

**HEARING—ELECTION ADMINISTRATION:
EXAMINING HOW EARLY AND ABSENTEE
VOTING CAN BENEFIT CITIZENS
AND ADMINISTRATORS**

WEDNESDAY, JUNE 25, 2014

UNITED STATES SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC.

The committee met, pursuant to notice, at 2:00 p.m., in Room SR-301, Russell Senate Office Building, Hon. John Walsh, presiding.

Present: Senator Walsh.

Staff Present: Kelly Fado, Staff Director; Stacy Ettinger, Chief Counsel; Veronica Gillespie, Elections Counsel; Ben Hovland, Senior Counsel; Julia Richardson, Senior Counsel; Abbie Sorrendino, Legislative Assistant; Jeffrey Johnson, Clerk; Benjamin Grazda, Staff Assistant; Mary Suit Jones, Republican Staff Director; Paul Vinovich, Republican Chief Counsel; and Rachel Creviston, Republican Senior Professional Staff.

OPENING STATEMENT OF SENATOR WALSH

Senator WALSH. The Rules Committee will come to order. I want to wish everyone a very good afternoon and thank you for being here.

We have had a series of votes scheduled to start at 2:30, so in order to hear from all of our witnesses, we are going to stick to the time limits and I will keep my statement brief for the sake of time.

This hearing is the committee's fifth in a series on improving the administration of elections. Today's hearing focuses on how early and absentee voting can benefit citizens and administrators. Chairman Schumer wanted to be here today, but was unable to attend.

Today, we will discuss how common sense reforms, like early voting and absentee voting can help more Americans, especially those in rural areas or in Indian Country, participate in our democracy.

Tuesday has been our official Election Day since 1845, but it is not always possible for voters to make time to vote on the second Tuesday in November. This is especially true for voters in rural areas, Indian Country, farmers, ranchers, the disabled, our veterans, and working parents. Many Americans face significant time and distance-related barriers to voting on time.

My home State of Montana is also known as Big Sky Country, and for good reason. If you have ever driven around Montana, you have seen that there is a lot of open space. We have counties that would swallow Rhode Island. This means many Montanans do not live close to their polling place or election office. If you live in Indian Country or in many of our rural counties, you could face several hours' drive to the voting ballot.

The pressures of time and space mean Tuesday just does not work for a wide range of folks, whether they are working, a working parent that wants to get home to see their kids, or a Tribal

voter that faces a hundred-mile journey to vote. Expanding early and absentee voting will provide more Americans with an opportunity to vote. That is why this hearing is so needed.

These reforms are not about favoring one party over another or any particular group of Americans. They are simply matters of good governance that benefit all Americans and that will strengthen our democracy.

The committee is fortunate to have an excellent panel of witnesses. Today, we have with us the Oregon Secretary of State, Kate Brown. Kate oversees elections that are entirely run by mail, helping voters exercise their right on their schedule.

Larry Lomax, who served as the Registrar in Clark County, Nevada, implemented what is certainly one of the best examples in the country of citizen-focused early voting.

I am particularly pleased to have my fellow Montanan, Rhonda Whiting from Western Native Voice, here today to discuss how election administration reforms can help ease some of the difficulties Americans face in getting to the ballot box. Rhonda, thank you for being here. If we can implement reforms that help overcome the barriers of time and space that Rhonda routinely sees in Montana's Indian Country, I am confident that we can expand voting access to voters across the country.

With that, I would like to thank all of our witnesses and I look forward to our testimony.

At this time, we will now hear from our panel of witnesses in alphabetical order. First, we will hear from Secretary of State Kate Brown, who, again, serves as Oregon's Secretary of State. Kate.

STATEMENT OF KATE BROWN, SECRETARY OF STATE, STATE OF OREGON, SALEM, OREGON

Ms. BROWN. Good afternoon and thank you, Mr. Chair and committee members. I am Kate Brown. I am currently serving as Oregon's Secretary of State, and I am honored to be here with you today. I applaud your efforts to provide American voters with choices on how and when to vote.

In Oregon, we believe that your vote is your voice and that every single voice matters, and vote by mail is a great way to put a ballot in the hands of every eligible voter. Our 30-year experience with vote by mail has been a smashing success. Vote by mail enhances turnout, is cost effective, and is secure.

Oregonians love vote by mail because it is convenient and accessible to cast an informed ballot. Voters with disabilities can vote independently in their own homes. And, rural Oregonians who live miles from an elections office can simply drop a ballot in the mailbox.

Oregon has been at the top ten of States in voter turnout amongst registered voters in the last two Presidential cycles. It is the only State in the top ten that does not have same-day voter registration.

But where I think vote by mail shines is in turnout in primary and special elections. In May of 2014, 35.9 percent of registered Oregon voters voted in our primary. As the Chief Elections Officer, I normally would not brag about this figure, but so far, excluding yesterday's primaries, it is greater than any of the other 20 States

have held primaries so far this year. For example, Kentucky had 27 percent turnout and Georgia had 19 percent turnout.

And then in special elections, we shine, as well. In 2011, both California and Oregon had special elections to fill Congressional vacancies. Oregon's turnout in our special election for that particular Congressional race was 51 percent and California's was 25 percent, a huge difference.

Also, in these financially strapped times, the savings from vote by mail are critical. We estimate the savings are 20 to 30 percent over polling place elections.

Vote by mail is also secure. To combat fraud, we have a number of security measures in place. To ensure the integrity of every single ballot, we check every single signature. We track ballots with bar codes, and voters can now confirm that their ballot has arrived at the elections office.

In the over 30 years of vote by mail, we have absolutely no evidence of coercion, either, and the penalties for both fraud and coercion are very, very severe.

Some folks are critical about vote by mail because they say we no longer share the ritual of waiting in very long lines to vote. Well, I would argue that it has been replaced by a much richer version of civic engagement. Voters' pamphlets come three weeks before the election and our ballots arrive about two-and-a-half weeks prior to the election. Families sit down at the dinner table and talk about who is on the ballot and what is on the ballot. And, I know, at neighborhood associations, they meet to discuss both candidates and the issues that are on the ballot. This gives voters ample opportunity to consider all of the issues on their ballot.

Across the West, voters are embracing vote by mail. Colorado and Washington have also joined us in only serving their voters via the mail, and not only through the mail, but primarily mail ballot. And, many voters in States like Arizona and California and Hawaii have made their choice. Secretary of State Wyman from Washington is submitting a letter in support today, as well, so it has broad bipartisan support.

I urge you to support efforts across the States to put ballots in the hands of every eligible voter using our Postal Service. Thank you so much.

[The prepared statement of Ms. Brown was submitted for the record:]

Senator WALSH. Thank you, Ms. Brown.

Next, we will have John Fortier, the Director of the Democracy Project at the Bipartisan Policy Center. John.

STATEMENT OF JOHN C. FORTIER, DIRECTOR, DEMOCRACY PROJECT, BIPARTISAN POLICY CENTER, WASHINGTON, D.C.

Dr. FORTIER. Great. Thank you, Senator Walsh, and thank you for inviting me to testify today.

I am the author of a book, *Absentee and Early Voting*, of several years ago and I wanted to give a little bit of background of the rise of two types of convenience voting, one, vote by mail, and also in-person early voting, and then lay out some of the pluses and minuses.

If I could first start by noting two commissions, one which you will hear from, Larry Lomax, the President's Commission on Election Administration, which I have some connection with in that we are going to be working closely with the Commission on their recommendations, and also a commission that put out a report yesterday, the Commission on Political Reform out of the Bipartisan Policy Center. Both have recommendations regarding early and absentee voting.

Quickly stated, the PCAA calls for the States to expand opportunities to vote before Election Day, but notes that they do not want the expansion of pre-Election Day voting to come at the expense of facilities and resources dedicated to Election Day.

And then the other, the Commission on Political Reform, has a recommendation for a seven- to ten-day intense period of early voting, which includes at least voting on one day of the week before Election Day.

What I will note is both of these methods of voting have risen dramatically. If you went back 35 years ago, you would have found only about five percent of America voting before Election Day, mostly by mail, for a reason, for a specific reason, being away from the polls or being infirm or overseas. That number has risen to about a third today, and both types have significant participation, with about 17 percent or so—a little bit more—voting by mail, and another 14 percent of the electorate voting early in person.

But, I will note that there is very great variation among the States. Many of the Western States are much more vote by mail. Many of the Eastern States, Northeastern States, have a very traditional single Election Day polling place-focused election without much of either type of voting. And, then, States like Texas and Tennessee and now Georgia and North Carolina have a lot of in-person early voting. So, there really is a great variety of practices across the country.

I want to address quickly the issue of turnout in these methods of voting. I guess my big message is, I do not think moving to either in-person early voting or voting by mail, the primary reason you should do so is to dramatically increase turnout. When I used to testify, I would say I think that, really, the research showed that there was not much at all increase in voter turnout. I think there is some more recent evidence or studies in the vote by mail which show a small increase in voter turnout. But, really, I think, these changes are not dramatic, but the reasons for adopting them are more convenience or to help election officials spread out the vote across elections.

I will note two exceptions to this, and I think Secretary Brown pointed to one. On very low turnout elections—local elections or ballot initiatives or perhaps primaries—there is a significant increase based on vote by mail, not so much when you see the larger general elections.

And then on the early voting side, we do see some increase in turnout based on vote centers, the ability to choose among different locations within your county on a pre-Election Day or sometimes even on Election Day itself basis, where you are not limited to one local place, that you can actually go to a place closer to work or

on your commuting pattern. So, I think those are two important exceptions.

What are my concerns? I am actually much more of a fan of early voting in person than voting by mail, and my concerns about vote by mail are some which Secretary Brown addressed. One is privacy and the secret ballot. It may not be the experience of most people that they have someone who might coerce their vote, but there certainly are people who are pressured or in a position where they are not casting their vote freely. And, the secret ballot, of being able to go into a polling place and put the curtain behind you, allows you to escape those pressures.

Secondly, there are some problems in transmission of the ballot. If we see vote fraud—people argue whether there is a lot or not a lot, but I think most people would agree that most of the cases we have are in the absentee or vote by mail realm.

And then, finally, there is some question of error checking, whether the ballot that you cast by mail does not have the error checking that you would have at the polling place, and more ballots are lost, either because they do not have the signature requirements or the ballots themselves have some errors that would have been caught.

I will say that on early voting, the simple point is that there is no single formula. I would not impose a formula for across the country because we have rural and urban. We have places that do lots of vote by mail, lots of early voting, some who do not do a lot. But, my preference would be for a short, intense period of early voting, one that has significant hours, good locations, but that it is not a Federal matter where you prescribe one type for all the States. The States have to weigh their particular circumstances to figure out whether the early voting that they might adopt in their State is proper for their State.

So, I will conclude my testimony with that.

[The prepared statement of Dr. Fortier was submitted for the record:]

Senator WALSH. Thank you, Dr. Fortier.

Mr. Lomax, please proceed.

STATEMENT OF HARVARD "LARRY" LOMAX, REGISTRAR OF VOTERS (RETIRED), CLARK COUNTY ELECTION DEPARTMENT, LAS VEGAS, NEVADA

Mr. LOMAX. Good afternoon. I was asked here today to talk about Clark County's early voting program, which my personal belief is it is one of the most successful in the country.

Many States claim they conduct early voting, but what they mean varies widely from State to State. In some States, early voting simply means anyone can request an absentee ballot and vote by mail. In others, it means voters can vote in person prior to Election Day, but only at the Clerk's Office.

In Clark County, early voting means that during a two-week period prior to Election Day, any registered voter can vote in person at a time and place convenient for them. Rather than requiring the voter to come to a government office, which is invariably an inconvenient experience for the voter, we take the opposite approach.

We look to see where voters go during their normal day-to-day routines and then we take our voting machines into their neighborhoods to them. Most voters, in fact, will pass by one of our early voting locations during the two-week early voting period during their normal course of business. We provide early voting sites in supermarkets, all the major malls, in libraries, in recreation centers and other facilities that attract the local population whether or not an election is in process.

So the voters will know when we will be in their neighborhood prior to the beginning of early voting, every voter in Nevada is mailed a sample ballot, which includes the complete early voting schedule.

Sites that are located in the malls, in major shopping locations, and in a few minority areas where there are no major shopping locations, are open early day during the two-week period. In major elections, if the facility is open for business, so are we. Thus, in our mall sites, people can cast their ballot from ten in the morning until nine at night.

We also have mobile voting teams that rotate through neighborhood locations, primarily supermarkets, recreation centers, and libraries, and conduct voting for two or three days in those locations. If they are in a library or recreation center, they are available to the voter as long as the facility is open. Since most supermarkets in Las Vegas Valley are open 24/7, our supermarket teams are typically open from eight in the morning until seven at night.

To serve areas in the county where there are no suitable facilities in which to conduct voting, often minority areas, we have four generator-powered self-sustaining voter trailers which we can position anywhere in the county. With these trailers, we can ensure all voters in Clark County have easy access to an early voting location, and their popularity is reflected by the fact that more than 60,000 voters have voted in these trailers in the last two Presidential elections.

So, how have the voters in Clark County taken to early voting? The great majority of them love it and the turnout numbers show it. While the number of Election Day voters over the last five Presidential elections—and this is Election Day voters—has remained relatively constant at about 200,000 voters per Presidential election, during the same time period, early voting turnout has exploded.

In the 1996 Presidential election, the first year of early voting, 17 percent of the voters, or 46,000 people, voted early. Sixteen years later, in the last Presidential election, 437,000 people voted early. That was 63 percent of everybody who voted in the election.

And, let me point out, in 2012, it only took us 450 voting machines to support the 437,000 voters who voted in those two weeks. On Election Day, it took us 4,000 voting machines to support the 200,000 people because they had to go to specific polling places to cast their ballot. I point this out because one of the arguments against early voting is the alleged increase in the cost of an election. Certainly, there is a cost to early voting, but it also significantly reduces the amount of voting equipment that a jurisdiction requires, in our case, by 50 percent.

In addition to allowing voters the opportunity to vote at a time and place convenient for them, there are additional benefits to early voting. Post-election audits show fewer mistakes are made each election because early voting workers, working 14 consecutive days, are much more experienced and, therefore, make less mistakes than the thousands of workers recruited to train and work only on Election Day, what we call our One Day Wonders.

And, finally, as the popularity of early voting has increased, our voter turnout has also increased. In the 1996 and 2000 Presidential elections, when early voting was just starting and on the rise, the percentage of registered voters who voted overall in the election was in the 60 percent range. In the last three Presidential elections, where early voting turnout has always been 50 percent or more of the turnout, our voter turnout has been 80 percent or more.

In summary, Clark County's two-week early voting program has been an enormous success. The voters love it. Elections run smoothly, and Election Day lines are a thing of the past. Thank you.

[The prepared statement of Mr. Lomax was submitted for the record:]

Senator WALSH. Thank you, Mr. Lomax.

Ms. Whiting, please proceed.

STATEMENT OF RHONDA WHITING, CHAIRMAN OF THE BOARD, WESTERN NATIVE VOICE, MISSOULA, MONTANA

Ms. WHITING. Yes. Thank you, Senator Walsh. I am here as the Chairman of the Western Native Voice Board of Directors for the Tribes in Montana.

The history of Native American voting is the story of a group of U.S. citizens who were compelled to be incorporated into the nation and then given the rights of citizens in a disjointed manner, in many cases, over many decades. It is the story of a group of U.S. citizens who were unlawfully denied the right to vote through illegal means, at times. Even though Native American citizens have served in the military, pay taxes, and are a major part of the United States, they were not able to vote until they became citizens in 1924, with the Indian Citizenship Act. Then, the Tribes were sent to reservations through the New Deal times with the Reorganization Act.

Many of these reservations are isolated, and what happens on the reservations is that we are not able to use the—we are not able to use doing voting or doing anything without our computers and network systems, and that is not the norm for most reservations at this point in time. We talk about bridging the digital divide. We are making progress, but we do have—we are isolated in lots of ways. In fact, in reservations like Fort Peck, a lot of times, you cannot even use your cell phone. So, we really do need to continue to work on that.

I would like to propose some practical solutions that will alleviate some of the problems to keep Native Americans from exercising their right to vote.

First of all, expansion of access to registration modes will enable and facilitate voting. Intake of voting registration forms by govern-

ment offices and educational facilities. For example, in Montana, the Indian Health Service and Tribally controlled community colleges, which we have on each reservation—not all Tribes have that—it would be a practical method of capturing voter registration forms. This would help increase the voting tremendously.

In 2014, electronic registration options that are secure, safe, and verifiable are desirable, particularly for younger people who are used to conducting business online. Creating a Federal standard for electronic voting is critical to modernizing the Federal process.

Another issue that we face is the distance involved for Native Americans and other rural voters to travel to vote. In Montana, with election services based in county seats, there is considerable distance for most Native American communities. Some Indians have to travel in excess of 100 miles to vote. It is hard to overstate the burden that is imposed upon Native American citizens by traveling long distances to cast their vote. The remote locations for many people and the economic problems that they face make it very difficult to get to the polling places.

Placing satellite early voting locations in Native American communities would alleviate these barriers. One of the complaints that we hear, that it is a greater cost to the Secretary of State, we are hoping that we can overcome that and be able to have the satellite offices. It is important to emphasize the economic burdens, and that is why these remote communities really need the satellite offices.

And the experience is in Montana that the same-day registration expands access to the polls for many citizens with busy lives and demanding careers. The same-day registration by college students, working mothers, busy professionals, and service people indicates that it is a basic part of the election administration to provide the ability to vote.

Native Americans have benefitted in that same way. Same-day registration in Montana has helped lessen the negative effects of the electoral system for Natives, who overwhelmingly support it. Sadly, same-day registration is under attack in Montana with some ballot initiatives that were rolled out. They do not look at the Native Americans and what we need to do to enable us to vote.

I believe that if we were able to do these practical solutions, which would include satellite voting and same-day registration, that the voting for Native Americans would increase. We have, at times, with a lot of work—and I have been working on this for a long time, formally since 1988—and when we had a lot of people helping us, we were able to get in some polling places 90 percent turnout. That is not always the case, and it would certainly be much more efficient if we could do satellite voting.

Thank you.

