precinct in a polling place. The wording for this poster is as follows:

Please Read

To Vote, you must either:

- § Present a photo ID, or if not able to do so,
- § Sign an affidavit which will be given to you.

Accepted forms of photo identification include any one of the following:

- § A SD driver license or nondriver ID card; or
- § A US government photo ID; or
- § A tribal photo ID; or
- § A photo ID from a SD high school or SD accredited institution of higher education.

Passed.

Moved by Viken and seconded to accept proposed changes to ARSD 5:02:06:01.02. Passed.

Moved by Layher and seconded to accept proposed changes to ARSD 5:02:06:16 and remove the words "in front of" and inserting "next to" in the instructions to the voter. Passed.

Moved by Viken and seconded to change ARSD 5:02:09:16 by changing the recapitulation sheet to contain certain required information. Passed.

Moved by Casey and seconded to approve the changes as proposed to ARSD 5:02:10:04 to allow the auditor to insert their own statement whether or how many times the ballot should be folded; emphasize to the voter to sign the back of the return envelope and set a delayed implementation date of January 1, 2005. Passed.

Moved by Brock and seconded to make changes to ARSD 5:02:16:39 by adding this paper seal requirement to optical scan ballot counties. Passed.

Moved by Viken and seconded to repeal ARSD 5:02:17:04 and ARSD 05:02:17:05. Passed.

12:00 pm Rules hearing ended.

Moved by Viken and seconded to postpone the updated HAVA State Plan discussion to the next meeting. Passed.

Discussion regarding legislative topics for the next Board of Elections meeting.

Dixie Tomac, Box Elder City Council, requested a change in statute to give individuals another option to contest an election without having to hire their own attorney.

Tom Katus, NPTVEP/REI, requested the repeal of the voter id requirement; amend HAVA state plan to include grants for non-partisan groups; wants the affidavit option to be stressed on voter key flow chart; include Native Americans in election training at auditor workshops and give more notice for the open meeting when changing the state plan.

Julie Pearson, Pennington County Auditor, would like the term "absentee voter" to be changed to a different term now that we don't require a reason to vote absentee.

Judy Olson Duhamel, SD Democratic Party, suggested that we concentrate on maintaining uniformity in the election process.

Patty McGee, Sully County Auditor, would like pollworkers to be residents of the county not just a particular precinct. (SDCL 12-15-2)

Linda Lea Viken, Board of Elections, suggested amending the statute where party central committee sends a list to the county auditor for precinct workers because there are counties that may not have a party county central committee. (SDCL 12-15-3); look into the procedures that other states have adopted to count provisional ballots that are cast in the wrong precinct; and consider making county auditor workshops and training sessions mandatory.

Moved by Brock and seconded to adjourn at 1:15.

Adjourned.

Chris Nelson, Secretary of State

Kea Warne, Recorder