

# Governor's Commission on Strengthening Utah's Democracy

Cedar Breaks Conference Room, Sharwan Smith Student Building,  
Southern Utah University, Cedar City UT

## AGENDA

*Friday, July 31, 2009  
3:00 –6:00 pm*

**Commission Members Present:** Acting-Chair Kirk Jowers, Representative Rebecca Chavez-Houck, Dan Jones, Dick Richards, Doug Wright, Ken Verdoia, Dee Rowland, Senator Scott Jenkins, Randy Dryer, LaVarr Webb, Representative Craig Frank

**Commission Members Excused:** Frank Pignanelli, Steve Starks, Senator Scott McCoy, Dave Hansen, Bruce Hough, Tom Love, Meghan Holbrook, Yvette D. Donosso

**Commission Staff Present:** Taylor Morgan, Jordan Imani

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1. **Welcome** (3:00 – 3:05pm)
  - A. Acting Chair Jowers welcomed members of the Commission and all those in attendance. Mr. Jowers expressed a special welcome to Student Body Presidents of Utah colleges and universities in attendance.
  
2. **Commission Business** (3:05 – 3:15 pm)
  - A. Approval of Minutes – June 18<sup>th</sup> Meeting. Motion to approve made by Senator Scott Jenkins, seconded by Representative Chavez-Houck and Randy Dryer. Motion approved unanimously.
  - B. Acting Chair Jowers moved to formally name Dee Rowland as a member of the Commission. The motion was seconded by Randy Dryer and approved unanimously.
  
3. **Elections in Utah - Governor Olene Walker** (3:15-4:10 pm)
  - A. Presentation by Governor Walker on Elections in Utah
    - i. Acting Chair Jowers thanked Governor Walker for her attendance and willingness to present to the Commission.
      1. Governor Walker thanked the Commission and expressed her pleasure at attendance. She asked that the

Commissioners take the responsibility to produce recommendations seriously.

2. Governor Walker stated that she is looking for action and not merely meetings.
  - ii. The motor voter law passed shortly after Governor Walker was elected as Lt. Governor. The motor voter law placed a great responsibility on elected officials for voter registration. One of the top issues was to keep the election office non partisan, because they should facilitate information to citizens, candidates running, etc.
  - iii. Governor Walker discussed technology programs and databases such as the Help America Vote Act (HAVA law).
  - iv. Utah spent \$600,000 to \$700,000 on our voter database, instead of 4-5 million like other states, such as Wyoming, whom spent five million dollars on a voting machine for a small population.
  - v. Utah has a great record of lack of voter fraud.
  - vi. Over the 25 years in politics, Governor Walker often defended having the elections office as part of the LT. Governor's office. There was little activity in the election office, with a great effort to make it partisan. She was dismayed at the millions of dollars spent by states on developing voter databases, despite the lack of fraud. She wants citizens to be confident that their votes count, but pouring money into databases may not be necessary.
    1. Governor Walker was concerned about maintaining the system of voting machines, etc. Are counties on their own, or will the state help maintain and improve system?
  - vii. Governor Walker expressed that Utah needs an election committee to A) Handle grievances, B) Establish ethics in election laws, and C) Place limits on contributions to elections.
  - viii. She believes that it is becoming more impossible for middle class citizens to run because of the cost of running and winning.
    1. She is concerned by only two categories: the independently wealthy and the significant name recognition among the independently wealthy.
    2. She is amazed at how few people actually use reports, and follow through. Utah has no control; fewer people make decisions with big money.

#### B. Questions and Answers with Commissioners

- i. Commissioner Dan Jones asked if Utah could work without voter registration, like North Dakota does. He asked if this would really prohibit fraud.
  1. Governor Walker responded that citizens should keep their registration, if just to show to election offices. Sign ballot; state and federal offices should be counting.