[The prepared statement of Ms. Whiting was submitted for the record.]

Senator WALSH. Thank you, Ms. Whiting, for your comments.

We now have time for a few questions. I have asked each Senator to limit their questions to five minutes, and I think I will go first.

[Laughter.]

Senator WALSH. With that, Ms. Whiting, thank you for traveling all the way from Big Sky Country to visit us today. It is great to

have more Montanans in the District. You mentioned the economic barriers many Tribal members and rural residents face while exercising their right to vote. Could you elaborate on how these barriers affect their ability to cast a vote.

Ms. WHITING. I know for a fact that the Superintendent of Schools, Margaret Campbell, had talked to me about the people on the Fort Belknap Reservation and those that live in Hays/Lodge Pole. She said that with 30 percent of the people not being employed, and higher numbers than that, that she could go vote, but to drive into Harlem, which is a round-trip 100 miles, but a lot of people do not have the ability to do that. So, economically, we have the highest poverty rate in the State, and in many States across the United States. So, financially, it is very, very difficult for some people.

Senator WALSH. Okay. Thank you.

Mr. Lomax, you have raised turnout and increased voting access by making early voting sites more accessible for your voters. Clark County, Nevada, however, has about twice the population that Montana has. Do you think that your early voting reforms, particularly innovations like mobile voting sites, could be applied in more rural areas that do not have the technology that you may have throughout your State?

Mr. LOMAX. Yes, I certainly do. Yes, sir. There is a variety of ways by which you can provide the voters with ballots, and we have a lot of very rural counties in Nevada. In fact, 75 percent of the population is in Clark County. About 20 percent is in Washoe County. And, all the other 14 counties share the rest, and so there are lots of counties up there that have several thousand registered voters in total and they are spread out throughout the county.

They depend—they do not use technology nearly as much up there. They just—they use the—they have to move the voting machines to where the voters are. It is still the same concept. And, usually, the voters are going to be concentrated in some areas around the counties. But, I see no reason it would not work.

Senator WALSH. Okay. Thank you.

Secretary Brown, Dr. Fortier mentioned some potential concerns with vote by mail, such as secrecy of the ballot, transmission issues, and potential voter errors that are unable to be corrected. Given your experience overseeing elections in Oregon, do you share these concerns, and can you describe any efforts that have solved some of the problems that you have faced.

Ms. BROWN. Thank you, Senator Walsh. As the Chief Elections Officer, my primary concern is to ensure the integrity of the ballot. We have a number of methods in place to ensure the integrity of Oregon's ballot. We have a centralized voter registration database. As I mentioned in my testimony, we check every single signature to verify it against our voter registration rolls. And, we have a bar code on the ballot to track every single ballot. So, these measures ensure the integrity of Oregon's ballot. These are some of the measures that we have.

I will share, vote by mail was adopted by Oregon voters in 1998. Since 2000, we have been regularly voting by mail, roughly 17 million ballots. We have had 13 convictions for voter fraud during that time period. So, the incident of fraud is extremely small.

In terms of privacy of the ballot and coercion, as I mentioned, we have had absolutely no evidence of coercion in voting in Oregon since we implemented vote by mail. I reached out to one of the women that represents our Oregon Coalition Against Domestic and Sexual Violence to verify this information. They have reviewed restraining orders in the past. My predecessor, Secretary Bill Bradbury, also worked with the domestic violence community. We have just heard of no evidence of coercion in the vote by mail ballots in Oregon.

Senator WALSH. Okay. Thank you, Secretary Brown.

So, that completes my questions, so on behalf of the Rules Committee, I would like to take this time to thank all of our witnesses for being here today and for your important testimony. We will make this available to all of our members of the committee and we will take a look at it, and if they have any questions, they may reach out to you. But, again, I appreciate you taking the time out of your busy schedules to be here with us today.

So, this concludes the panel for today's hearing. Without hearing any objection, the hearing record will remain open for five business days for additional statements and post-hearing questions submitted in writing for our witnesses to answer.

Again, I apologize for none of my colleagues being able to be here today. They have busy schedules, a lot going on. But, this is very important. We want to make sure that all of our citizens have the ability to vote and that they can participate in our democracy, and I think this hearing today will help us move forward with that respect. So, thank you very much.

This hearing is now adjourned.

[Whereupon, at 2:29 p.m., the committee was adjourned.]

APPENDIX MATERIAL SUBMITTED

Written Testimony of Oregon Secretary of State Kate Brown
Before the U.S. Senate Committee on Rules and Administration
June 24, 2014

Chairman Schumer and distinguished members of the Committee: Thank you for the opportunity to address the Senate Rules Committee today about Oregon's vote-by-mail system.

I want to start by commending you all on your efforts to explore early voting. Opportunities for early voting strengthen the legitimacy of government in the eyes of its citizens. Elections are the foundation of our Democracy. It's the way the public grants the government power to make important decisions that affect our daily lives. If the public loses confidence in the elections process because they face unnecessary obstacles to voting, the legitimacy of the government itself becomes questioned.

There are several ways to ensure that voters have ample opportunity to cast ballots without standing in long lines. Vote-by-mail is one way, and it has been so successful in Oregon that it is now part of Oregonians' political DNA.

Oregon began experimenting with vote-by-mail in local elections in the early 1980's. In 1998, 70 percent of Oregon voters approved a citizen initiative that required all elections to be conducted by mail.

Since then, Oregon has unequivocally benefitted from our vote-by-mail system. I would like to highlight a few of the ways that vote-by-mail has improved the elections experience for voters and elections officials in Oregon.

First, we have found that vote-by-mail increases voter turnout. The average turnout of registered voters in the first three elections conducted exclusively by mail in Oregon was 6% higher than the average turnout in the final three polling place elections. We saw an even bigger impact in the primaries. At the time I prepared this testimony last week, 26 states had conducted primaries, and Oregon's 35% turnout so far leads the nation. As an elections official I will never be satisfied with less than 50% percent of registered voters casting ballots. But it is clear that

vote-by-mail increases turnout by making it more convenient for busy voters to cast ballots. That is especially true in primaries.

The second way Oregon has dramatically benefited from vote-by-mail is that it has cut costs. Our 1998 General Election — the last polling place election — cost \$1.81 per voter. By comparison, the cost of a Special Election a few years ago cost \$1.05. According to a recent study, Colorado — the third state after Oregon and Washington to adopt vote-by-mail — would have saved \$4 million if it had conducted the 2010 general election exclusively by mail.

The third primary benefit to Oregon of the vote-by-mail system is that it's secure. The security of our democratic process has always been and must remain of the utmost importance. Vote-by-mail increases accessibility without sacrificing security. Elections staff compare every signature on every ballot envelope with the signature on the voter's registration card before the ballot is counted. Each specialist checking signatures first goes through an intensive training by the company that trains the Oregon State Police on signature identification.

If the signature doesn't match, the ballot is set aside. The voter is contacted and given an opportunity to correct the signature. I know first-hand that the system works. Several years ago, I was contacted by elections officials and informed that my signature didn't match. I had to go down to the elections office to verify it.

The security of Oregon's vote-by-mail system is further supported by harsh penalties for voter fraud. Before sending a ballot in the mail, potential voters must swear that the information they provide is true. Forging a signature or lying about age, residency or citizenship during voter registration is a class C felony with a maximum fine of \$125,000 and up to 5 years in prison.

We have hard evidence that Oregon's vote-by-mail system is secure. Since the year 2000, my agency has received hundreds of fraud complaints. Yet, upon investigation, we have found the need to prosecute less than 20 people out of more than 20 million ballots cast. Currently, there are a handful of cases regarding voter fraud that are pending at the Oregon Department of Justice.

Oregonians are proud of our vote-by-mail system and I am encouraged by Congress' willingness to consider its merits. However, I would caution against all-or-nothing thinking for

other states. If given the choice between the current polling-place system and all-mail elections, states are unlikely to abruptly throw out a system that has been in use for a long time.

In my experience, a gradual approach is best. Oregon adopted vote-by-mail in 1981 for local elections where turnout was exceedingly weak. In the 1970's, a rural school measure passed by 2-0; a husband and wife both voted yes.

Oregon gradually expanded its vote-by-mail system, allowing voters to become permanent, absentee voters. By the time the vote-by-mail initiative appeared on the ballot in 1998, a large majority of Oregon voters had already chosen vote-by-mail as their preferred system of voting by signing up to be permanent absentee voters. It is hardly surprising that Oregonians overwhelmingly passed the vote-by-mail initiative.

Washington and Colorado also took a gradual approach.

Arguments against vote-by-mail often revolve around collective voter experience. Opponents argue that voters miss out on the shared experience of voting alongside their neighbors in the local gymnasium, community center or firehouse. And it's true; in Oregon we no longer take part in this ritual. But we have created a new one. Families sit down at the dining table, open up the Voters' Pamphlet, and discuss the candidates and measures on the ballot. This system gives voters more time to research issues and learn about lesser-known government entities like soil and water conservation districts. And voters don't have to stand in line. There is nothing like standing in a long line that causes one to make a rush decision, or worse, not vote at all.

In closing, I urge states to give vote-by-mail a try. I also urge Congress to do what it can to support states' efforts to use vote-by-mail. States should start gradually. States can test run it in a single election in one county. Don't force it. See if it saves money. Take a close look at the security measures. One thing I can guarantee: voters will love vote-by-mail. Thank you.

Kate Brown, Oregon's 24th Secretary of State.

Elected in 2008 and re-elected in 2012, Secretary Brown's objective is to make state government effective, efficient and accountable to taxpayers. That's why during her two terms in office, Kate has:

- Removed barriers to voter registration and voting, including using tablet technology to help voters with disabilities, as well as overseas and military voters. She has also proposed a total modernization of our voter registration system.
- Expanded online services for businesses.
- Created the Office of Small Business Assistance.
- Fought for Benefit Company Legislation in Oregon to harness the power of the private sector to change the world.
- Focused audits on government efficiency and made recommendations that have saved the state millions of dollars.

Kate was appointed to the state House of Representatives in 1991 and, after winning two more House terms, was elected to the Oregon Senate. In 1998, Kate was chosen Senate Democratic leader. Significantly, in 2004 she became the first woman in Oregon to serve as Senate Majority Leader.

In her legislative career, Kate led efforts to create a searchable online database for campaign contributions and expenditures, and reformed Oregon's initiative process to reduce fraud and protect the citizen's right to petition their government. She was also instrumental in passing comprehensive civil rights and domestic partnership laws.

Kate practiced family and juvenile law and has taught at Portland State University. She earned her law degree at Lewis and Clark Law School after receiving a Bachelor of Arts in environmental conservation with a certificate in women's studies from the University of Colorado at Boulder. Kate grew up in Minnesota.

Testimony of Dr. John C. Fortier
Director, Democracy Project
Bipartisan Policy Center
Submitted to the United States Senate Committee on Rules and Administration
June 25, 2014

Chairman Schumer, Ranking Member Roberts, and Members of the Senate Rules and Administration Committee. Thank you for inviting me to speak today on the subject of vote-by-mail and early in-person voting.

A generation ago, Americans voted almost exclusively on Election Day at local, neighborhood polling places. Early during the twentieth century, states adopted laws and procedures that allowed citizens to cast an absentee ballot by mail but restricted such ballots' use to specific reasons, such as absence from the jurisdiction on Election Day, sickness or infirmity, or military service overseas. States also required procedures aimed at protecting the integrity of the absentee ballot, such as the signatures of witnesses or of a notary public. These tight restrictions on absentee vote-by-mail ballots kept the percentage of voters that cast such ballots small at about five percent.

The revolution in casting ballots prior to Election Day started in the late 1970s when several western states, starting with California, introduced no-excuse absentee balloting. This new way of looking at absentee voting—more as a convenience option than an option of last resort—opened the way for increased voting by mail. Not long after California expanded absentee voting did we see the first trials of in-person early voting. This form of voting started in the late 1980s when Texas, and a few years later Tennessee, opened up polling locations for several weeks prior to Election Day where voters could cast ballots with the security of the polling place.

These early seeds planted three decades ago have today yielded tremendous growth in the number of people who cast ballots prior to Election Day. Nearly a third of voters in 2012 cast their ballots prior to Election Day; over 17 percent of voters cast absentee ballots by mail and over 14 percent of voters cast their ballots at an early in-person polling location.¹

Even four decades into the convenience voting experiment, the rise of vote-by-mail and early in-person voting varies significantly among states both in the magnitude of votes cast and in the modes available to voters. Oregon and Washington State, for example, vote 100 percent by mail. States such as Texas, Georgia, and Tennessee regularly see over 40 percent of voters choosing to cast their ballots early in-person. Some states like Nevada and New Mexico see large numbers of vote-by-mail and early in-person ballots. And other states, mainly in the Northeast but also in the South and Midwest, experience very low levels of vote-by-mail and early in-person voting.

Does voting by mail and early voting increase turnout?

The evidence is mixed about whether voting by mail and/or early voting increase turnout. The main finding of most earlier studies of vote-by-mail and early in-person voting show that there is no significant increase in voter turnout for either convenience option. There have, however, been several

¹ "The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration." *Presidential Commission on Election Administration*, January 2014. www.supportthevoter.gov. Pg. 54

recent studies that have shown a small, but statistically significant increase in voter turnout in some types of vote-by-mail elections.

The more robust turnout effects occur in two cases. First, in very low turnout local elections, vote-by-mail can show a substantial increase in turnout, as regular voters who normally vote in statewide and federal elections cast ballots in a purely local election that they otherwise may have ignored. Second, research on vote centers, which are locations at which any registered voter in a jurisdiction is given the opportunity to cast his or her ballot, has shown an increase in turnout at these locations. Vote centers can be employed on Election Day *in lieu* of or in addition to neighborhood polling places or during early voting. The vote center model has shown some positive effects on turnout, possibly caused by added voter choice and the ease of access to vote centers strategically sited along commuting paths or at sites such as big box stores.

Voters tend to like absentee and early voting. Several studies of public opinion show that both vote-by-mail and early in-person voting, when implemented in a given jurisdiction, garner popular support. And election administrators are, broadly speaking, in favor of adopting some form of pre-Election Day voting, though, their support depends on the details. Administrators' strongest argument in favor of adoption is often to take the pressure off of Election Day voting by processing voters over the course of a pre-Election Day period of voting. However, there are significant issues that administrators raise: Should urban, suburban, and rural areas employ early voting? Should there be one early voting site or several throughout the jurisdiction? How should resources be allocated between Election Day voting, vote-by-mail and early voting? The answers to these policy questions affect how administrators view vote-by-mail and early voting options.

Concerns about vote-by-mail

Vote-by-mail allows many Americans who could not or would not have cast a ballot to participate in elections. But the option is not a panacea and comes with significant drawbacks that states should consider before greatly expanding the use of this option.

Privacy of the vote and coercion

In *Absentee and Early Voting: Promises, Perils and Trends*, I examined the early adoption of vote-by-mail as well as the adoption of another significant voting reform—the secret ballot. In the late nineteenth century, there were significant concerns about the operation of elections and the coercion that some voters faced from city political machines that often controlled the livelihood of many voters or that issued rewards and punishments based on an individual's vote. The caricature of the era is one in which voters march to the ballot box with a clearly color-coded ballot that indicates to everybody the voter's selection of candidates and party.

To combat this kind of coercion, reformers pushed for and succeeded in enacting secret ballot legislation in many states. With these protections in place, the government would produce the ballots, not the parties or candidates. And the voter would cast the ballot behind the privacy of a curtain.

Reformers during the early twentieth century believed that a vote-by-mail ballot was necessary for certain people who were away from their polling places on Election Day. But these reformers also struggled to reconcile the desire for a vote-by-mail ballot with their belief in the benefits of a secret

ballot. Once a ballot exists outside the polling place, a voter can be subject to the same types of pressures that voters experienced during the era of city machine politics.

For this reason, reformers adopted vote-by-mail ballots with witness and notary public requirements. They insisted that voters provide a reason for casting an absentee ballot. Nearly all of these witness and notary requirements have been repealed.

I do not believe that most voters will have their votes coerced if they choose to cast a vote-by-mail ballot. But unfortunately, there are still people who feel the coercion of a spouse, employer, union, religious institution, or other cause. A secret ballot cast at a polling place allows the voter to go into a private, secure space behind a curtain and mark a ballot that no one else will see. Vote-by-mail is necessary for those voters who cannot attend the polling place on Election Day. However, it should be recognized that the option does not protect the secret ballot like casting a ballot in person does.

Transmission of the ballot

While voter fraud is not widespread in America, a large proportion of our voter fraud activities occur around vote-by-mail. We have seen prosecutions of individuals applying for multiple absentee ballots in others' names, taking advantage of unsuspecting voters, or otherwise interfering with the transmission of ballots back to election administrators.

Lost votes because of a lack of error checking mechanisms

The Help America Vote Act requires that there be ballot error checking mechanisms on voting equipment at polling places. The error checker must give the voter an opportunity to correct any mistake, such as marking too many selections for a given contest or by skipping a contest entirely. Recent studies have shown that these mechanisms have reduced the number of ballots that are rejected because they contain two or more selections for president. A recent study by Professor Charles Stewart at MIT shows that more errors are made on absentee or vote-by-mail ballots than on ballots cast within a polling place

Concerns about early voting

Early in-person voting is not without its detractors as well. While offering a more Election Day polling experience for a voter with similar protections as compared to vote-by-mail, it can be costly and difficult to administer.

There is no formula for number of days, hours, etc to administer early voting

Controversies over early voting often arise over the number of days of early in-person voting. But in truth, there are many factors that improve the efficacy of early in-person voting. For example, a short period of a few days of early in-person voting period with long hours for voting might give voters more opportunity to vote. Other states are experimenting with vote center-like characteristics that allow an early voter to choose among several locations to cast his or her ballot.

It would be very difficult to propose a national standard for early voting. Again, some states choose not to offer early voting in more rural locations because the need is not great. The location of early voting locations might also affect the usefulness of early voting. Early voting sites placed far from voters might not best serve voters even if they work for election administrators. Or small early in-person voting locations without the ability to process large number of voters might also push against the notion of early voting by resulting in long lines and voter frustration.

