

When You Vote – Vote in ALL Elections

By Felix Briones, Jr., Chair

New Mexico Judicial Performance Evaluation Commission

Whether you decide to vote early or go to the polls November 2, if you really want to do your civic duty you will vote in ALL elections for which you are eligible to cast a ballot.

This year, your ballot will include two statewide judicial retention elections. Richard C. Bosson will stand for retention as a Justice of the New Mexico Supreme Court and Roderick T. Kennedy will stand for retention as a Judge of the New Mexico Court of Appeals.

To stand for retention, both judges previously won a partisan election. (Because both judges previously won a partisan election, they are qualified to stand for retention. Is that what you are trying to say?) Under the New Mexico Constitution, they must receive at least 57 percent voter approval in the coming election to remain on the bench. This constitutional amendment was enacted in 1988 to allow the state's voters to retain experienced judges who perform their duties satisfactorily, rather than forcing them to run in partisan elections every few years and thus politicizing their positions.

In 1997, the New Mexico Judicial Performance Evaluation Commission (NMJPEC) was created to provide voters with useful, credible information on the performance of judges standing for retention election. This information is provided so that voters can make an informed decision on whether to keep sitting judges.

This year, we will release an evaluation on one of the candidates, Roderick T. Kennedy. To ensure fair and accurate reporting, our rules require that a judge must be on the bench for a minimum of two years prior to an evaluation. Consequently, we will not evaluate Richard C. Bosson because he has only been on the bench since December 2002.

So, just how does the NMJPEC go about evaluating a sitting judge's performance? We do not believe in forming an opinion strictly on the way a judge decides specific cases, because these opinions are ultimately subject to review by the state's appellate courts. Instead, we believe in evaluating a judge based on his or her *overall* performance, including fairness; legal ability; communication skills; and preparation, attentiveness, temperament and control over courtroom proceedings. Taken together, we believe these aspects provide a more balanced view of how or a judge is performing in all areas of his or her job.

We gather this type of information by working with an independent market research firm to survey the people who actually come in contact with the judge, including law enforcement officers, probation officers, psychologists, citizens' review boards, social workers, law professors, Court Appointed Special Advocates, interpreters, jurors, court staff, attorneys with direct experience and fellow judges. For Court of Appeals judges and Supreme Court justices, we also survey trial court judges whose cases have been appealed.

This information is carefully reviewed and compiled, along with the judge's self-assessment of his or her performance. We then interview the judge in person and present our draft assessment in order to give the judge the opportunity to respond to our recommendation. We issue four types of recommendations: retain, do not retain, no opinion (not enough information available) or no recommendation available (judge does not qualify for an evaluation).

This year, we will make our evaluation public on September 17, 2004, to allow voter access to that information via the Internet (www.nmjpec.org), by phone at (505) 827-4960 or by requesting that their local newspaper run the evaluation.

Henry Wadsworth Longfellow (1807-1882) said, "We judge ourselves by what we feel capable of doing, while others judge us by what we have already done." I hope all New Mexico voters will take as much time as they can to learn as much as they can about every candidate running in an election, whether a judge or another official, whether running in a retention or a partisan race.

It is only through educating ourselves and voting in ALL races on the ballot that we can ensure we get the type of government and judiciary we need – and deserve.

Felix Briones, Jr. is a Farmington, NM attorney and chair of the New Mexico Judicial Performance Evaluation Commission, a nonprofit volunteer organization dedicated to improving the performance of sitting judges and providing useful, credible information on judges standing for retention to voters prior to each general election.