- ii. Commissioner Dick Richards asked if Governor Walker thought that the responsibility for registration should lie with the counties.
  - 1. Governor Walker responded that the states involvement in voter registration has helped smaller counties, and that the counties should be responsible for validating names.
    - a. Commissioner Dick Richards clarified that counties should be responsible for validating county names.
  - 2. Governor Walker responded that yes, counties should take charge for inputting accurate names into databases. Social Security and motor voter are good resources in validating and matching names - not perfect, but effective.
- iii. Commissioner Randy Dryer stated that he believes that the challenge will be to get the powers that be to act on Commission's recommendations, and asked Governor Walker to help persuade decision-makers.
- iv. Commissioner Dryer asked about electronic filing. Since Utah's system is voluntary, he asked if the commission should recommend mandatory electronic candidate filing. He asked Governor Walker if she thinks this makes sense or if it imposes too great of a burden to file reports electronically.
  - 1. Governor Walker responded that 20 candidates were disqualified from office during her 10 years in office. Judges all ruled that disqualification was too harsh.
    - a. Commissioner Dryer stated that this is mandatory filing, but not mandatory electronic filing. He asked if electronic filing would be too burdensome.
      - i. Governor Walker answered that this makes filing easier, but not everyone can deal with the internet. She said to look and see how many are not filing electronically now. At some point, she thinks that it should be done.
- v. Commissioner Dryer asked if Utah should require last minute filing of significant campaign donations, such as \$500 or above.
  - 1. Governor Walker thinks that this should be required.
- vi. Commissioner Dryer asked if groups who sponsor issue ads or pay for commercials supporting or opposing a specific candidate should be required to disclose contributions.
  - 1. Governor Walker responded that yes, they should. She stated that New Jersey ads were terrible, and we should know who is paying for what advertisement.
- vii. Commissioner Dryer asked if Governor Walker had a figure in mind that would address concerns over limits and also free speech issues.
  - 1. Governor Walker responded that \$2,400, the current federal limit, is reasonable. She stated that her greater concern is

corporations giving unlimited funds. Also, she would limit corporations to \$3,000 max, off the top of her head.

viii. Acting Chair Kirk Jowers followed up on Randy Dryer's questions, asking if Governor Walker would allow all organizations to give within one limit, or if she would limit corporations and labor unions individually or exclusively.

1. Governor Walker responded that she didn't want to make it too burdensome for candidates, but if we are to contain costs, we should place limits on PACs, labor unions, corporations, and all entities; not to create difficulty for candidates, but to limit the cost of campaigns. She stated that we may need to look at Utah's system of holding elections- caucus, convention, primary, then general is very expensive. She was not sure how broad the mandate is, but stated that we may want to look at the caucus convention system. More money is being spent on this process than on actual elections, therefore narrowing options to very few before the public has the opportunity to get involved.

a. Commissioner Ken Verdoia asked if she was saying that we might be better served by using a primary instead of the caucus/convention system.

i. Governor Walker stated that she is hinting that way. She continued to say that each year certain people are elected year after year because they are willing to spend all day at a convention when important decisions are made. The average citizen is not involved in the conventions. She stated that she has never seen a study, but can tell from going for over 25 years that get you know people pretty well, most of them are the same and that's a negative. She believes that one reason that we have fewer people involved is that it allows the non-wealthy to be involved in some local races and legislative races. This provides a network for messages instead of just money and names.

1. Senator Scott Jenkins stated that in his first election, he had to run in a primary. He had a neighbor who he called and she said that she only votes in presidential elections. Senator Jenkins told her that he needed her vote this time to even get to the

general election. He noted that the public sometimes does not take their right to go out and vote in primaries.

- a. Governor Walker responded that she hates the conventions because it turns rational people into extremists. She wishes that they could be meaningful instead of just going for politically motivated red meat. She believes that there is a better way to do it.
- b. Commissioner Doug Wright asked if there is a disadvantage where people assume that the conventions are the same old refinery, same old mill workers, no one can make a difference. He said that he holds caucus meetings in his home, and could tell exactly who will come, stating that it is the same old familiarity and faces that may cause people to become disengaged.
  - i. Governor Walker responded that she won because she started July 25 and went door to door. She continued that kids and kids' friends would go door to door, door to door is disappearing, and this tends to go with giving trinkets etc.