Recommendations for Early In-Person Voting

Two bipartisan commissions have recently made recommendations about early in-person voting that show support for this option of pre-Election Day voting:

1. The Presidential Commission on Election Administration makes the recommendation that “states should expand opportunities to vote before Election Day.” Further, they warned that “the expansion of pre-Election Day voting should not come at the expense of adequate facilities and resources dedicated to Election Day.”
2. The Bipartisan Policy Center’s Commission on Political Reform yesterday released a broad set of recommendations on the political system. The full report can be accessed at bipartisanpolicy.org/CPRreport. Among the commission’s consensus recommendations are that “states should enact a seven- to ten-day period of early voting prior to Election Day that includes at least one day of voting on each day of the week.”

Conclusion

Based on my scholarship, I recommend that states should adopt a short, seven- to ten-day early in-person voting period with longer hours, larger satellite facilities, and some weekend voting. Americans like convenience voting options as survey after survey has shown. While the impact of early in-person voting on turnout can be debated, I believe that we should continue trying to broaden participation in our elections in any way possible; early in-person voting is the best available option to do just that. This option makes it easier for Americans who may not be able to wait in line on Election Day to cast a ballot and often offers voting locations more conveniently located than traditional neighborhood polling places.

But I also strongly support balancing increased access to the polls with securing the integrity of the ballot. To reach that balance, I think we should focus efforts on perfecting early in-person voting in the states instead of turning to vote-by-mail systems because the security and error checking capacity afforded during in-person voting cannot be guaranteed for vote-by-mail. Finally, given the differences among states, it would be hard to prescribe a federal mandate for a one-size-fits-all approach. States must retain the flexibility to prescribe for themselves the best mix of voting options for their voters and resources.

Thank you and I look forward to your questions.

John C. Fortier, Ph.D.

Director, Democracy Project

Bipartisan Policy Center

www.bipartisanpolicy.org/projects/democracy-project

John C. Fortier joined the Bipartisan Policy Center (BPC) in April 2011. He is a political scientist who focuses on governmental and electoral institutions.

Prior to coming to BPC, he was a research fellow at the American Enterprise Institute, where he also served as the principal contributor to the AEI-Brookings Election Reform Project, the executive director of the Continuity of Government Commission, and the project manager of the Transition to Governing Project. He was also a regular contributor to AEI's Election Watch series. He also served as the director of the Center for the Study of American Democracy at Kenyon College.

He has a Ph.D. in political science from Boston College and a B.A. from Georgetown University.

He is the author of *Absentee and Early Voting: Trends, Promises and Perils* (AEI Press: 2006), author and editor of *After the People Vote: A Guide to the Electoral College*, and author and co-editor with Norman Ornstein of *Second Term Blues: How George W. Bush Has Governed* (Brookings Press: 2007), and numerous academic articles in political science and law journals.

He has been a regular columnist for *The Hill* and *Politico*. Fortier is a frequent commentator on elections and government institutions and has appeared on ABC's Nightline, CNN, Fox News, PBS's News Hour, CBS News, NBC's Today Show, C-SPAN, NPR, Bloomberg, and BBC.

He has taught at Kenyon College, University of Pennsylvania, University of Delaware, Harvard University and Boston College.

**Testimony Before the United States Senate
Committee on Rules and Administration**

Harvard "Larry" Lomax

June 25, 2014

Good afternoon. My name is Larry Lomax and from 1999 through last year, when I retired, I was the Registrar in Clark County, Nevada. Subsequently, I served on the Presidential Commission on Election Administration. I was asked here today to talk about Clark County's Early Voting program, which I believe is one of the most successful in the country and its success has made me a strong proponent of early voting conducted in the manner in which we do it in Nevada.

While many states claim to conduct "Early Voting", what they mean varies widely from state to state. In some states, early voting simply means anyone can opt to request an absentee ballot and vote by mail. In others, it means voters can vote in-person prior to Election Day, but only at the Clerk's office

In Clark County, early voting means that during a two-week period prior to Election Day, any registered voter can vote at a time and place convenient for them. Rather than requiring the voter to come to a government office, which is invariably an inconvenient experience for the voter, we take the opposite approach. We look to see where voters go during their normal day-to-day routines and we take our voting machines into their neighborhoods to them. Most voters, in fact, will pass one of our early voting locations during the two-week early voting period during their normal course of business.

We provide early voting sites in supermarkets, all the major malls, in libraries, in recreation centers and other facilities that attract the local population whether or not an election is in process. Prior to the beginning of early voting, every voter in Nevada is mailed a sample ballot which includes an early voting schedule that lists the locations and hours of every early voting location throughout the two-week period.

Sites located in the malls and other major shopping locations, as well as a few located in minority areas where there are no major shopping areas, are open every day during the two-week period. In major elections, if the facility is open for business, so are we. Thus, our mall sites are open mall hours, and voters can cast their ballot from 10:00 in the morning to 9:00 at night. We also have what we call "mobile" voting teams rotate through neighborhood locations, primarily supermarkets, recreation centers and libraries, conducting voting for two to three days at each location. If they are in a library or recreation center, they are available to the voter as long as the facility is open. Since most supermarkets in the Las Vegas Valley are open 24 hours every day, our supermarket teams are typically open from 8:00 in the morning until 7:00 at night.

To serve areas in the County where there are high concentrations of residents but no suitable facilities in which to conduct voting, often minority areas, we have four generator-powered self sustaining voting trailers which can be positioned anywhere as long as we have wireless

connectivity. In Clark County this means almost anywhere. These trailers ensure all voters in Clark County have access to an early voting site and their popularity is reflected by the fact that more than 60,000 people have voted in our trailers in each of the last two presidential elections.

So how have the voters in Clark County taken to early voting. The majority of them love it and have become inveterate early voters. As the chart below shows, over the last five presidential elections, the percentage of those who vote early in-person has increased from 17% of those who voted in 1996, when early voting was first introduced throughout the county, to 63% in 2012.

Presidential Election Yr	Of Those Who Voted, the Percent of Voters Who:			Total Election Turnout
	<u>Voted Early</u>	<u>Voted by Mail</u>	<u>Voted Election Day</u>	
1996	17%	10%	73%	61%
2000	43%	13%	44%	69%
2004	50%	10%	40%	80%
2008	60%	8%	32%	80%
2012	63%	7%	30%	81%

As the chart below shows, while the number of Election Day voters increased by less than 12,000 from 1996 to 2012 (194,023 to 205,693), the number of early voters increased by more than 390,000 (46,136 to 436,568).

Presidential Election Yr	The Number of Voters Who:			Total Election Turnout
	<u>Voted Early</u>	<u>Voted by Mail</u>	<u>Voted Election Day</u>	
1996	46,136	24,927	194,023	265,086
2000	167,522	49,933	167,317	384,772
2004	271,465	53,357	222,036	546,858
2008	391,805	50,718	210,264	652,787
2012	436,568	50,001	205,693	692,262

Election Day turnout is what drives the amount of voting equipment a jurisdiction requires (In Clark County, in a presidential election we use approximately 4,000 voting machines on Election Day to support over 300 polling places. Only 400 machines are required to support early voting, and the voting machines used during early voting can be used again on Election Day). Therefore, even though Clark County's population and number of registered voters nearly doubled between 1996 and 2012, we did not require additional voting equipment because almost

the entire increase total turnout was absorbed during the two-week early voting period, while the number of Election Day voters remained essentially constant.

I point this out because one of the arguments against early voting is the alleged increase in the cost of an election. While there is certainly a cost to conducting two-weeks of early voting, there is also a significant savings in that a jurisdiction such as Clark County only requires half the voting machines, supporting equipment and poll workers that would be required if everyone were to vote on Election Day.

In addition to allowing voters the opportunity to vote at a time and place convenient for them, there are additional benefits to an early voting program. One that is not so obvious is that the Election results are more accurate. Because early voting workers process voters for 14 consecutive days, they are much more experienced than the thousands of workers recruited and trained to work only on Election Day. Post-election auditing shows that even though twice as many people in Clark County now vote early as on Election Day, the vast majority of mistakes that occur processing voters at polling locations occur on Election Day.

And a finally, at least in Clark County, as more and more voters have chosen to vote early, overall voter turnout has increased. In fact, (with the exception of Oregon and Washington (two all mail ballot states) Clark County and Nevada went from the worst voter turnout among the western states in 1996, measured as the percent of registered voters who voted, to the highest voter turnout in the western states in both 2008 and 2012).

In summary, Clark County's two-week early voting program has been an enormous success. The voters love it, Election Day lines are a thing of the past, and voter turnout has increased.

I would be happy to answer any questions.

Executive Summary: Early Voting in Clark County, Nevada

While the meaning of “early voting,” varies widely from state to state, in Clark County it means that for a two-week period prior to Election Day, voters can vote at a time and place convenient for them. Rather than requiring a voter to come to a specific location, we look to see where voters go during their normal daily routines and take our voting machines into their neighborhoods to them.

We provide early voting sites in supermarkets, all the major malls, in libraries, in recreation centers and other facilities that attract the local population when an election is not in process. Every voter is mailed the early voting schedule (locations and hours) prior to the election.

“Permanent” sites are open every day during the two-week period and are located in major shopping locations, as well as in some minority areas where there are no major shopping areas. If the facility is open for business, so are we. Thus, mall sites are open mall hours (10am–9pm).

Our “mobile” voting teams rotate through the neighborhoods, primarily in supermarkets, recreation centers and libraries, conducting voting for two to three days at each location. Except in supermarkets, voters can vote as long as the facility is open. Since most supermarkets in the Las Vegas Valley are open 24/7, supermarket teams are typically open from 8am to 7pm.

To serve highly populated areas where no suitable facilities exist in which to conduct voting, we have four generator-powered self sustaining voting trailers which can be positioned virtually anywhere. Over 60,000 people voted in the trailers in each of the last two presidential elections.

Early voting is now immensely popular with the County’s voters. When it was introduced county-wide in the 1996 presidential election, 17% of the voters voted early. Since then, the percent of early voters has increased each election, with 63% voting early in the 2012 presidential election.

In the last five presidential elections, the number of early voters has increased from 46k in 1996 to 436k in 2012 (+390k) while the number of Election Day voters only increased from 194k to 205k (+11k) over the same period. Although total election turnout more than doubled (265k to 692k), almost the entire increase has been absorbed by the early voting program.

Since Election Day turnout is what drives the amount of voting equipment a jurisdiction requires, even though Clark County’s turnout has more than doubled from 1996 to 2012, we did not require additional voting equipment because Election Day turnout was essentially constant. This is significant because an argument against early voting is it increases the cost of an election.

While there is certainly a cost to conducting two-weeks of early voting, there is also a significant savings in that a jurisdiction such as Clark County requires half the voting machines, supporting equipment and poll workers that would be required if everyone were to vote on Election Day.

An additional and unexpected benefit of the early voting program is that post election audits show early voting workers, due to their 14-days of experience, make far fewer mistakes processing voters than Election Day workers who work only one day.

And a final benefit, at least in Clark County, is that as the percentage of early voters has increased, voter turnout has increased.

Biography**Harvard “Larry” Lomax**

Harvard “Larry” Lomax held the position of Clark County Registrar in Nevada from 1999 through 2013. Mr. Lomax served as Nevada’s representative to the Election Assistance Commission’s Standards Board, was elected by the board’s members to the Standards Board Executive Board, and served on a Pew Foundation Committee focused on modernizing our nation’s system of registering voters. In 2013, Mr. Lomax was appointed as a member of the Presidential Commission on Election Administration. Prior to working in Clark County, Mr. Lomax was a Professor of Leadership and Ethics at the Air War College. As a former Air Force pilot, he accumulated over 4,000 hours of flying time in a 30-year career. He commanded the 9th Bomb Squadron and the 319th Bomb Wing. He served two tours on the Joint Staff in Washington D.C. and was chosen to serve as the Air Force Colonel on the staff group supporting the Chairman of the Joint Chiefs of Staff. Mr. Lomax received a B.A. from Stanford University and an M.B.A. from the University of North Dakota. He is a Distinguished Graduate from the U.S. Air Force Officer Training School.

Statement: Rhonda Whiting, Chair, Western Native Voice Board of Directors, to the U.S. Senate Rules Committee

The history of Native American voting is the story of a group of U.S. citizens who were compelled to be incorporated into the nation and then given the rights of citizens in a haphazard, disjointed manner over many decades. It is the story of a group of U.S. citizens who were then unlawfully denied the right to vote through illegal means. It is a history of civil rights denied even as the country demanded military service and levied taxes on Native American citizens. And the story of the right to vote being denied to Indian people is a story still unfolding in 2014.

The Indian Citizenship Act of 1924 granted citizenship at the federal level to Native Americans. In many states, however, the civil rights, including voting, of the new citizens were often abridged or even denied. The New Deal brought the Indian Reorganization Act (1934), which recognized the legitimacy of tribal governments and permitted limited self-rule. Yet it did not solve the issue of access to the polls. The landmark Voting Rights Act of 1965 created a solid legal platform to expand minority voting rights and is the legal basis for securing access to the polls for Native American citizens. However, as subsequent amendments to the Act as well as the series of lawsuits based upon the Act needed to compel elected officials and election administrators to grant voting rights to Natives demonstrate, it is evident that achieving full and unfettered access to the polls for all citizens has a long way to go.

I speak to the Committee today with the purpose of proposing practical solutions that will alleviate some of the problems that keep Native Americans from exercising their right to vote.

First of all, expansion of access to registration modes will enable and facilitate voting. In-take of voting registration forms by government offices and educational facilities, for example, at Indian Health Service clinics and tribal colleges, will be a practical method for capturing voter registration forms. Plainly the federal government has a wide range of options in directing government offices to facilitate voter registration in the course of conducting other business.

In 2014, electronic registration options that are secure, safe, and verifiable are desirable, particularly for younger voters who are use to conducting business on-line. Creating a federal standard for electronic voting is critical for modernizing the voting process.

Another issue of access is the distance involved for some Natives, and other rural voters, to travel to vote. In Montana, with election services based in county seats that are considerable distances from Native communities, some Indians have to travel in excess of 100 miles to vote. It is hard to overstate the burden imposed on Native American citizens by having to travel long distances to cast their vote. The remote location of many Indian communities, coupled with the way elections are conducted, limit the ability of the Native American citizen to partake in their own government. Placing satellite early voting locations in Native communities will alleviate this barrier.

It is important to emphasize the significant economic burden that falls on some Native American citizens in these remote communities. Many members of these communities have limited

economic resources and the costs imposed on them by travel to the polling place functionally prevent them from voting. It is salient that these travel costs are not borne by the average voter in the United States, most of whom vote near their place of residence. The creation of a federal satellite early voting standard will rectify this problem.

The experience in Montana is that same-day registration expands access to the polls for many citizens with busy lives and demanding careers. The use of same-day registration by college students, working mothers, busy professionals, and U.S. service members strongly indicates that it should be a basic part of election administration. Native Americans have also benefited from same-day registration.

Same-day registration in Montana has also helped to lessen the deleterious effects of other aspects of the electoral system for Natives, who overwhelmingly support it. Sadly, same day registration is under attack in Montana in the guise of a 2014 ballot measure that will roll back Montana's common-sense approach to election management. Recognizing the value and utility of same-day registration on the federal level will be invaluable to expanding Native access to the polls.

Finally, simplifying the voting process and providing federal resources and authority to educate citizens on their rights and responsibilities will be invaluable in engaging Native American citizens in the civic process. Many Native Americans are, I am sad to say, skeptical about the motivations of the federal government given past history and current conditions. A sincere, robust program for citizen education and engagement has the potential to transform the relationship between the government and historically dis-enfranchised Indian communities.

Members of the Senate Rules Committee, you have the power to create laws that will secure and protect voting rights for Native American citizens and all citizens. I ask that you do so. Pass legislation that expands access to voting before Election Day. Make laws that evenly allocate resources, modernize elections and allow electronic registration options. Give the full force and power of federal law to same-day registration, vote-by-mail, and early voting.

These are all practical, proven solutions to problems in voting. I respectfully ask the Committee to create legislation that will make them a reality.

In closing, I need to emphasize that the right to cast a vote is the most fundamental right for a citizen in a democracy. For this right to be abridged or limited in any way harms both the substance and the spirit of our great democracy. And no words ever spoken could more true than "injustice anywhere is a threat to justice everywhere." So I ask you all that, when you consider making the law just for Native American citizens, think also of the rights of your own children and of the kind of nation you want to see them inherit.

Thank you.

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Rhonda Whiting
Chair, Western Native Voice Board of Directors

June 20, 2014

Testimony of Wendy Weiser
Brennan Center for Justice at NYU School of Law
Before the Senate Committee on Rules & Administration Hearing on “Election
Administration: Examining How Early and Absentee Voting Can Benefit Citizens and
Administrators”

June 25, 2014

On behalf of the Brennan Center for Justice at NYU School of Law,¹ I thank the Senate Committee on Rules & Administration for the opportunity to submit testimony in connection with this important hearing, “Election Administration: Examining How Early and Absentee Voting Can Benefit Citizens and Administrators.” The Brennan Center is a nonpartisan law and policy institute that focuses on issues of democracy and justice. Among other things, our Democracy Program works to ensure fair and accurate voting procedures and systems, and that every eligible American can participate in our elections.

The last presidential election brought to life memorable scenes of voters waiting hours in long lines to cast their ballots. Hours after polls were supposed to have closed, President Obama referenced those who remained in line and noted that “we have to fix that.” These long lines, found in states across the country, were visible evidence of a range of longstanding flaws in the way we register and vote both before and on Election Day.

Despite the attention they received, the long lines in 2012 were nothing new. We have seen similar lines in past elections; they are the results of recurring election administration problems that go back decades. The President took an important first step by forming the bipartisan Presidential Commission on Election Administration (PCEA). The Commission included veteran campaign lawyers from both sides of the aisle, customer service industry leaders from the private sector, and election officials from jurisdictions across the country. For six months the Commission thoroughly studied this issue through public meetings, and extensive expert and public comments. Earlier this year, the Commission released a thoughtful report that identified key flaws in election administration and recommended best practices that state and local jurisdictions should implement immediately.²

Notwithstanding the importance of its PCEA’s findings, the Commission is powerless to implement these reforms. But Congress is not. Congress can legislate reforms that are long past due and provide the resources states need to comply with new federal requirements. In fact,

¹ The Brennan Center has done extensive work on a range of issues relating to election administration, including work to modernize our voter registration system; remove unnecessary barriers to voter participation; make voting machines more secure and accessible; support and defend federal protections of the right to vote; and expand access to the franchise. Our work on these topics has included the publication of studies and reports; assistance to federal and state administrative and legislative bodies with responsibility over elections; and, when necessary, litigation to compel states to comply with their obligations under federal and state law. This testimony is submitted on behalf of a Center affiliated with New York University School of Law, but does not purport to represent the school’s institutional views on this or any topic.

² Presidential Commission on Election Administration, *The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration* (2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf> (“PCEA Report”).

federal action is appropriate because, as the noted by the PCEA, “most jurisdictions that administer elections confront a similar set of challenges.” The PCEA expressly rejected the view that there could be no “one size fits all” solution.³

Last year, the Brennan Center published a report, *How to Fix the Voting System* (Appendix A), based on testimony submitted to the PCEA,⁴ that recommended best practices in four key areas of election reform. That report discusses these proposed reforms in further detail. The following sections describe the ways in which Congress could effectively act to improve our election administration.

I. Modernizing Voter Registration

Voter registration is the single biggest election administration problem in the United States. One in eight registrations nationwide contains serious errors, and one in four eligible Americans are not registered to vote at all.⁵ As we reported to the PCEA, the continued use of inefficient and error-prone paper-based registrations is the primary cause of this problem. A modernized registration system would put more eligible Americans on the voter rolls, save resources, and make our voter lists more clean and accurate, thus reducing fraud. The Brennan Center reports *How to Fix the Voting System* and *Voter Registration in a Digital Age* (Appendix B) discuss these reforms in more detail.⁶

Congress has meaningful modernization proposals before it. The Voter Empowerment Act, sponsored by Rep. Lewis and Sen. Gillibrand, provides for electronic transfer of the registration information of consenting voters from government agencies to election officials, online registration, making a voter’s registration move with a voter as long as she remains in-state and eligible, and the ability to update registrations up to and on Election Day.⁷ Senator Gillibrand also recently announced plans to introduce a bill, the Voter Registration Modernization Act, mandating online voter registration.⁸

Congress should draw upon these efforts and pass legislation that would mandate electronic and online registration, provide for registration portability, and allow voters to register and update their information through Election Day.

³ *Id.* at 9-10.

⁴ Testimony of the Brennan Center for Justice at NYU School of Law Before the Presidential Commission on Election Administration (Sept. 4, 2013), available at http://www.brennancenter.org/sites/default/files/analysis/PCEA_Testimony_090413.pdf (“Brennan Center PCEA Testimony”).

⁵ Pew Center on the States, *Inaccurate, Costly, and Inefficient 2-3* (2012), available at http://www.pewtrusts.org/-/media/Imported-and-Legacy/uploadedfiles/pes_assets/2012/PewUpgradingVoterRegistrationpdf.pdf.

⁶ *Id.* at 2-15.

⁷ H.R. 12/S. 123, 113th Cong. (2013).

⁸ Press Release, Office of U.S. Senator Kirsten Gillibrand, “Gillibrand Calls For Modernizing Nation’s Voter Registration System By Allowing All Eligible Voters To Register Online – Currently Only Half The Nation Can Register Online – Would Expand Access To Millions Of Voters,” (June 22, 2014) available at <http://www.gillibrand.senate.gov/newsroom/press/release/gillibrand-calls-for-modernizing-nations-voter-registration-system-by-allowing-all-eligible-voters-to-register-online-currently-only-half-the-nation-can-register-online-would-expand-access-to-millions-of-voters>.

II. Expanding Early In-Person Voting

The antiquated notion that all ballots cast in-person must be voted on a single day, in an 8 or 12 hour period, fails to reflect the realities faced by Americans with complex lives. It also burdens poll workers who must serve waves of voters. In a recent Brennan Center study, we found that sufficient opportunities for voters to cast their ballot early and in-person can improve election administration by, among other things, reducing this burden on poll workers and providing greater access to voting to the general public.

The PCEA took an important step forward by endorsing early in person voting (EIPV) and recommending that states expand opportunities to vote before Election Day.⁹ Congress can do even more by establishing national standards for EIPV which would include: establishing EIPV a full two weeks before Election Day, extending hours in which voters can cast their ballot early, and including the last weekend before Election Day. The Brennan Center report *Early Voting: What Works* (Appendix C) provides further detail.

Congressional action would be timely. Thirty-two states plus the District of Columbia already use some form of EIPV,¹⁰ and at least twenty-three considered introducing or expanding EIPV in just the most recent legislative session.¹¹ However, early voting standards and usage vary greatly. Congressional standards will ensure that the benefits of EIPV reach as much of the voting public as possible.

III. Adopt Minimum Standards for Managing Polling Place Resources

National standards should also reach the management of polling places themselves as a method of improving the voter experience on Election Day. Long lines reduce voter turnout and satisfaction; a recent analysis estimated that in Florida alone, more than 200,000 voters may have been discouraged from participating because of long lines.¹² Voters in urban areas experienced

⁹ See PCEA Report, *supra* note 2, at 56-58.

¹⁰ Alaska, Arizona, Arkansas, California, Colorado, D.C., Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, Wisconsin, Wyoming. The two exclusively vote by mail states, Oregon and Washington, are not counted among the states with early in person voting since virtually no voting — including Election Day — takes place in person in those states. See U.S. Election Assistance Comm'n, 2012 Statutory Overview 28-30 (Feb. 2013), available at http://www.eac.gov/assets/1/Documents/EAC_StatutoryOverviewReport_FINAL-rev.pdf

¹¹ Brennan Center for Justice, *Voting Laws Roundup 2014*, available at <http://www.brennancenter.org/analysis/state-voting-2014>.

¹² Scott Powers and David Damron, *Analysis: 201,000 in Florida Didn't Vote Because of Long Lines*, Orlando Sentinel, Jan. 23, 2013, available at http://articles.orlandosentinel.com/2013-01-29/business/os-voter-lines-statewide-20130118_1_long-lines-sentinel-analysis-state-ken-detzner. Professor Theodore Allen found that long lines in Florida caused an estimated 49,000 people in central Florida not to vote. He previously found that long lines in Franklin County, Ohio discouraged approximately 20,000 people from voting. Voters who experience longer lines have less positive evaluations of their voting experience. Scott Powers and David Damron, *Researcher: Long Lines at Polls Caused 49,000 not to vote*, Dec. 29, 2012, available at http://articles.orlandosentinel.com/2012-12-29/news/os-discouraged-voters-20121229_1_long-lines-higher-turnout-election-day (citing analysis of Theodore Allen).

longer lines,¹³ and there were significant racial disparities in wait times as well: African-American voters waited an average of 24 minutes, Hispanics waited 19 minutes, and whites waited only 12.¹⁴

Based on this research and our own findings from a forthcoming report, we recommended that the PCEA urge states to improve the management of polling place resources by examining the number of machines and poll workers at voting sites and by setting maximum acceptable wait times. The Brennan Center's reports *How to Fix the Voting System* and *How to Fix Long Lines* (Appendix D) provide additional detail. The PCEA agreed that long lines to vote were problematic and concluded that voters should not generally have to wait in excess of half an hour to vote under normal circumstances.¹⁵

Congress can make the PCEA recommendation a reality by passing legislation which would ensure our country's polling stations are sufficiently resourced. Congress can look as a starting place to the LINE Act, sponsored by Sen. Boxer, which would require states to provide a minimum number of poll workers and voting machines at each Election Day and early voting site.¹⁶

IV. Improving the Simplicity and Usability of Election Forms and Publishing Data on Machine Performance

In many elections, poorly worded instructions, confusing design and machine failures cause hundreds of thousands of lost and miscounted votes.¹⁷ These errors undermine the fundamental promise of our voting system: that every vote is counted. Additionally, the PCEA warned of an "impending crisis in voting technology" precipitated by aging machines, a broken process for setting standards for such technology, and the lack of new voting machines on the market to meet current needs.¹⁸

We recommended to the PCEA that states adopt ballot design guidelines and usability testing for ballots; and implement policies to generate and disclose data on voting machine performance. The Brennan Center's reports *Better Design, Better Elections* (Appendix E) and *Voting System Failures: A Database Solution* (Appendix F) detail more about our ballot design and voting machine recommendations, respectively.

¹³ Charles Stewart III and Stephen Ansolabehere, *Waiting in Line to Vote* 11 (July 28, 2013) (Submitted to the Presidential Commission on Election Administration), available at <https://www.supportthevoter.gov/files/2013/08/Waiting-in-Line-to-Vote-White-Paper-Stewart-Ansolabehere.pdf>.

¹⁴ *Id.*

¹⁵ PCEA Report, *supra* note 2, at 14.

¹⁶ S. 58, 113th Cong. (2013).

¹⁷ See Lawrence Norden et al., Brennan Center for Justice, *Better Design, Better Elections* 3 (2012), available at http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/Better_Design_Better_Elections.pdf. Lawrence Norden & Sundeeep Iyer, Brennan Center for Justice, *Design Deficiencies and Lost Votes* (2011), available at

http://www.brennancenter.org/sites/default/files/legacy/Democracy/Design_Deficiencies_Lost_Votes.pdf. See Lawrence Norden, Brennan Center for Justice, *Voting System Failures: A Database Solution* (2010), available at http://www.brennancenter.org/sites/default/files/legacy/Democracy/Voting_Machine_Failures_Online.pdf.

¹⁸ PCEA Report, *supra* note 2, at 62.

Because the situation could deteriorate further still, Congress should require states to follow ballot usability and machine performance guidelines. However, the most immediate step it can take would be to revitalize the Election Assistance Commission. The federal agency has been without Commissioners since 2011. Right now, it cannot fully carry its responsibilities, which include testing and certifying voting machines and other election equipment and distributing funds to the states to implement changes in voting technology. Many of the problems with voting machine performance could be addressed by simply allowing this agency to function as intended.

Events in recent years have rightly forced Congress to consider how good a job that we, as a nation, are doing at the business of running elections. While some states are making progress, too many are stuck in neutral or moving in the wrong direction. There should be no controversy about implementing reforms to modernize our voter registration system and make our elections more reliable. We urge Congress to set national standards to improve election administration and safeguard the right to vote.

PEOPLE LOVE IT: Experience with Early Voting in Selected U.S. Counties

A Report by Common Cause/NY and Common Cause Election Protection Project

Written by

Susan Lerner, Elizabeth Steele, Jenny Flanagan and Prachi Vidwans

Introduction

According to the National Conference of State Legislatures, “In 32 states and the District of Columbia, any qualified voter may cast a ballot in person during a designated period prior to Election Day. No excuse or justification is required.” This procedure is known as “Early Voting.” As in other aspects of election administration, there are many versions of Early Voting across the country with different levels of utility and efficiency.

Early Voting is adopted in all of the states west of the Mississippi, except for Washington State and Oregon where all elections are conducted solely by mail. In the 2012 presidential election, more than 30 million voters cast their ballots before Election Day.

In the eastern part of the country, in contrast, there is no region where states have uniformly adopted Early Voting. In the mid-Atlantic region, Maryland has recently instituted Early Voting and Connecticut’s voters will decide in 2014 whether to authorize Early Voting through a constitutional amendment.

In New York, serious public consideration of Early Voting began as a result of Superstorm Sandy’s extreme disruption of the 2012 election in New York’s 8 most populous counties. In his State of the State address this past January, Governor Cuomo identified Early Voting as a reform priority.¹ Later that same month, the New York State Bar Association’s Special Committee on Voter Participation endorsed Early Voting in its report which was adopted by the State Bar Association’s Conference of Delegates.² A bill to institute Early Voting has passed the State Assembly, but failed to move forward in the State Senate. Election Administrators around the state are examining the issue.

In New York, as elsewhere, the concept of Early Voting is popular with the public. More than two-thirds of New Yorkers surveyed by Siena Research earlier this year support Early Voting.³ Yet we have found that misconceptions abound, with few voters and even some election administrators unfamiliar with the Early Voting experience in other states. We strongly believe that any state’s decision whether to adopt Early Voting should be made on the basis of facts and not ideology. Our strong support for Early Voting is based on the experience of Common Cause voters and staff in states that have Early Voting. Common Cause/NY and Common Cause nationally is dedicated to assisting the public and states in learning about best practices in election administration, so that the public, election administrators and legislators can work together to continue to improve their state’s voting administration to insure efficient, secure, transparent, reliable, and accessible elections for all Americans.

This report is not a survey, comparison or discussion of Early Voting in all 36 states that provide their citizens with some means of voting in advance of election day. Rather, our goal in preparing this report was to examine selected counties across the country whose experience with Early Voting provides what we hope will be helpful and relevant information for those considering whether to adopt Early Voting in New York and other Atlantic region states.

Methodology

Early Voting, as is the case with all aspects of election law and administration in the United States, is handled differently in each state that allows it, and, in some states, differently in each county within the state. We began with a review of the laws pertaining to Early and Absentee Voting in all 50 states to identify the various ways in which Early Voting is conducted across the country, as well as a limited review of the academic literature pertaining to Early Voting. The first part of this report is devoted to a discussion of the results of that review.

We then reviewed the laws pertaining to Early Voting in states in which Common Cause has a presence to identify those states whose election administration had some aspect we subjectively deemed relevant to New York's election administration. Based on our analysis of the laws pertaining to Early Voting and our discussions with colleagues, we selected 6 states for examination: Florida, Illinois, Maryland, New Mexico, North Carolina and Ohio.

Our next step was to query Common Cause staff, consultants and activists in those states to identify counties with particularly strong election administrations. Our purpose was to learn from the practical experience of other states in order to make recommendations to devise an Early Voting system that serves the voters, while remaining manageable for its administrators.

The counties profiled were selected based on the recommendations of state-level elections administrators, local nonprofit organizations, as well as recommendations from Common Cause staff. The counties are: Orange County, FL; Cook County, IL; Montgomery County, MD; Bernalillo County, NM; and Charlotte-Mecklenburg County, NC. These counties have efficient Early Voting systems that have met with exceptional success. Also, all of these counties are urban or are among the most populous counties in their states, which means that their Early Voting systems must be robust, efficient, and cost-effective to serve such large populations. Additionally, all use a combination of DRE, Optical Scan, and Paper ballot systems, as New York does, which means that their experiences managing and securing ballots will be more relevant and useful to NY legislators. Additionally, though some of these states, like Florida and North Carolina, have more established Early Voting systems, others, like Maryland and New Mexico, have established these systems more recently. This report, then, contains advice from those who have been through the trial-and-error process, and those who are currently experiencing the transition into Early Voting.

We looked specifically at five aspects of early in-person voting systems, seeking answers to the following questions:

1. System: What has the experience been with implementing Early Voting in the states we surveyed? Can their experiences provide guidance regarding what should be required by statute, and what should be left up to counties and municipalities to decide? How much flexibility should be built into Early Voting systems?

2. **Dates and Times:** Can the experience of other states help determine a preferred length of time to offer Early Voting or identify appropriate hours to reach the most voters? Can we discern a pattern identifying the days or times of day that elections administrators experience the heaviest voter traffic?
3. **Voting Locations:** Is there a clearly preferable system for determining how many voting locations a county should have? What has experience been with systems that determine Early Voting locations according to population? Geography? Demographics? Further, what locations are most useful? Elections offices? Government buildings like libraries and schools, or unconventional locations like grocery stores or shopping malls?
4. **Ballot Security:** What practices have been put in place to secure ballots during the Early Voting period and prevent voter fraud? What technology has been used to aid in these efforts?
5. **Budgeting:** How have states and counties budgeted for Early Voting? Who is responsible for bearing the costs of Early Voting? How does it affect election day costs? Are there any savings associated with Early Voting?

With these questions in mind, Common Cause interviewed state and county-level elections officials that have first hand experience with administering Early Voting (both early in-person and in-person absentee systems). The second section of this report details the Early Voting experiences of those counties and the advice of their administrators.

The final section of the report summarizes Common Cause/NY's recommendations for states looking to implement Early Voting, based on the experiential knowledge of county and state elections administrators who have already been through that process.

I. EARLY VOTING OVERVIEW

Defining Early Voting

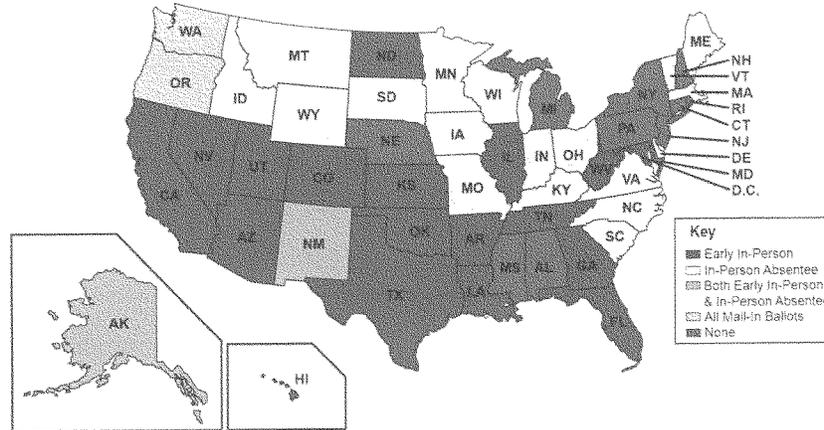
Broadly speaking, Early Voting refers to mechanisms that allow voters to cast a ballot before election day. States, journalists, and academics use the term loosely to refer to many different voting practices, so it is, therefore, useful to outline a working terminology for discussing Early Voting systems.

Today, the term “Early Voting” is used separately from mail-in systems. Following this trend, this report does not consider mail-in absentee ballot systems a type of “Early Voting.” Additionally, Washington and Oregon, which have both adopted all-mail voting systems, are treated as special cases. Though both states allow voters to hand-deliver their ballots to elections officials in a way that could be construed as “Early Voting,” the overall system in these states is so different that its data provides little that is applicable for the implementation of Early Voting in other states.