4. **Presentations by Advocacy Organizations** (4:10-4:40 pm)

- A. Presentation by Marina Lowe, ACLU
  - i. Marina Lowe expressed her pleasure and honor to be presenting before the Commission. She stated that she would focus her remarks on the right of voting and disengagement among voters in Utah.

- ii. Ms. Lowe expressed her view that it is very important to ensure that there are not restrictions placed on voting because it is a right, not a privilege, and the right is protected by numerous amendments. She argued that the history of our nations shows a move to increase access to everyone by increasing the ability to vote rather than limiting the ability to vote.
- iii. Ms. Lowe described how there have always been certain tactics in place to limit access to polls for certain people, such as partisan or other reasons. An example is the 8-box rule used in South Carolina. This is where there is a separate box for each office, and the poll workers would mix up the boxes throughout the day. Voters had to prepare everything and find the right box themselves. This tactic constituted a literacy test and discouraged people from voting.
- iv. Ms. Lowe stated that in 1876, voter turnout rates dropped from 70% to 35%. Literacy tests and property tests were widespread in the south, and secret ballots are also a form of literacy test.
- v. Ms. Lowe stated that Utah has one of the lowest turnout rates in the nation. Recent legislation has served to further inhibit voting, such as HB 126, which is designed to prove one's identity at the polls. A similar law passed in Indiana and was upheld by the Supreme Court last year. Voter ID requires voters to present some form of ID at the poll. There has been no evidence of fraud, but nonetheless, Indiana and Utah felt it necessary to place this hurdle in front of voters. It doesn't seem like much to show ID, but there are some groups of people for which it is a burden.
- vi. Ms. Lowe then discussed non-citizen voting, stating that there is no evidence of this, and most county clerks have indicated that it is not a problem. She stated that passing this bill would require additional limits on access to voting. Arizona adopted a similar law in 2005 and in 2006-2008, 38,000 applications were rejected, and there were only 20 instances of non-citizen voting. Utah law already addresses the citizen issue with affidavit and perjury penalties in place.

**B. Presentation by Andrew Jensen, Utah Student Association**

- i. Andrew Jensen thanked the commission for the honor of presenting.
- ii. Mr. Jensen explained that the "youth" vote in Utah is low, though the student vote is higher, but still low.
- iii. Mr. Jensen discussed the proliferation of early voting stations. He stated that Mark Thomas of the Lt. Governor's office declared that 40% of voters used early voting stations or absentee ballots. This is significant on numerous college and university campuses. Over 7,000 turned out to vote at the University of Utah's early location, with 70% being students, as well as significant numbers at other schools.

- iv. Mr. Jensen expressed his interest in online voter registration, but thinks that the 30 day deadline is concerning. He stated that there is no difference between the online form and the mail in form, as he has checked at the county clerk's office.
- v. Mr. Jensen asked that the law be changed to allow online voter registration at the 15-day mark to match the in-office deadline instead of the 30 day mail-in deadline. He explained that students' are a very mobile population; studies show that mobile populations benefit from deadlines that are closer to Election Day, as there is more excitement closer to Election Day.
- vi. Mr. Jensen continued, as coverage increases, more mobile voters want to vote. He stated that he recognizes the concerns of fraud or registration inaccuracies. Early voting stations are good because it allows for the continuation of enthusiasm to vote, with plenty of access for mobile students and young people to get out and vote. It is easier to count votes if there is more time to count votes.

**C. Questions and Answers with Commissioners**

- i. Representative Craig Frank explained that he spent one week in Philadelphia at the National Conference of State Legislatures (NCSL). At the meeting he was assigned to the elections committee. One of the things that came up, extensively, was early voting in Salt Lake County.
- ii. Representative Frank expressed concern over the cost - \$50.00 per voter, for early voting stations in primary elections. Mr. Frank supplied information to the Commission afterwards that showed how voters were utilizing early voting stations for the general election, but not nearly as much during primary elections.
- iii. Representative Chavez-Houck stated that young people are very interested in voting close to Election Day, but have often missed the voter registration deadline. She asked if there is there an increased number of participation when same day registration is in place.
  - 1. Commissioner Dan Jones replied that same day registration does increase turnout among young people, with no evidence of fraud.
    - a. Acting Chair Jowers stated that 7 states allow same day registration, and 33 states allow 16 days or more before.
      - i. Mr. Jensen responded that young voters vote at higher rates with same day registration.
- iv. Acting Chair Jowers asked if same day registration would require some form of identification, and asked what the issues with poll workers would be.
  - 1. Ms. Lowe replied that citizens must show some ID during their first time to register to vote. If registering for the first

time that day, it would be acceptable to show identification that day. This would also reduce provisional ballots.