The two broad categories of Early Voting that remain are *in-person absentee* and *early in-person*. This report examines the latter. Accordingly, we use early in-person to refer to systems that do not use the word “absentee” to describe its Early Voting system. Though this differentiation seems only semantic, it does reflect the shared characteristics of these systems: that they do not require voters to fill out voting applications before casting their ballots, do not require an excuse for Early Voting, and use the same technology and process for Early Voting as they do on election day. The first distinction is especially important because, in some states, “any voter who chooses to vote absentee is perforce allowing a multitude of factors to intrude on the likelihood that his or her ballot will count.”⁴ Because an absentee ballot is verified after the vote has been cast, a ballot could be invalidated for a number of reasons, such as mismatching signatures. With Early Voting a voter’s eligibility to vote is verified before the ballot is cast, obviating this potential problem.

By these definitions, 38 states across the nation have implemented either in-person absentee systems (19 states) or early-in person systems (18 states and D.C.), not including Alaska, which offers both options. Two states (Oregon and Washington) have switched to all mail-in balloting, and the remaining 10 states (AL, CT, MA, MS, NE, NJ, NH, NY, PA, and RI) have no in-person voting options other than allowing voters to deliver their applied-for absentee-by-mail ballots straight to their county office.

The in-person absentee category covers a diverse array of Early Voting systems. Some of these states have extra barriers for absentee voters. Massachusetts, for example, allows in-person absentee voting, but requires registered voters to make individual arrangements to vote early with election officials 2-3 weeks before the election. Also, many in-person absentee systems (DE, KY, MA, MN, MO, MT, SC, VA) require voters to have a valid excuse in order to vote early.



Map of Early Voting Systems across the U.S. (May 2013)

At the same time, some Early Voting systems blur the line between in-person absentee and early in-person voting. Some, like North Carolina and Wisconsin, have “one-stop absentee” systems where a voter can apply for an absentee ballot and cast it in-person during the same visit. This seems very similar to early in-person voting, except that voters do not use the same ballots or voting equipment that they would use on election day. Another mixed case is Kentucky’s system, which it calls “absentee voting” even though it allows citizens to cast their votes directly into the same voting machines used on election day. However, Kentucky is regarded as an in-person absentee system because it requires its voters to have an excuse in order to vote early.

Some states also allow for a great deal of flexibility in their statutes or constitutions when it comes to Early Voting. Many allow their counties to independently determine important aspects of election administration such as the type of election equipment, security, and budgeting, so that there is constant revision and innovation of Early Voting procedures at the county level that is difficult to track from a state or national perspective.

The great diversity in in-person absentee reflects the lack of national consensus on what Early Voting looks like and how to talk about it. However, this gives New York and other late arrivers the opportunity to learn from the experiences of other states to fashion the most effective and efficient Early Voting systems.

Specifically, this report considers the following characteristics of Early Voting systems: the length and hours of the Early Voting period, methods for determining the number and location of

Early Voting sites, methods for ensuring ballot security and preventing voter fraud, and preferred budgeting practices.

The New York Bill

New York is falling behind when it comes to modernization of its elections laws and administration. It is one of only 10 states that have yet to implement some form of Early Voting option. New York's voter turnout is one of the lowest in the nation, while New York City's turnout is the lowest among major metropolitan centers.⁵ 2012 Election Day coverage featured long lines winding outside of the state's polling centers and election administrators' frantic efforts to expand voting opportunities in the wake of Hurricane Sandy. An Emergency Executive Order allowed New Yorkers to cast provisional ballots at any location convenient to them, but the last minute adoption of the provision created a monstrous workload for elections administrators in affected areas.

In the past legislative session, Early Voting legislation that might address these concerns, among others, by making voting more convenient for voters across the state was introduced. The bill, sponsored by New York State Assembly Speaker, Sheldon Silver, passed the State Assembly but languished in the State Senate. While no public hearings were conducted by either house on Early Voting or the specific bill, the issue of Early Voting was discussed by various County Boards of Election.

The bill (A689 same as S01461) attempts to raise turnout and to alleviate several challenges for administration of in-person voting on Election Day and ease the burden on election day polling sites. The bill states that, "All New Yorkers, regardless of work schedules or personal and professional commitments should have the ability to vote in each and every election," which the bill aims to achieve by increasing accessibility, convenience, and ease.

Specifically, the bill calls for Early Voting from 14 days before a general election and 7 days before a primary election, right up to Election Day. It requires specific hours (8:00 am – 7:00 pm) each day, including weekends. In terms of Early Voting locations, the legislation requires each county to set up at least five Early Voting polling places that are "geographically located to provide all voters in each county an equal opportunity to cast a ballot." It specifies that election day protocol must be observed during the Early Voting period, and that ballots be handled in the same way that election day ballots are. It also allows counties the flexibility to use ballot scanner technology and voting machines, and requires up-to-date poll books to prevent voter fraud. The bill also includes other provisions, such as mailing voters information about Early Voting options in advance.

While New York State's suggested Early Voting length is near standard (15 days before election day is the most common start date), and though it allows flexibility with election technology and location selection, we believe that less restrictive provisions are preferable. The case studies that

follow in the second section of this report provide insight into the relative strengths and weaknesses of this Early Voting bill and where it might be improved.

The Big Question: Does Early Voting affect voter turnout?

Much of academic research has focused solely on the question of how Early Voting practices affect voter turnout.⁶ For the most part, however, studies have found that Early Voting has only a marginal impact on total voter turnout.

Barry Burden's frequently cited report on Wisconsin's 2008 general election finds that though Early Voting sites were heavily used (more than 30% of votes were cast before election day), total turnout actually decreased by 3% in Wisconsin as a whole.⁷ However, Burden's report stands alone in reporting a decrease in turnout. Most of his colleagues find that Early Voting either has no impact on turnout, or that turnout modestly increases.

The percent of voters that take advantage of Early Voting in its first years is highly correlated with campaign efforts.⁸ Campaigns can increase voters' awareness that new Early Voting systems are in place, and can, in major part, mitigate the potential effects of Early Voting reductions.⁹ Some note that the boost in turnout that campaigns effect is "short-lived," but this may be because campaigns have not yet found an efficient way to factor Early Voting into their strategy year to year.¹⁰

But regardless of campaign strategy, the impact of Early Voting rules on turnout is also highly dependent on how long the system has been in place. Since voting is habit-forming,¹¹ a more established system will experience an increase in turnout over time. Many counties experience yearly increases in Early Voting traffic for a number of election cycles. Others note, however, that these increases tend to level off after the system is more established.¹²

As a result, when state legislators have made moves to cut back on Early Voting, they have had a negative impact on the efficacy of Early Voting and turnout. In the 2012 General Election, a number of states shortened their in-person absentee and early in-person voting periods. Significantly, Florida's move to decrease their Early Voting period from 14 to 8 days had a significant impact on certain demographics, especially black voters and Democrats.¹³ This was precisely what concerned the Obama 2012 campaign when elections administrators in Ohio attempted to prevent non-military voters from voting on the weekend before election day. The Obama campaign stated that this was a form of voter suppression. Eventually, the U.S. Supreme Court rejected the administrators' effort to curtail Early Voter on that week-end, and 105,000 voters cast their votes in those three days alone.¹⁴

However, even when Early Voting does increase turnout, it is by a small margin. Though many Republicans were reportedly concerned that Early Voting would advantage the Democratic Party, a Gallup poll released one week before the 2012 General Election actually found that a slightly higher percentage of Republicans than Democrats had taken advantage of Early Voting

(19% Republicans versus 15% Democrats). This is likely due to their finding that senior citizens, who are generally more conservative, were more likely to vote early than their younger counterparts.¹⁵

That being said, election administrators should welcome any opportunity to make voting more convenient. Voting should not be subject to an onerous cost-benefit analysis; on election day, voters should not be required to give up shifts at work or set aside time in the middle of the day to sit in line for hours in front of polls. Voting is not a privilege, it is a right, and it is the responsibility of lawmakers and administrators to lessen the burden for citizens to take part in their democracy.

Devising Smart Early Voting Systems

But the benefits of Early Voting go beyond increases in turnout. In the last presidential election, New York voters faced Hurricane Sandy just days before the election, which left destruction in its wake. It destroyed some precincts in downstate counties including Long Island and Westchester, as well as throughout New York City, and required a flurry of provisional ballots and special measures to ensure that voters could still have the opportunity to cast ballots. There is no doubt that the flexibility of an Early Voting system would have lessened the impact of the hurricane on elections.

Additionally, long lines at precincts on election day 2012 caused outrage, and Early Voting would decrease those lines. Early Voting has the potential to decrease the election day burden on administrators and voters alike.

But there are certainly some Early Voting protocols that work better than others, and some states and counties have devised smart and effective Early Voting programs that could inform New York's own voting system. Review of the academic literature helps understand some of the dimensions of Early Voting that this report examines: the system, dates and times, voting locations, ballot security, and budgeting.

Many academic reports relay the nervousness elections administrators feel on implementing Early Voting regarding ballot and equipment security, costs, staffing, etc., but these same reports do little to help evaluate the validity of these concerns.¹⁶ Many simply point to these fears and take them at face value, rather than evaluating the ways existing Early Voting systems have addressed these issues. Of course, elections administrators have a right to be nervous in the face of change, but that does not mean that the benefits of the change itself should be discounted.

Some reports have addressed the effect differing days and times have on Early Voting success. A Government Accountability Office report¹⁷ surveyed 17 jurisdictions across 9 states and D.C., and found that 13/17 jurisdictions were concerned about the planning Early Voting would require, especially when it came to finding staff and ensuring the security of voting equipment over the weekend. Indeed, Herron and Smith's report on Florida found that traffic at polls

increases over the weekend, and especially on the last weekend during the Early Voting period. In the 2012 election, for example, so many voters turned up on the last Saturday before election day that three counties had to stay open until early Sunday morning to accommodate all of the voters in line. The report notes that black voters were overrepresented in the Saturday rush when compared to the registered number of black voters in these counties. But knowing this sort of information would allow counties to allocate their resources wisely. Those concerned jurisdictions can examine where their staff are needed the most, and assign them to weekend shifts.

There also should be room for flexibility in Early Voting systems. After Hurricane Sandy in October 2012, Watauga County in North Carolina attempted to vote to extend Early Voting hours. Though this motion was not ultimately adopted, it reflects that Early Voting systems have the flexibility to respond to emergency situations.¹⁸ One of the Florida counties in Herron and Smith's report was also able to extend its hours after a bomb threat shut the polling place down for several hours on Saturday, November 3. Spreading voting over a couple of weeks, rather than dealing with all voters at once on election day, allows elections officials time to work out problems like these, and also decreases the chaos of election day in general.¹⁹

Other reports analyze the way that the choice of Early Voting locations can increase or decrease early turnout. For example, one study²⁰ found that Early Voting can have a "mobilizing effect" in the following situations:

- If voters stumble upon Early Voting locations in non-traditional sites (grocery stores, libraries, shopping malls, etc.)
- If voters run across others who voted early and are reminded to vote themselves
- If voters encounter news coverage of Early Voting
- If voters are subject to candidate or party campaigns encouraging Early Voting

Making Early Voting present in the daily life of a potential voter seems to increase the likelihood that a person will take advantage of Early Voting opportunities. Elections administrators have the power to increase the likelihood of the first scenario: that voters will run into Early Voting locations during their usual routines. Indeed, other reports have found that placing voting centers in "nontraditional locations" or "socially familiar sites" increases early turnout.²¹ The same report also finds that those nearest to their Early Voting site were 13% more likely to vote than those farther away from voting locations. Distance also has a greater impact in rural counties than in urban counties, and in locations where residents have long commutes to work, the Early Voting rate drops 22%. Taking this into consideration, it may be more useful to put more Early Voting sites in office and industry-heavy parts of counties rather than in residential areas, so that commuters can factor voting into their workday.

Statistics and data about Early Voting security and budgeting are much harder to find. Though there are many people discussing the possibility of voter fraud with respect to Early Voting, counties and states have not published reports about incidents of voter fraud or about how they secure Early Voting locations overnight. Voting technology seems to both greatly ease the Early Voting process and greatly increase rampant fears about its misuse or malfunctioning.

There is similar concern about budgeting for Early Voting. Information about how counties fund Early Voting is not typically made public, though concerns about costs and staffing are also common. This report will shed some light on how elections administrators in successful counties secure voting locations overnight, and how counties find savings in implementing Early Voting, but hopefully future academic studies will address these gaps in data and knowledge.

II.
CASE STUDIES

FLORIDA

Source

Telephone interviews with:

- Carolyn Thompson, a Florida Voter Protection Advocate at the Advancement Project
- Bill Cowles, Supervisor of Elections, Orange County

State Overview

Florida has a no fault early in-person system that underwent significant changes in the recent past. Originally, the Early Voting system provided for two weeks of Early Voting, but this was cut to just 8 days in time for the 2012 general election, which Carolyn Thompson at the Advancement Project called a “painful” experience. Reports show that turnout—and especially the turnout of black voters and Democrats—decreased as a result of this change.²² Legislative efforts are under way to allow counties more flexibility in determining their Early Voting policies in terms of days, hours, and locations.

Florida has some unique state-level measures that increase the system’s effectiveness. For example, the state puts information about wait times online, so that voters can go to the Early Voting centers that have the shortest wait times. This is highly convenient for voters, and allows them to better structure their days around voting.

Florida State Early Voting Requirements

System	Early In-Person, No Fault
Dates	E-10 to E-3 ¹
Times	Centers must be open for 8-12 hours per day, including Saturday and Sunday.
Locations	Early voters can cast ballots in the main or branch office of the Supervisor of Elections, though the Supervisor may also designate any city hall or public library as an Early Voting site. All locations must be geographically convenient to voters so that “all voters in the county [...] have an equal opportunity to vote.” Early voters can use any voting location in the county.
Voting Technology	Optical Scan, DRE, Ballot-On-Demand statewide
Ballots and Security	Early voters use the same type of voting equipment as election day voters. Voters must present ID and fill out an “Early Voting voter certificate” in which they swear and affirm that they will not commit voter fraud, and that they will bear the consequences if they do.
Budgeting	Managed on the county level

¹ I.e., “election day minus 10 days to election day minus 3 days,” or that Early Voting runs from ten days before election day to the third day before election day. During a November election, this would mean that voters could cast early ballot two Saturdays before the Tuesday election, until the Saturday before the Tuesday election. In this report, we use the “E-#” format as shorthand.

Orange County, FL: Demographic Facts²³

- Geography: Central Florida, includes Orlando and a dozen other municipalities.
- Population: 1,157,372
- Urban/Rural: 90% urban and 10% rural
- Race: 46.0% White, 26.9% Hispanic or Latino, 19.5% Black or African American, 4.9% Asian
- Major Industries: Tourism (Arts, Entertainment, Lodging, and Food Services account for 18% of industry)
- Administration: Elected County Supervisor of Elections supported by professional staff

**Orange County, FL: Experience with Early Voting**

At the time we spoke to Bill Cowles, the Supervisor of Elections in Orange County, Florida was in the middle of legislative sessions where Early Voting policies were up for debate. Though Cowles had changes that he would recommend for Early Voting in Florida, for the most part, he said that the system just made sense for his county. According to Cowles, the number one reason Early Voting is appropriate for Orange County is that tourism employs many of the county's residents and shapes daily life. Because most residents of Orange County do not have a typical workday, the traditional election day vote is simply inconvenient, and Early Voting gives voters "the flexibility to vote within their own convenience."

Orange County's experience is illuminating when it comes to the impact of Florida's recent legislative changes in Early Voting policy. When Florida decreased the Early Voting period from 14 days to 8 days, Orange County made up for the shortage by offering the maximum number of Early Voting hours possible—but the increasing the number of *hours* in the day that Early Voting polling places were open did not compensate for the fewer number of *days* of Early Voting. These statutory changes actually allowed for the same overall number of hours, but restricted the overall Early Voting period. Orange County offered the maximum possible hours, 12 hours on each of the 8 days, but Cowles reports that this didn't make up for the 6 lost days. He explains, "It was the same number of hours, but we didn't get as many people through the process. People were frustrated." Planning for an election cycle is not unlike opening a business, he says, because you must plan for a soft opening and build to a big weekend. Cowles explains, "When you start on Saturday, which is normally a big turnout day, you get a weak opening."

Squeezing two weeks of voters into eight days also put a lot of pressure on poll workers, who had to work 12 hour days, not including setting up and closing down the polls or accommodating for voters who are still waiting in line when the polls closed for the day. Cowles explains, "I'm

not sure if we'd have workers that could survive 16 hour days for 8 days." But while this time might not be sufficient for Orange County, Cowles recognizes that 8 days might be enough for smaller, rural counties. Proposed legislation would require 8 days, but allow bigger counties to opt for running Early Voting from 15 days before election day to the Sunday before. In Orange County, Cowles says, they'll definitely go back to a 14-day schedule.

According to Bill Cowles, the most important thing for an Early Voting system is that it be flexible. "Not every county is the same," he says, "The elections office [of a county] knows their community better and would know how to pick good locations and times."

In particular, Cowles would like to have more flexibility in picking Early Voting locations. Currently, Florida only allows supervisors to set up voting sites in their main or branch offices, public libraries, and city halls. Some libraries and city halls are located in shopping centers and other places that are highly convenient for voters—but not every county has an office in such locations. Also, some of these locations, like libraries, do not have enough available free space to accommodate Early Voting. Cowles says that these restrictive limits are directly responsible for Florida's long lines in the 2012 general election. If he had more flexibility, he feels he would be able to use his community knowledge to pick the best possible voting locations, use his resources in the most effective way possible, and further strengthen Orange County's Early Voting system.