- v. Commissioner Verdoia believes there will be practical consequences as we make strides in strengthening democracy in Utah. Increased voter turnout will place new demands on polling places and workers. If we are unprepared, we run the risk of lengthy lines and voter frustration on Election Day. Every step that encourages more voting participation needs to be matched with a practical step to handle and process the vote.
- vi. Governor Walker asked if there is a method of inputting those registrations at the polling place. She would assume that most would have access to verify, which would save a lot of time and effort. Further, she stated that if all polling places have access to do so, this would help the system.
  1. Marina Lowe stated that she took officials to Wyoming to witness first hand same day registration. She stated that she did not find answers, but there are solutions and states that have been operating with that system in place.
- vii. Senator Jenkins asked Governor Walker about the verification process, specifically how lengthy validation could be.
  1. Governor Walker replied, saying that part of the validity of registration is ensuring that name is associated with address. She stated that the most common method is motor voter or human services. Further, the Motor Voter database has issues because not everyone has a driver's license. The Social Security tactic is better, but none is perfect. 99% is very short.
- viii. Senator Jenkins asked how disruptive validation is to same day registration.
  1. Andrew Jensen responded, saying that immediate match is possible, but electronic registration is not possible unless records match up perfectly.
  2. Governor Walker noted that the problem would be solved by a provisional ballot.
  3. Senator Jenkins stated that we must divide between those we can verify and those we cannot.

5. *Break (4:56-5:00 pm)*



6. **“Elections” Sub-Topic Presentation and Discussion** (4:30-5:15 pm)

- A. Presentation by Douglas Larson, Commission Attorney
- i. Mr. Larson began by giving credit to Melissa Clark for conducting research and preparing the memo on military voting.
  - ii. He stated that there was a draft recommendation by Acting Chair Jowers, sent out to everyone by Matt Sanderson, on military voting.
  - iii. Mr. Larson described how Utah sends out requests for overseas voting to military men and women 30 days before they have to send in a request for an absentee ballot. They must immediately send in the absentee ballot if they will not be given a ballot in time for their vote to count. Essentially, Utah needs to add 18 days to this process, and can send these earlier or accept them later.
    1. Governor Walker responded, stating that we tried doing this electronically, but it was all federal. She said that they found that the ballots could be intercepted by hackers. After three years, the federal study was stopped. This made things more difficult for Utah.
      - a. Mr. Larson responded, the GAO 2007 report concluded that the technology not yet sufficient for overseas voting.
  - iv. Mr. Larson continued, explaining how Utah may streamline by allowing forms to be accessible online so that military men and women may retrieve the form online, and then mail it in. Utah may also place absentee ballots online, further streamlining the process.
  - v. Acting Chair Jowers stated that Utah was one of 15 states that do not allow overseas military personnel to access registration.
    1. Mr. Larson moved to correct this by making the deadline 21 days, placing us in mainstream, or by moving the days before election to 31 or some other date.
    2. Representative Chavez-Houck asked how this effects their involvement in the primary election
      - a. Doug Larson responded, if we change this to 31 days.
  - vi. Commissioner Webb expressed his support for this, but asked if anyone has spoken to county clerks. Further, asking if other dates or logistical issues need to be addressed to facilitate this change.
    1. Mr. Larson responded that if absentee ballots were sent out earlier, it wouldn't affect the change. The deadline on time ballots are sent.
    2. Commissioner Dryer asked if ballots are sent earlier, would it effect last minute ballot changes.
      - a. Commissioner Webb stated the same concern as Commissioner Dryer, but asked if we are giving the county clerks enough time?

- b. Commissioner Dryer stated that if we need to make corresponding adjustment, we will make adjustment accordingly.
- c. Senator Jenkins stated that he believes this is sufficient.
  - i. Mr. Larson added that you can also accept ballots one day later. They are currently being accepted 14 days later, and we could change that to 15.
  - ii. Representative Frank stated that because of the timing, it would be better to do now instead of waiting until November. This way, we can actually address this now instead of waiting for the governor's office to forward to the legislature. He stated that this is already scheduled for an interim item during the agenda.
- vii. Commissioner Dryer moved to adopt this recommendation – official motion made by Commissioner Randy Dreyer, to move to 31 days with facilitating legislation, seconded by Dee Rowland. As the Commission requires a roll-call vote to pass recommendations, Commissioner Dryer asked that all Commissioners have the opportunity to vote via phone or email in the coming weeks. The Commission votes as follows:
  - 1. Acting Chair Kirk Jowers: Yea
  - 2. Commissioner Yvette D. Donosso: Absent
  - 3. Commissioner Randy Dryer: Yea
  - 4. Representative Craig Frank: Yea
  - 5. Representative Rebecca Chavez-Houck: Yea
  - 6. Commissioner Dave Hansen: Absent
  - 7. Commissioner Meghan Holbrook: (Commissioner Holbrook sent the following via email message: “Of the action points: these are some of the concerns that I have: 1 is already in place, 2 is detrimental, 3 would probably need review by election officers to make sure that it is doable/ and secure. Utah already allows for absentee ballots to be sent electronically. Could we expand it to include other processes? Scanned forms, email? 20 day to 31 day allows military voters less, not more time to get their requests as proposed. What prevents those who need the full time allotment from making their request at an earlier date? Don’t many Utah counties have permanent absentee voting? Notice that the deadline may not applicable to everyone is a good thing. Blank ballots may be a security issue. If it’s

not, then this part of the resolution may be a good idea, and should be made available to ALL absentee voters, not just the military.”

8. Commissioner Bruce Hough: Absent
  9. Senator Scott Jenkins: Yea
  10. Senator Scott McCoy: Yea
  11. Commissioner Dan Jones: Yea
  12. Commissioner Tom Love: Yea
  13. Commissioner Frank Pignanelli: Absent
  14. Commissioner Dick Richards: Yea
  15. Commissioner Steve Starks: Absent
  16. Commissioner Ken Verdoia: Yea
  17. Commissioner LaVarr Webb: Yea
  18. Commissioner Dee Rowland: Yea
  19. Commissioner Doug Wright: Yea
- viii. Following the roll-call vote, Mr. Larson continued his presentation by discussing the issue of straight-ticket balloting.
1. Today, 15 states allow straight ticket voting. 1 state allows straight ticket voting but only in primaries. 6 states have abolished straight party voting since 1994. Now only 15 states allowing straight ticket voting. He added that there are pros and cons on both sides. In Utah you can vote straight ticket and still scratch for individuals.
    - a. Commissioner Webb stated that this cuts evenly across both parties. Republican's and Democrat's both vote straight ticket. Adding that in 2008 more democrats voted straight ticket.
      - i. Commissioner Rowland asked if there is there any research that straight party inhibits or promotes participation.
        1. Mr. Larson answered, none. He stated that this does not prohibit or encourage, but it can make voting more confusing at the ballot box.
      - ii. Representative Chavez-Houck asked if there were any studies showing that unaffiliated voters are affected by straight party voting.
        1. Mr. Larson responded yes. He stated that it is well recognized that losers are 3rd party candidates and propositions that are non partisan. He stated that people will vote straight ticket but will then not vote for non partisan issues.