When talking about the system Orange County already has in place, Bill Cowles' thoughts are consistent with administrators in other states. He explains that Early Voting decreases the chaos of election day. In Orange County's experience, Early Voting ends up being budget neutral over time because it ultimately reduces election day costs (fewer polling places, staff, telephone lines, etc.). Savings are also realized by using the statewide Ballot-On-Demand system. Ballot-On-Demand is a system that prints the appropriate ballot for voters when they appear at the election site. This is much more effective than the "pick-and-pull" system where counties print all of the ballots from every precinct ahead of time, and pull out the appropriate ballot for each voter when they arrive at the Early Voting center. Ballot-On-Demand drastically reduces printing costs and reduces the amount of prep work for in-person absentee or Early Voting staff, while increasing convenience for voters. Since two parts of the ballot are the same statewide, Cowles and his staff print those ahead of time, and only print the precinct-specific ballots on site, saving both time and money. Cowles also uses electronic poll books, which saves time in compiling election day poll books, and also strengthens Early Voting security against fraud—though, as he believes, "Voter fraud has become a campaign tool more than a real situation."

ILLINOIS

Source

Telephone interviews with:

- Gail Weisberg, Manager of Early Voting
- Gail Siegel, Communications and Policy Director

State Overview

Illinois has a no fault, early in-person system that was first implemented in 2006, and has evolved over time, driven in part by the demands of voters for the system. Illinois has both permanent and temporary Early Voting locations that are subject to different rules concerning location, hours, and ID requirements. The advent of Early Voting has also allowed for grace period registration.ⁱⁱ

Illinois State Early Voting Requirements²⁴

System	Early In-Person, No Fault
Dates	E-15 to E-3
Times	Permanent locations are open from 8:30 am-4:30 pm OR 9:00 am-5:00 pm weekdays, and 9:00 am-12:00 pm on weekends and holidays. Permanent Early Voting locations must be open 8 hours on any holiday during the Early Voting period and 14 hours during the final weekend before the general election. The hours and days for temporary Early Voting locations are subject to the election authority's discretion.
Locations	Each election authority in a county where: <ul style="list-style-type: none"> • Population > 250,000 = at least 1 location within each of the three largest municipalities, and if any such municipality is >80,00, then at least two locations in that municipality • Population > 100,000 = at least 2 locations Also allows for temporary Early Voting locations at the discretion of the election authorities. Locations must be accessible in accordance with ADA and HAVA.
Voting Technology	Optical Scan, DRE, Networked Voter Database

ⁱⁱ Illinois law allows voters who miss the traditional voter registration cut-off of 28 days prior to the election to register in person at the office of their election authority during a grace period of the 27th to the 3rd day prior to the election.

<p>Ballots and Security</p>	<p>Clerks are required to verify the signature of all early voters. Photo ID is required to vote early. Anyone who is voting early who also received an absentee ballot can surrender the absentee ballot and vote early. Clerks must maintain and submit to the state a list of all voters who voted early. The names on the list will then be delivered to the appropriate precinct before the opening of polls on election day.</p> <p>Voting sites must also comply with all applicable voting machine security provisions. All early vote ballots must be counted at the election authority's central ballot counting facility, and cannot be counted until after the polls are closed on election day.</p>
<p>Budgeting</p>	<p>Managed on the county level</p>

Cook County, IL: Facts²⁵

- Geography: Northeastern Illinois, includes Chicago and 30 townships
- Population: 5,294,664, the 2nd most populated county in the U.S., and contains 43.3% of Illinois' residents
- Urban/Suburban: approx. 54% urban
- Race: 43.9% White, 24.4% Black or African American, 24.0% Hispanic or Latino, 6.1% Asian
- Election Administration: Elected County Clerk



Cook County, IL: Experience with Early Voting

Gail Weisberg, Manager of Early Voting, Cook County, and Gail Siegel, Communications and Policy Director, Cook County, were eager to endorse the benefits of Early Voting. Early Voting has increased in popularity since its introduction. In Cook County, all voters received a postcard prior to the November 2012 election notifying the voter of the closest early vote location and encouraging them to take advantage of the Early Voting option. "We encourage Early Voting. It provides so much access for voters. We all think those benefits outweigh any of the issues and costs of setting it up," said Gail Weisberg.

When Illinois first established Early Voting, the state brought in an election demography expert who looked at their maps and population distribution and came up with a suggested plan for the location of Early Voting centers. Cook County includes the City of Chicago and 120 other villages and towns, and is served by 43 Early Voting sites. They tried to distribute the locations in sync with the population's needs and voting habits. Most of the Early Voting locations are in local municipal halls, libraries, and other public buildings. The permanent Early Voting locations are generally in county offices. There has not been a need to make too many changes in locations, though a few sites were moved because the original location became too small as Early Voting popularity grew.

In order to effectively implement Early Voting, Cook County developed software that would allow it to serve every voter in the County at every Early Voting location. This includes a voter database that can be accessed remotely, so that election staff can check a voter's registration, deploy the correct ballot style, and be sure that voters are not trying to vote twice in a single election. This software also enabled Early Voting judges to retrieve voter signatures on file to enable the signature verification required by statute. In smaller counties, there was concern that this remote checking of signatures would not be possible and there would not be resources to develop the capability as in Cook County, which is why the legislature added a photo ID requirement for Early Voting. They would advise any state undertaking Early Voting for the first time to be certain the technology to check in voters will be successful.

It was also important for Cook County to create some uniformity in voting equipment. When Early Voting was first implemented, the early vote locations in downtown Chicago used touch screens, while the suburban areas of Cook County did not. This meant that not all voters could vote in every Early Voting center. Now Cook County has touch screens at all locations, and any voter in Cook County can now vote at any location in the County. The machines are capable of generating any required ballot style.

In determining locations and hours, Cook County's experience is similar to that in other states. Elections administrators noted that the popularity of Early Voting is dependent on the convenience of Early Voting locations. It is also their experience that early vote increases in popularity the closer it comes to election day. They have seen wait times expand during Early Voting from 20 minutes in the first days to an hour or more closer to election day. However, this has meant that lines on election day are shorter. As Gail Siegel says, "There are real benefits. I don't disagree that there is expense and work, but we have been able to reduce the number of precincts and consolidate them. Election day lines are shorter, and we need fewer election judges. It's not free, but people love it. It allows them access."

MARYLAND

Source

Telephone interviews with:

- Ross Goldstein, State Deputy Administrator of Elections*
- Margaret Jurgensen, Election Director in Montgomery County
- Alison McGlakin, Deputy Election Director in Montgomery County
- Chris Resesits, Operations Manager in Montgomery County

State Overview

Maryland has an early in-person voting system. Maryland's first Early Voting bill was passed in 2006, but after a legal challenge, it was determined that in order to implement Early Voting, the state would have to vote to amend the state's constitution. Voters approved the amendment during the 2008 general election, and Early Voting was finally implemented in time for the 2010 general election. The laws guiding Early Voting in Maryland are relatively inflexible compared to other states. It sets the days and hours for the Early Voting period, and determines how many locations a county should have according to its population.

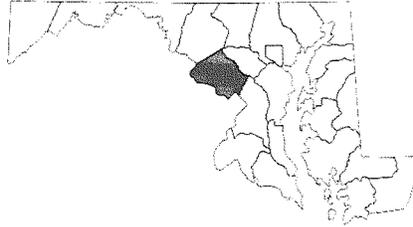
MARYLAND STATE REQUIREMENTS

System	Early In-Person, No Fault
Dates	E-10 to E-5, but not on Sunday (E9)
Times	10:00 am-8:00 pm each day
Locations	<p>Early voters can vote at any voting center in their county. The number of voting centers is determined by the registered voter population:</p> <ul style="list-style-type: none"> • Population < 150,000 = 1 voting centers • 150,000 < Population < 300,000 = 3 voting centers • Population > 300,000 = 5 voting centers
Voting Technology	Touch screen voting equipment (transitioning to Optical Scan by 2016), Electronic poll books statewide (ESNS, Express Poll)
Ballots and Security	<p>Early voters check in before voting, and vote on the same touch screen voting system used on election day. Maryland uses electronic ballots, and all voting equipment and election supplies are secured at the Early Voting center, in accordance with a plan filed by the local board of elections. After the last day of Early Voting, they are secured at the local board of elections.</p> <p>In response to concerns about voter fraud, the governor at the time of the implementation pledged money for the state to get electronic poll books.</p>
Budgeting	The cost is shared by the state and the county. In general, the county pays for election costs, but the state pays for institutional changes, like improving voting technology.

*Participated in Early Voting Panel in New York City on May 20; video online at <http://bit.ly/1d2Pop7>

Montgomery County, MD: Facts²⁶

- Geography: Bordering Washington, D.C. on the west
- Population: 971,777
- Urban/Rural: largely suburban
- Race: 49.3% White, 17.0% Hispanic or Latino, 16.6% Black or African American, 13.9% Asian
- Election Administration: County Board of Elections made up of five regular members and two substitute members appointed by the governor from candidates recommended by the appropriate county political leaders with three regular members and one substitute member of the majority party, and two regular members and one substitute member of the principal minority party, supported by a single appointed professional Election Director and a single appointed Counsel and a staff specifically barred from political activity.
- Other: 91.1% of residents age 25+ have a Bachelor's degree or higher and 56.8% of residents age 25+ have a Bachelor's degree or higher

**Montgomery County, MD: Experience with Early Voting**

The election administrators in Montgomery were more than eager to discuss their experiences with Early Voting. Because it is located next to Washington, D.C., and is the most populous county in Maryland, Early Voting is a substantial operation in Montgomery County.

The most restrictive aspect of Maryland's laws are its requirements delineating the number of voting locations in very populous counties, where any county with more than 300,000 registered voters must have exactly five voting centers. This means that county with 1,000,000 voters must have the same amount of voting centers as one with 300,001 voters. This makes it difficult for larger counties like Montgomery County to tailor their early Voting program to the specific needs of their county. This might account for Ross Goldstein's observation that despite arguments that Early Voting was a type of "unfunded mandate," once it was implemented, "the counties were the ones asking for more locations." Restricting the ability of counties to prepare for early voter traffic creates long lines at polls. Maryland's legislators addressed this problem earlier this year, passing a new statute allowing for increased number of sites depending on the size of the jurisdiction and extended the length to one full week, including a week-end, with the possibility of adding second week-end hours depending on study.

It takes quite a bit of planning—almost a year—to set up these Early Voting locations, the Montgomery County administrators note. Administrators are sensitive to regulations that set the criteria for Early Voting locations, including access to public transportation and the availability of utilities. At least 80% of the population must be within 15 minutes of Early Voting sites, according to the state law, so that they can be maximally accessible. Goldstein also noted, however, that resident population may not be the most important things to consider. He has found that the most useful sites are on major roads, are accessible, have sufficient space for voting machines, and space for parking. Maryland does allow for flexibility in the types of locations administrators can pick. Locations can be in public or private buildings, and the state elections board approves the locations six months ahead of time.

Another key part of Early Voting planning for Montgomery County involves training staff to handle the large amount of work on long, 10 am-8 pm days. The state requires that counties hire regular election judges for the Early Voting period, but Montgomery County chose to use these elections judges to compliment the specially hired temp staff. These judges work from 6:30 or 7:00 am until 9:00 or 10:00 pm, overseeing the set up and shut down of the Early Voting sites each day. Montgomery County hires two elections judges per location—one Republican and one Democrat—to “provide political coverage.”

Montgomery takes great care to make sure their staff is very well trained. Temps undergo at least 8 hours of training going over the instruction manual, management of election forms, and equipment training, and also have at least 2 hours of on-site training before the election. Judges train for additional hours, including 9 hours of classroom instruction. Because many have already been trained to handle voting at precincts on election day, elections administrators can “cherry pick” the best of their judges to work through the Early Voting period. Additionally, the training staff is also available on-site during the Early Voting period to help manage any problems that might arise. Montgomery “supports a high level” of staffing, which increases costs, but also increases the efficiency, security, and professionalism of Early Voting.

Also, Montgomery County and Maryland State are fully digitized, and have been using electronic poll books and DRE since 2002. In particular, the electronic poll books make Early Voting more secure. The state’s poll books are all networked together to prevent voters from voting twice in one election. Maryland ends its Early Voting period on the Thursday before the election, and uses the next four days to update all of the early voter information into finalized poll books for election day, which are delivered to polling places on Monday.

Finally, Maryland’s Early Voting cycle was impacted by Hurricane Sandy in October 2012, just before the general election. These elections administrators recall that their Early Voting period started the Saturday right before Hurricane Sandy, and they were surprised to see very heavy traffic throughout the day, with lines almost two blocks long. When Margaret Jurgensen asked voters why they all decided to vote that day specifically, she said that 90% of voters responded that they came early because of Hurricane Sandy. “They were afraid of power outages that would

affect Election Day and wanted to get voting out of the way before the storm,” Jurgensen explained. In fact, when Sandy forced them to cancel Early Voting on the following Monday, the County then had to expand hours to allow for Early Voting for an extra day. This process was “very hard,” which was not helped by the 90-minute line on that extra day.

However, although Jurgensen emphasized the hard work these changes required, it is remarkable that the Early Voting system was flexible enough to adapt to the Hurricane. Should the hurricane have fallen on Election Day without any type of Early Voting system to accommodate these sorts of unexpected emergencies, thousands of voters would have been disenfranchised. The long lines are not ideal, but they are a testament to the fact that Early Voting makes it easier for administrators to adapt elections to emergencies, and that voters are eager to take advantage of Early Voting during these types of situations.

NEW MEXICO

Source

Telephone interviews with:

- Maggie Toulouse Oliver, County Clerk*

State Overview

New Mexico offers both in-person absentee voting and early in-person voting. New Mexico's statutes have rules setting specific dates, hours, and locations for each voting option. The Early Voting provisions also set a minimum number of Early Voting locations depending on population, and require numerous checks and records of Early Voting to provide for ballot security.

New Mexico State Early Voting/In-Person Absentee Requirements²⁷

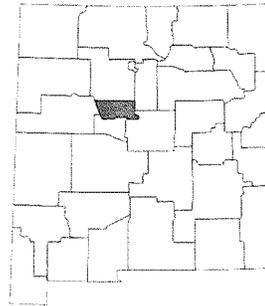
System	Early In-Person AND In-Person Absentee, No Fault
Dates	Early In-Person: E-17 to E-3 In-Person Absentee: E-28 to E-4
Times	Early In-Person: Must be offered 12:00 pm-8:00 pm on Tuesday-Friday and 10:00 am-6:00 pm on Saturday. Additional hours at the discretion of county administration. In-Person Absentee: Must be offered during regular business hours (M-F, 8:00 am-5:00 pm) and 10:00 am-6:00 pm on Saturdays.
Locations	Early In-Person: Early in-person locations are established at "alternate sites." Voters can vote in-person at any of these sites, and the number of sites is determined by total voting population: <ul style="list-style-type: none"> • Population > 10,000 = at least 1 location • Population > 50,000 = at least 4 locations • Population > 250,000: at least 14 locations Provisions also allow for mobile alternate voting locations in rural counties. Voting centers must be in centralized locations, close to major intersections/public transportation, at least 2,000 sq. ft., and should be based on voter registration/turnout projections. They must also follow a Least Change Scenario, meaning that once an alternative site is established for one election, it should be available in future elections. Sites must be accessible in accordance with ADA and HAVA. <p>In-Person Absentee: County Clerk's offices</p>
Voting Technology	Paper ballots, Optical Scan, Ballot-On-Demand, electronic pollbooks, and a county-specific app, "My Voter Information"

* Participated in Early Voting Panel in New York City on May 20; video online at <http://bit.ly/1d2Pop7>

<p>Ballots and Security</p>	<p>Early In-Person: Clerks must make sure that voters cannot vote twice. Voters must present the required voter identification upon arrival, and fill out an application to vote. The clerk then makes an appropriate mark on the signature roster or register noting that the voter has voted early.</p> <p>All voting locations must have a secure storage area for ballots and printing systems.</p> <p>All locations must have broadband internet connections.</p>
<p>Budgeting</p>	<p>Managed on the county level</p>

Bernalillo County, NM: Facts

- Geography: Central New Mexico, includes Albuquerque
- Population: 662,564 (~430,000 registered voters)
- Urban/Rural: 96% urban in the Albuquerque Metropolitan Area, with 4% rural areas in the East Mountains/S. Valley
- Race: 47.9% Hispanic or Latino, 41.5% White, 4.0% American Indian and Alaska Native, 2.5% Black or African American, 2.2% Asian
- Other: Includes two Native American tribes (To'hajilee and Isleta Pueblo)
- Election Administration: Elected County Clerk



Bernalillo County, NM: Experience with Early Voting

Maggie Toulouse Oliver, County Clerk of Bernalillo County, is eager to speak well of the Early Voting system in her county. Under her leadership, the county has made some innovations to increase the efficiency of the system and neutralize costs. She reports that Early Voting comprises 70% of the county's overall turnout, serving 125,000 voters in the 2012 general election.

Bernalillo County uses the same ballot across all types of voting options—absentee by mail, in-person absentee, early in-person and election day voting. As was explained earlier, using different absentee ballots can mean that a voters' ballot may be invalidated on Election Day when it is counted, disenfranchising voters without their knowledge, weeks after they cast their votes. Bernalillo also goes beyond the state's minimum requirements to offer Early Voting Monday-Saturday from 8:00 am-8:00 pm and uses 17 sites (two more than is required).

Additionally, the state requires that any voter be allowed to vote at any precinct during the early in-person period. This increases the convenience factor for voters, who do not have to worry

about the “wrong church problem,” which disenfranchises voters simply because they go to an incorrect voting center. Bernalillo has also improved this process by publishing wait times during the Early Voting period online and on its “My Voter Information” app. Also, rather than printing all possible ballots at all precincts ahead of time—which can be quite expensive and wasteful—Bernalillo updated to a Ballot-On-Demand technology, which allows the staff at voting locations to print the ballot the voter needs when they arrive at the polls.

Bernalillo County has also modernized its voting system by digitizing its poll books. When early in-person voting was first implemented in 2010, voters were only allowed to vote at their own precinct, and printed rosters were used. Learning from the chaos of this experience, elections officials digitized their systems for the 2012 general election. This included setting up an electronic poll book system (AskED brand technology) that allows voters to check-in digitally when they arrive at the polls. This met with great success: it facilitated check-ins and data sharing during Early Voting, prevented voters from voting more than once during the Early Voting period or voting again on election day, and increased the convenience for voters. Oliver reports that she received a lot of positive feedback from voters on Bernalillo’s smooth check-in process and Ballot-On-Demand.