- b. Commissioner Doug Wright why the six states abolished straight-ticket voting.
  - i. Mr. Larson stated that some states were politically motivated, as in Georgia. Democrats wanted it, but Republican's didn't. He said that in other states it depends on number of voters in each party that vote straight ticket may create a political issue. In Illinois, the republican legislature didn't want straight ticket based on more democrats voting straight ticket than Republicans. In Utah, research shows that it "flip-flops" between parties, so it's basically a wash.
2. Commissioner Doug Wright stated that he was weighing against the mandate. Adding that he has never liked straight ticket voting, that there is something holy about considering people's names on an individual basis.
  - a. Doug Larson replied that straight ticket voting proponents argue that the exercise of voting for a party may be important as they are central to the election process. IN caucus states, like Utah, the parties play a major role in elections. It seems consistent with those types of states.
3. Senator Jenkins asked how anyone can say that an initiative failed because of straight ticket voting.
  - a. Commissioner Dan Jones replied, yes. A lot of people vote straight ticket, but not on initiatives or judges because they don't go on down.
    - i. Commissioner Ken Verdoia stated that some people go in and vote straight ticket, and then leave immediately.
    - ii. Commissioner LaVarr Webb added that many people simply don't vote for judges or initiatives, even after voting for individuals.
      1. Doug Larson responded that this is not definitively concluded by correlation.
    - iii. Representative Chavez-Houck stated that this tied to party politics. She asked if there are more unaffiliated formally than affiliated with either party, and how they are affected.
      1. Mr. Larson replied, people still have the option to vote straight ticket, and then go down and vote for a 3rd party
      - 2.

7. **Public Comment** (5:15 – 6:00 pm)

- A. Martin Houck, a member of the public in attendance, asked for Governor Walker's view on straight ticket voting.
  - i. Governor Walker responded that she thinks it has already been expressed well. She stated that ideally, a state would not use it, but it's become a tradition to have. She would be upset if there were no crossover allowed, but it is. She stated that there are many other issues she is more concerned with.
- B. Kina Wild with Iron County Today asked what the major reasons are as to why voter participation is so low.
  - i. Acting Chair Jowers replied that Utah has some obvious disadvantages, such as being the youngest state, because younger voters are less likely to vote. He also acknowledged concern over a lack of competitive elections, and the impact that can have on voter turnout. He stated, however, that Governor Huntsman has tasked the Commission with presenting recommendations regarding reforms on elections, campaign finance, lobbying laws that could improve voter turnout and civic participation. It is true, he stated, that there are motivated people who will always vote, but our mission is to look at areas where we can strengthen participation by all voters. Where is Utah an outlier in these areas of the law and to what effect? Matt Sanderson and I created a document, found on the Commission website, that tries to not make any subjective conclusions, but rather to point out how Utah's specific laws were outliers or in the mainstream.
    - 1. Doug Larson added that another challenge is that some of these challenges have always been a part of Utah's landscape, and asked why Utah has gone from high turnout to low turnout.
    - 2. Commissioner Dan Jones responded that those races were very competitive. Today's races are much less competitive, and races must be competitive.
  - ii. Senator Jenkins stated that the tougher the laws get, the more difficult it is to participate.
    - 1. Randy Dryer noted that he intends to put together a proposal on campaign finance.
      - a. Commissioner LaVarr Webb asked Mr. Dreyer if he will address party expenditures.
        - i. Commissioner Dryer responded yes, he will.
  - iii. Commissioner Dick Richards noted that most voters don't have much confidence in the legislature. All are geared toward the fact that they don't trust the legislature.
- C. Doug Larson added that students, because of the work you're doing, are starting some mock election programs in high schools in rural high

schools - poll worker program to train younger poll workers for early voting stations. Trained by county clerks in various counties to reach out across Southern Utah. Thank you for your work as you are inspiring students at SUU.

- i. Commissioner LaVarr Webb added that we should also think about education so we have more informed voters. He stated that we need to not just make it easy to vote but to increase voter education.

## 8. **Conclusion**

- A. Next Meeting – August 20, 2009 (If necessary, TBA)
  - i. Acting Chair Jowers asked the commission whether to adjourn or hold the august meeting.
    1. Commissioner Dryer stated that his proposal won't be ready.
    2. Commissioner Doug Wright noted that he also had conflict that day.
    3. No meeting on August 20th due to suspect quorum.
- B. Following Meeting – Thursday, September 10, 2009. Utah State Capitol Building. *Note – coincides with Dialogue on Democracy*