Having digital information collected during Early Voting also allows election staff to do substantial analysis and metrics to make the system as efficient as it can be. They can figure out which sites are most convenient for voters, which get the most traffic, what days or hours are the most utilized by voters, and much more. This aids the county in determining where their resources are best spent. Using these numbers, they can determine how many check-in and voting machines they require at voting sites, based not only on population density but on actual usage patterns. They can also pick locations that are the most convenient for voters. For example, the statutes for Early Voting require counties to pick Early Voting locations based on geographic convenience, and using data from previous elections, Oliver’s staff now includes nearby public transportation as a key element for determining how convenient an Early Voting site is. They have also begun renting space in non-traditional locations, such as strip malls and commercial spaces, where voters are likely to go during the day anyway. As many studies report,²⁸ using nontraditional locations not only increases convenience for voters, but if a voter runs into Early Voting centers throughout their day, they are more likely to take advantage of the opportunity to vote early.

Bernalillo County experienced other advantages with Early Voting. Oliver notes that Early Voting decreases the chaos of election day. During the longer period of early in-person voting, staff “can deal with problems more quickly” than they would have been able to on election day, improving the quality of elections as a whole. Spreading voters out over twenty days also cuts down on wait times at polls on election day.

Oliver also notes that early in-person voting in Bernalillo County is budget neutral. Costs (such as leasing Early Voting locations, paying and training staff, etc.) are neutralized by the Ballot-

On-Demand system, which saves the county about \$1 million in printing costs. As she reports, early in-person voting is “revenue neutral once they invest in voting machines.” She also explains that the county has had no problem with security. Bernalillo County transfers ballots out of the scanner to a locked location. Once the county is finished with early in-person voting, staff closes the voting machines and replaces them for election day.

NORTH CAROLINA

Source

Telephone interviews with:

- Spoke to Michael Dickerson, Director of Elections in Mecklenburg County*

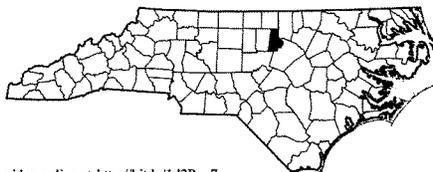
State Overview

Until a change in law passed in July, North Carolina had a “One-Stop Absentee” early option, where voters could walk-in to register during the Early Voting period (same-day registration) and cast an absentee ballot at the same time. It was first implemented in 2002, and has “evolved” over the years. We consider this in-person absentee voting, because the voter’s eligibility to register and vote is determined after the voters casts a vote, meaning that his or her vote can be retrieved and canceled.

North Carolina State Early Voting Requirements²⁹

System	In-Person Absentee (“One-Stop Absentee”), No Fault
Dates	Formerly E-19 to E-3
Times	Hours of operation vary by county, but One-Stop Absentee had to be available on Saturday.
Locations	The state requires at least one in-person absentee site at the county Board of Elections office, or an alternative site. County board of elections can designate additional sites if they choose. All sites must be in locations that are paid for in part by public funds (libraries, schools, etc.).
Voting Technology	Varies by county
Ballots and Security	All absentee voters must be recorded in a pollbook, which is delivered to precincts in time for election day, though absentee votes are only tabulated after 5:00 pm on election day. Counties using optical scan devices can scan the ballots ahead of time without printing the results, to maintain the secrecy of the vote. In order to establish One-Stop Absentee voting, a county must have a system where all ballots are retrievable, in case an individual’s absentee ballot application is disapproved.
Budgeting	Not mentioned in statutes—managed on the county level

Charlotte-Mecklenburg County, NC: Facts³⁰



* Participated in Early Voting Panel in New York City on May 20; video online at <http://bit.ly/1d2Pop7>

- Geography: Northern North Carolina, includes the City of Charlotte and 6 other municipalities
- Population: 919,628, the state's most populated and most densely populated county
- Race: 50.6% White, 30.2% Black or African American, 12.2% Hispanic or Latino, 4.6% Asian
- Election Administration: Three person County Board of Elections appointed by the State Board of Elections from names submitted by each political party, with a professional Director of Elections hired by the Board to administer elections.

Charlotte-Mecklenburg County, NC: Experience with Early Voting

Michael Dickerson, Director of Elections in Charlotte-Mecklenburg County, truly believes in the Early Voting system, after witnessing its 10 years of growth in North Carolina. As he says, "It's the only way to vote!" In his county, Dickerson has worked to expand Early Voting in a way that gives greater opportunities to voters, but is also practical and efficient.

Dickerson and his staff set up 21 Early Voting locations during the 2012 general election. In accordance with state regulations, they presented sites to the county elections board, which votes on them. As Dickerson says, "We try to provide them with sites that are convenient to all voters." They consider a variety of different factors, from parking availability to demographics, to use their local knowledge to pick the most accessible locations. In particular, Dickerson points out that it is good to pick sites located near office or working centers, so citizens can vote during their lunch breaks. North Carolina requires that Early Voting locations be in buildings and offices that are paid for in part by public funds, and Dickerson and his staff work within these parameters to locate sites near "natural congregation points [...] where you know you have a captive audience," such as shopping malls, libraries, senior centers, etc.

Experience with Early Voting also allows Dickerson and his staff to organize their Early Voting system around consistent trends, to put their resources where they are most needed and save money. Because they noticed that early voters generally head to the polls around lunch time and after work, with a drop off after 7:00 pm, Mecklenburg county offers voting hours from 11:00 am-7:00 pm. Also, the flexibility built into North Carolina's statute allowed Mecklenburg County to devise smart elections strategies for different elections. This means that Dickerson can expand Early Voting for bigger elections and decrease it for smaller elections, according to demand. Building this sort of flexibility in statutes is important, Dickerson believes, because it allows the people who know the counties best to determine how elections should proceed.

Making these sites accessible is the most important thing to Charlotte-Mecklenburg County. As Dickerson explains, "The goal is not to vote more Ds or more Rs. The goal is to get more people to vote." And, in fact, their smart tactics are making a year-to-year difference. As elections staffers learn more about implementing Early Voting, and as the system has gotten more established, Early Voting turnout has ballooned. Early Voting started out small, with about 20-

30,000 voters. The next year, it more than doubled to 60,000 voters, and now around 250,000 people take advantage of Early Voting in this county. Dickerson reports that 64% of voters voted early in the 2012 general election. Next year, before the change in the law, he hoped to reach 75% voting early.

Spreading voter turnout over the two and a half week Early Voting period made election day much less chaotic and much more manageable in Charlotte-Mecklenburg. For one, it greatly reduced line and wait time on election day. "You didn't see my name in the paper this year!" Dickerson jokes, referring to the many articles about long lines during the 2012 election. His county finds that it is not difficult to implement Early Voting. In particular, Dickerson points out that they already have more than enough regular elections staffers and voting equipment on hand to cover the Early Voting period. Dickerson typically hires and trains a large pool of staff for election day, and this is the same pool he draws from to staff Early Voting. He has found that his staff is more than ready to jump in and cover his Early Voting needs. For voting machines, again, election day machinery more than covers Early Voting needs.

Of course, some of this does require work and thoughtful action on the part of elections officials. But, Dickerson believes all of this is worth it: "I'm not in this to make it easier for Michael Dickerson. I'm in this to make it easier for the voters of Mecklenburg County. And they love Early Voting."

Mecklenburg County also takes significant steps to prevent voter fraud and assure the safety of voting equipment throughout the Early Voting period. North Carolina's system is not early in-person, but in-person absentee, which means that there are certain special requirements for counties, including, for example, that all ballots are retrievable (so that, if an absentee voter is deemed ineligible after the fact, his or her vote can be retracted). Since the voted ballots are absentee ballots, the county cannot tabulate the votes until the polls close on election day. However, having a digitized system facilitates this process, the votes can be counted at the push of a button, and the data is processed so quickly that the early vote outcome is typically the first number elections officials report that night.

Electronic polls books and machines also help the elections staff with security. When voters first arrive, they check in through an electronic poll book process that is tied into a statewide system. This means that voters are flagged right away if they attempt to vote again at another Early Voting site. The elections staff then coordinates the poll books the weekend before election day. The county has an arrangement with a printing company to print the poll books overnight so that they are ready for election day. Dickerson would recommend this sort of business arrangements for states like New York that continue to use paper ballots. But though this certainly does the job, Dickerson says that having an electronic poll book system for election day would "allow me to do this at the snap of a finger."

At night, the Early Voting locations are locked up “like a bank,” with additional security on top of what already exists in these government-funded buildings. Also, the electronic voting machines allow staff to record the total number of votes that were cast that day before they leave for the night. If the number changes overnight, they would know that there was a problem and would be able to correct it before votes are counted on election day.

Dickerson says that Early Voting certainly requires work to set up, but he believes it is completely worth it.

OHIO

Source

Telephone interviews with:

- David Gully, County Administrator, Warren County
- Brian Sleeth, Director of Elections, Warren County
- Kim Antrican, Deputy Director of Elections, Warren County

State Overview

Ohio has an in-person absentee system, and offers same day registration for the first five days of the in-person absentee period (which officials call a “golden week”). Ohio was one of the states in the middle of the early voting debate during the 2012 general election. Legislators attempted to restrict early voting to military personnel on the last weekend before Election Day, saying that they did not have the resources to support a fully-fledged early voting weekend. After a heated public debate led by President Obama’s campaign, Ohio’s Supreme Court denied the cuts to early voting, explaining that any elections measures “must be offered to all voters if it is offered to the military.”³¹

Ohio State Early Voting Requirements³²

System	In-Person Absentee, No Fault
Dates	E-35 to E-4
Times	<p>Voters can cast their ballots at an in-person absentee voting center from 8:00 pm-7:00 pm through the Thursday before election day (E-35 to E-5). The weekend leading up to election day is the only weekend where counties must offer early voting. The required hours are as follows:</p> <ul style="list-style-type: none"> • Friday (E-4): 8:00 am-6:00 pm • Saturday (E-3): 8:00 am-2:00 pm • Sunday (E-2): 1:00 pm-5:00 pm • Monday (E-1): 8:00 am-2:00 pm <p>Though the Secretary of State established these extended hours during the 2012 election cycle, the hours in different Ohio counties still vary, as some counties offer extended hours, and others do not. A recent revision of election law does, however, require that voting locations stay open late to accommodate long lines of early voters during the in-person absentee period.</p>
Locations	Counties may make use of any location for early voting, including using publically-funded buildings, renting privately owned space, or building “removable buildings” for elections. Ohio recently passed a bill to ensure that voting locations are accessible to people with disabilities.
Voting Technology	Optical Scan, DRE, Paper ballots
Ballots and Security	While the ballots are the same as the ones used on election day, voters also must fill out a ballot envelope and an absentee ballot application.
Budgeting	Managed on the county level

Warren County, OH: Demographic Facts³³

- Geography: Southwestern Ohio
- Population: 212,693, a 34.29% increase from the 2000 census
- Urban/Suburban/Rural: 7.6% urban, 55% of land used for crops (rural)
- Race: 89.0% White, 3.9% Asian, 3.2% Black or African American, 2.3% Hispanic or Latino
- Election Administration: Four person Board of Elections with two persons from each principal party supported by Director and Deputy Director of Elections

**Warren County, OH: Experience with Early Voting**

Warren County officials David Gully, Kim Antrican, and Brian Sleeth gave two interviews for this report—the second just after a special election that had early voting fresh on their minds. Warren County and the state of Ohio have had two big experiences with early voting during the 2008 and 2012 general elections. No matter how you look at it, these officials say, it’s a lot of work. Ohio offers a “golden week” for elections just at the start of the early voting period, where voters can register and cast their vote at the same time. “It’s a lot for us to handle,” Antrican explains. “I understand why [the state offers this golden week], but it is still difficult to get it done. It’s a question of resources.” Early voting takes manpower, money, and time, but, as these officials explained, early voting gets smoother with each election: “The first time you do it, it’s a mess. But each time, it gets better.”

Warren County uses just one early voting center in the spacious Commissioners Chambers, which they keep open in accordance with the state’s requirements. They find that they get a very high volume of voters, especially during the last two weeks of voting. During the last two weeks of the 2012 general election, they served 1,000 voters each day. Having seen the volume of voters interested in voting early, they are dedicated to “give everyone who wants to vote a chance to vote.”

However, having run early voting many times now, they can certainly see ways to improve the system. They suggest that 35 days of early voting might be excessive, and that 14- 17 days of voting would be sufficient. Not only would this cut costs and decrease the burden on administrators, but it also would make sure that voters don’t cast a vote a month before the election, only to change their minds later. A shorter voting period would allow voters to hear more on the “campaign bombs” that typically come out closer to election day and “vote more wisely.” They referenced the fact that early voting is a significant challenge to normal campaign strategy, because an extended voting period “renders the bombs useless.”

They also recommend that states give their elections officials the option to take the weekend to prepare for election day. In Warren County, they have experienced early voting both with and without the last weekend. During the primary where early voting stopped on the Friday before election day, they had a comfortable amount of time to run their books and make up the supplemental lists, and print paper ballots. When asked about the typical last weekend rush that other counties experience, Gully explained that “early voting is pushed by the press” and that “however big they want to make [early voting] is how big it turns out.”

Because of all the media attention to early voting, Warren County’s voters were encouraged to vote early to avoid the long lines at polls. Ironically, this made early voting lines hours long, while election day voters only had to wait 15-20 minutes at most. However, officials found that early voters were generally happy to wait. “Voters will stand for three hours for absentee voting, but if it’s longer than 20 minutes on election day, you start to hear grumbling,” they explain. During the early voting period, these citizens “chose to come here and wait,” were generally “hyped up” about the election, and specifically “made time to do it.”

Voters are also more willing to wait during early voting because they “see that it moves fast” and generally appreciate the measure Warren County takes to ease the process. Warren County, like other counties in this report, uses Ballot-on-Demand to both cut costs and time. By using two printers on site at once, they are able to quickly print the ballot for each voter in line. They also speed up the process by having separate lines: one line for check-ins and absentee applications, and one for printing and distributing ballots to approved absentee voters. They also have a separate line for voters that are voting in the correct precinct, and sometimes open up another table for provisional ballots when the center is particularly busy. Another significant factor is just that their center in the Commissioners Chambers is spacious enough to support early voting. They have ample room for different lines and voting booths, something that other counties lack. Though they’ll be transitioning to a new location for future elections, this large space has so far served them well.

Another excellent effect of this divided process is that Warren County is able to verify voters for absentee ballots on the spot, before giving them their ballots, so that 99% of their applications, envelopes, and ballots are accurate. This means that voters do not have to worry that their votes will be invalidated after the fact, as they might in other in-person absentee states. Warren County’s system is so secure that 100% of their early ballots are counted, since all errors would be caught much earlier in the process. The county officials also explained that Ballot-On-Demand also betters the security of early voting, because they never have extra, empty ballots to worry about. Warren County begins scanning all absentee ballots (including ones cast in person) 10 days before the general election, as per statute guidelines, but do not tabulate the votes until election day. The scanners are kept secure at a different location.

Warren County has not done any specific research on their budgeting practices, but they did tell us that while there are some costs, there are also some savings. Generally, early voting costs

include mailings and staff. Just because they only use one location, they explain, does not mean that they hire fewer poll workers or election judges. However, having so many capable people in one place does come in handy in case of confusion or error—there are always a lot of people in the room that are able to tackle any problems. The biggest staffing cost, however, is hiring staff to open absentee envelopes and arrange them to be scanned, which is laborious. In terms of savings, Ballot-On-Demand also saves Warren County a significant amount of money, and cuts down on waste.

Despite the challenges of early voting, Warren County's officials do whatever they can to promote the system and make it run smoothly. During the 2012 election, Gully even made his voters pancakes to keep them happy while they waited in line. That sort of dedication is clearly paying off, because their count has met with great success. In the 2012 general election, the county had a 76% turnout, making it one of the highest voting counties in Ohio. "There's a lot of pressure on Election Day to go and vote, but you never know what's going to happen," Antrican explained. "What if your car breaks down? What if your kid gets sick?"

"The majority of people are happy with it," Sleeth explained. "People like the choice, even the ones that don't use it, because they know it's there if they wanted to."

Recommendations

Common Cause/NY has surveyed state elections officials, county officials, and elections experts from nonprofits and think tanks, all of whom have firsthand experience with Early Voting in their states. Each state has developed its own rules and has had to address different challenges to implement this voting option. However, they all unanimously lauded Early Voting as a credible and important voting system that betters democracy by making voting more convenient and readily available for the voter. These administrators have been through the process of implementing Early Voting, of finding out what works and does not work, and their experiences and innovations can now help states like New York examining this process themselves.

Common Cause endorses the adoption of early in-person voting, which does not require voters to apply to vote in advance, does not require them to have an excuse to vote early, and uses the same voting process as on election day. We make the following suggestions for establishing practical and effective Early Voting systems:

▪ *Recommendation #1: Allow Early Voters to Cast Ballots Anywhere in the County*

Most of the early-in person systems we examined allow voters to vote at any precinct. This means that voters can truly pick the locations that are most convenient to them during the Early Voting period, and that they won't be disenfranchised simply because they cast a provisional ballot at an incorrect precinct.

▪ *Recommendation #2: Use Ballot-On-Demand*

For states like New York that use paper ballots, Ballot-On-Demand is a good way to decrease the workload and save resources during the Early Voting period. If voters can cast ballots at any county voting center, Ballot-On-Demand ensures that this measure, which increases voter convenience, does not involve unreasonable costs and waste. Instead of having to estimate and print out enough copies of every precinct's ballot ahead of time for every Early Voting site, which would cost a lot of money and waste an enormous amount of ink and paper, Ballot-On-Demand allows poll workers to print a voter's precinct ballot when they arrive at the voting center. Some note that this could create lines at voting centers since voters would have to wait for their ballots to print, so Common Cause recommends that counties print out the standard, county-wide ballot ahead of time, and only print the precinct-specific ballot using the On-Demand system.

▪ *Recommendation #3: Use Electronic Poll Books*

Common Cause suggests that modernizing the election process to include electronic poll books is a great step that states and counties can take to prevent voter fraud and reduce the labor associated with Early Voting. Electronic poll books allow poll workers to

check-in voters as they come in to vote and record that they have voted early. Because these poll books are networked together, this means that if a voter were to attempt to check-in to vote at another site, they would be flagged right away and would be prevented from voting again (or would vote a provisional ballot that would then be rejected). The New York bill, on the other hand, only requires that administrators record and collect the names of early voters at the end of the day, a system which is not as secure as this digitized one. Electronic poll books also make the transition from Early Voting to election day much easier. Instead of having to manually enter all of the Early Voting data into paper poll books for election day, this information can be collected and organized digitally in minutes. The other benefit of electronic poll books is that it provides very useful data. These electronic records would let them know quickly what locations, dates, and times got the most traffic, so that they can decide how to best allocate their resources the following year.

▪ *Recommendation #4: Make Early Voting Location Wait Time Available Online*

In states with Early Voting, voters are typically allowed to cast their votes at any voting center in the county. In order to make this even more convenient for voters, Florida's state administrators have developed a system that publishes the wait time to vote at every voting center online, in real time. Similarly, Bernalillo County, New Mexico provides similar information regarding waiting times during Early Voting. This is a clever innovation, as it allows busy voters to decide whether they'd like to wait in line to vote, go to another voting center, or try again another day. Common Cause recommends this system to administrators in other states.

▪ *Recommendation #5: Build Flexibility into State Statutes*

Because counties differ so dramatically in geography, demographics, and voting habits, Early Voting legislation should allow local elections administrators to tailor the Early Voting system to their particular county. In terms of date and time, for example, counties may notice trends in what days and times receive the heaviest traffic. In some locales, many voters in an office or industrial location may vote during lunch, while in other counties, voters may tend to cast their ballots before or after work. Elections administrators should be able to respond to these patterns and allocate their resources where they are most needed. States that mandate specific daily voting hours do not allow for this type of flexibility. Another example of this is voting on Sundays. In some counties, many voters, and especially minority voters, go to the polls together on Sundays after church as part of "souls to the polls." Some state statutes do not allow Early Voting on the weekends, or restrict weekend hours, which obviously impacts those voters who vote on Sundays. On the other hand, in a county where voters do not typically vote on

Sundays, requiring counties to hire poll workers and run an Early Voting facility over the weekends could be a waste of resources.

The current New York bill, which requires Early Voting sites to be open from 8:00 am-7:00 pm, will likely encounter these same problems. Common Cause recommends that state requirements allow counties more flexibility in determining how many hours they must offer on particular days. We recommend that states establish a minimum number of hours that Early Voting must be offered each day and on weekends. This way, counties can determine whether to offer additional hours, and can schedule their day according to voter trends. Also, states should consider the fact that general elections (and especially presidential elections) usually have a far greater turnout than state or local elections, and allow counties to set rules accordingly.

Additionally, states have very diverse ways of determining how many Early Voting locations each county should have. New York's proposed bill mandates that every county should have at least five centers. Not only does this mean that New York would have an unusually large number of Early Voting centers—310, to be exact—but it does not allow counties to have fewer locations. Rural counties with a lower population density might find having fewer locations would still serve their counties; urban counties may want to use fewer locations and place them in areas that are readily accessible using public transportation. Statutes regarding the number of locations should be far more flexible. If not, counties are either forced to waste money setting up unneeded locations, or disenfranchise voters because they can't set up enough. Common Cause/NY recommends a system like Maryland's or Illinois' that set a minimum number of location based on the population of a county, but allows administrators to add more if they so desire.

Recommendation #6: Allow Early Voting in nontraditional locations, and consider more than just population density when choosing Early Voting locations.

The elections administrators we interviewed explained that they would like to have more options as far as what locations can be used for Early Voting. Many states only allow for voting locations in board of elections offices or in publically-owned buildings like libraries and public schools. However, there is no guarantee that these locations would have enough space to accommodate Early Voting, or that they would be centrally-located. Allowing voting in non-governmental buildings would allow elections officials to pick locations that have enough space and parking, and can handle a steady flow of voters over the weeks of Early Voting. This would also let administrators pick nontraditional locations, such as shopping malls or grocery stores, where voters would be more likely to stumble upon voting, which could increase turnout and convenience.

Likewise, administrators have found that locating Early Voting centers near major intersections, at busy or commercial parts of town, or by office and industrial centers are more heavily used than those locations chosen solely because they are close to voters' homes. Additionally, states should consider allowing rural counties to set up mobile voting centers. This is a measure that allows centers to travel to the voters in rural counties with a low population density, where the commute to and from any polling place could be a considerable burden to Early Voting. Common Cause recommends that instead of requiring all Early Voting centers to be in governmental buildings, Early Voting legislation set up safety standards for Early Voting locations. This would give the election administrators the flexibility they need, while also keeping Early Voting secure.

CONCLUSION

While Early Voting, like any revision in voting procedure, requires careful consideration and presents administrators with practical challenges, we were struck by the unanimity of opinion on the value of Early Voting among elections administrators who have firsthand experience with it. All of the administrators whom we interviewed strongly recommend adoption of Early Voting, not withstanding some of the practical challenges to setting it up. We hope that New York and other Atlantic region states will consider the experiences of the jurisdictions we have surveyed in evaluating and, we hope, ultimately shaping Early Voting systems for their own states.

Images

- p. 14, Map of Orange County, FL: <http://www.floridacountiesmap.com/aalocs/orange.gif>
- p. 17, Map of Cook County, IL: <https://www.familysearch.org/learn/wiki/en/images/6/6f/Il-cook.png>
- p. 20, Map of Montgomery County, MD: http://upload.wikimedia.org/wikipedia/commons/thumb/b/bd/Montgomery_County_Maryland_Incorporated_and_Unincorporated_areas_Silver_Spring_Highlighted.svg/250px-Montgomery_County_Maryland_Incorporated_and_Unincorporated_areas_Silver_Spring_Highlighted.svg.png
- p. 23, Map of Bernalillo County, NM: http://upload.wikimedia.org/wikipedia/commons/8/81/Bernalillo_County_New_Mexico_Incorporated_and_Unincorporated_areas_North_Valley_Highlighted.svg
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Non-Precinct Place Voting and Election Administration

Douglas Chapin

THE GROWING ENTHUSIASM across the country for non-precinct place voting (NPPV) presents the election administration field with a series of challenges and opportunities with respect to the design and implementation of jurisdiction-specific programs to put NPPV into practice.

Much of the impact of NPPV has been *temporal*—i.e., tied to the expansion of the notion of Election Day. Traditionally, Election Day marked the only opportunity for the vast majority of voters to cast their ballots; today, Election Day is merely the last day a voter can cast a ballot. Much of the popular scrutiny of NPPV to date, then, has focused on this temporal expansion, along with its attendant effects on candidate and voter behavior.

Equally important, though, is NPPV's *spatial* expansion of election administration. NPPV has inexorably eroded the traditional equivalence between electoral geography—that unique combination of candidate and non-candidate contests that comprise a voter's ballot style—and the physical location where a voter actually casts that ballot.

NPPV's temporal and spatial effects have combined to create a *modal* expansion for voters and election officials alike. Because voters now have more choices about when and where to vote, election administration has had to evolve to become an increasingly complex system to cope with ballots cast at different times and at different places, but also in different forms.

This three-dimensional expansion has created a series of policy challenges for the field.

Douglas Chapin is the Director of Election Initiatives at the Pew Center on the States.

Overlay with voter registration

Despite NPPV's overwhelming change in how, when and where voters cast ballots, the underlying requirement of voter eligibility—specifically, the voter registration process which exists in every state but North Dakota—remains. States with Election Day registration are already familiar with the process of citizens registering and voting simultaneously, but law and policy have had to adjust in states where the registration deadline falls before Election Day.

Different approaches have emerged to deal with this challenge. North Carolina, for example, has developed “one-stop voting centers” where voters can register or update their registration up to the Sunday before Election Day and then cast a ballot on the spot (but, interestingly, not on Election Day). This is not always intentional; a one-week statutory overlap between early voting and the registration period set off a fierce debate in Ohio in 2008 after then-Secretary of State Jennifer Brunner (D) issued a directive creating a so-called “golden week” where voters could register and vote on the same day. Elsewhere, the growing use of electronic pollbooks—whether or not linked in real-time to a voter registration database—has allowed voters to cast ballots outside the limits of the traditional polling place without sacrificing the eligibility check implicit in the registration process.

Synchronization with the political map

While NPPV has, in some sense, loosened geographic and temporal restrictions on voters casting ballots, such restrictions (including the bold grey area that is domicile) are still important to the

determination of whether voters are eligible, and what contests they are eligible to decide. As polling places drift further away from “home precincts” under NPPV, election offices face a two-fold challenge: making sure, first, that each voter is eligible for the ballot he casts and, second, that each voter receives the ballot he is entitled to cast based on that eligibility. In some states, a third challenge has emerged: assuring that the early voting returns can be reallocated back to the geographic precinct for the purpose of political canvassing and redistricting (keep in mind that ballot styles span many precincts, and votes tallied at a county office or satellite location are not necessarily “coded” by precinct of origin).

The response to this challenge has been largely technological. Initially, the advent of direct recording electronic (DRE) machines was seen as a promising means of ensuring that voters receive the correct ballot regardless of voting time and location. As doubts about DREs have grown and more jurisdictions migrate toward opticalscan, we have seen the development of the concept of “ballot on demand”, which allows an election worker to produce a ballot as voters appear at NPPV stations.

Ballot on demand technology is still being tested and developed, however. In the meantime, election officials continue to search for ways to efficiently and effectively make voter-specific paper ballots available at NPPV stations. The alternative is a difficult decision on the size of print runs for ballots: too few, and a jurisdiction runs the risk of falling short on Election Day as was the case in Bridgeport, Connecticut in 2010; too many, and the result is a waste associated with huge numbers of unused ballots—a common problem, especially in low-turnout off-year or special elections.

Impact on returns – unofficial and official

It is well-known—indeed, has been well-remarked-upon—what effect NPPV has had on the ballot casting process. There are now so many different options for casting a ballot that the traditional precinct-based Election Day ballot is usually a choice rather than a necessity for most voters. And yet, while election offices open new and different modes for voters to *cast* ballots, the laws and procedures for *counting* ballots are largely unchanged. This creates numerous challenges.

First, the growing percentage of NPPV ballots cast outside the traditional polling place has completely upended the typical Election Night unofficial reporting experience. In 2010, the *Associated Press* announced that its unofficial tallies would be reported as a percentage of the “expected vote” instead of “precincts reporting.” Thus, as more and more races come down to the wire—a wire comprised often of NPPV ballots—it is increasingly dangerous for anyone, especially candidates, to make an assumption that Election Night totals will hold.

Second, whether or not one or more contests are close, the advent of NPPV means that before a jurisdiction can begin counting ballots and preparing to certify returns, it must first collect and sort those ballots into a form that allows for counting. In places like California, where vote-by-mail ballots (N.B. that they are no longer called “absentees”) can be delivered to any polling place in the county before the close of polls, this sorting process is not trivial and can slow the pace of the count even if it does not delay the official certification of returns. When questions arise about ballots themselves—as they did famously in Minnesota’s razor-thin 2008 U.S. Senate race—scrutiny during counting (often accompanied by litigation) can delay the results past the official deadline.

How to reconcile this growing need for deliberation with the ever-accelerating public and media demand for information about election results will be a constant concern for election offices for the foreseeable future.

Administration and efficiency concerns

Even assuming that election offices overcome all of these other challenges, they will be left with the question of how to make NPPV work—and how to pay for it. To date, every state that employs NPPV is layering it onto a pre-existing election framework (with the exception of Oregon and Washington, which are now all vote-by-mail). As the proportion of voters using NPPV grows—with the dollars available to cover election costs staying flat if not decreasing—jurisdictions must find a way to align demand for voting across all different modes with the resources available to support them.

We are already seeing initial efforts in this direction, both in terms of jurisdictions closing or consolidating Election Day polling places and in their

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rethinking how and when to offer NPPV. Georgia recently reduced its early voting period by a week, after its research indicated that most voters did not use early voting during the first week it was offered. (Anyone who has heard ELJ Co-Editor Paul Gronke speak in the last several years will be familiar with this research.)

The next step, however, will be for the election community to engage in more detailed calibration in response to NPPV's "supply and demand." As NPPV expands, researchers are going to learn more and more about who uses NPPV and why. Similarly, as more and more jurisdictions begin to collect data on what it costs to administer elections, they will get clarity on what NPPV costs—both alone and in relation to traditional polling places.

Someday, these two strands of data will converge and election officials will be able to allocate resources to NPPV and traditional polling places much as an investor does to stocks, bonds and cash—maximizing return at the most affordable cost. Such analysis will never replace the tough policy decisions—unlike funds in a portfolio, voters are not fungible—but it will almost certainly result in a better-managed election system.

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June 25, 2014

The Committee on Rules and Administration
305 Russell Senate Office Building
Washington, DC 20510

Dear Committee,

My name is Julie Alexander and I would like to submit comments which can be included with other testimony information that is gathered at the June 25, 2014 hearing on the subject of "Examining How Early and Absentee Voting Can Benefit Citizens and Administrators". Please include these comments with other testimony gathered at today's hearing on this subject.

I am an individual with a disability who utilizes Absentee Voting as a mechanism to provide my input into the political system in the United States. I am not in favor of adding more restrictions to current rules relating to Absentee Voting. I also am in favor of not changing any rules relating to Early Voting. I also am aware of other individuals with disabilities that utilize both of these options to vote and be part of the American Electorate. I believe that this is a civil rights expression of providing options for American citizens to provide comment on who should be their leaders and elected representatives. I think that putting more restrictions on this issue keeps people from voting and being involved in deciding on leadership in the United States and how different laws should be enacted.

Secondly, at this time there are major difficulties with many polling places being physically and programmatically accessible to individuals with disabilities. Individuals who use wheelchairs are not able to get into polling places because of architectural barrier issues. Also, individuals who are able to get into many polling places are not able to utilize voting machines because the machines themselves are not accessible. In addition to this, there are many individuals that need private assistance from voting personnel in polling places to actually vote and this is difficult to get currently because of lack of appropriate training and knowledge.

In conclusion because of all of the issues stated above I believe that it would be a travesty to change Early and Absentee Voting regulations at this time. The Right to Vote is the Fifteenth Amendment in the United States Constitution. Putting restrictions on this right goes against our Constitution and the privileges is grants American citizens.

Thank you for listening to my comments.

Sincerely,

Julie Alexander
7224 W State St #1A
Wauwatosa, WI 53213



Washington
Secretary of State
Kim Wyman

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June 25, 2014

Senate Committee on Rules and Administration
Washington, D.C.

Chairman Schumer and Honorable Senators:

It is a pleasure to join Oregon Secretary of State Kate Brown in commending vote-by-mail. Like Oregon, Washington now conducts elections entirely by mail (and drop boxes) and does not require traditional polling sites and all the attendant access concerns.

Our transition to vote-by-mail was driven by the voters themselves. Almost 30 years ago, seniors and voters with a disability were authorized to request to vote by absentee ballot on an ongoing basis – and many did. In 1993, our Legislature extended this option to all voters – and many signed up for permanent, no-excuse absentee voting. Within 10 years, over 68 percent of the voters had signed up for this method of casting ballots.

In 2005, the Legislature took note of the unmistakable trend and authorized our counties the option to conduct all their elections by mail. Within just two years, 36 of our 39 counties had switched. The final three came on by 2011.

This method of voting is very popular with our voters. It allows them to have their ballots in hand for 18 days and cast them when convenient. They may use the postal system or free county dropboxes to return voted ballots. Voting centers and special assistance remain available to those who need it.

Having the ballot in hand reminds the voters of the civic duty and privilege that awaits, and gives a chance to do any homework they need to do. It's a teachable moment, a civic ritual, for the whole family to discuss voting and watch how it's done.

This method is convenient, of course. There is no driving across town to a crowded poll site, possibly with a long, long line. A voter can cast a ballot at midnight in pajamas at home and stick it in the outbound mail.

In addition to being accessible, voting by mail is secure. The returned ballot envelope bears the voter's signature attesting to an oath. Each signature is checked against the voter's signature on file to verify that the ballot was returned by the voter. Election administrators also verify that the voter only returned one ballot before including it for tabulation.

Our turnout rates are some of the highest in America.

Administrators appreciate the change. Vote-by-mail is cost-effective and counties don't have to search for poll sites and find and train poll workers anymore. Also, counties don't have to run two types of elections – by absentee and in-person polling places.

We recommend this process to states everywhere. Voters, particularly in the West, are shifting to this user-friendly system. I urge the Committee and Congress to encourage and enable the states to move toward greater use of vote-by-mail.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Wyman". The signature is fluid and cursive, with a prominent loop at the end.

Kim Wyman
Secretary of State

**Chairman Charles Schumer
U.S. Senate Committee on Rules and Administration**

**Hearing
“Election Administration: Examining How Early and
Absentee Voting Can Benefit Citizens and Administrators”**

Questions for the Record – Dr. John Fortier

Question

1. In your testimony, you mentioned concerns with both vote by mail and early in-person voting. Would you prefer to see the United States move to voting on a weekend or holiday? Or do you think 7-10 day in-person early vote window mentioned in your testimony is preferable?

Response

First, I don't believe there should be a one size fits all national policy on early voting and voting by mail. But my recommendations to states is that they should consider moving to a short, concentrated period of early voting. I prefer this to weekend voting or holiday voting. While none of these reforms (early voting, voting by mail, or weekend voting) show a substantial turnout increase in federal and statewide elections, there is some evidence and some legitimate concern that weekend voting and/or a voting holiday might be detrimental to turnout. Not only might voters be out of town, but also it is likely that early morning and evening hours would not be popular, and perhaps most importantly, many of the political party people and groups who organize to get out the vote might not be available. A short period of early voting, with long hours and good voting locations would make voting available to those who prefer the weekend, but would also give voters more options. So my preference is that states adopt 7-10 days of early voting with long hours and good locations.

**Chairman Charles Schumer
U.S. Senate Committee on Rules and Administration**

**Hearing
“Election Administration: Examining How Early and
Absentee Voting Can Benefit Citizens and Administrators”**

Questions for the Record – Mr. Lomax

Question

1. Having administered elections with a robust early voting program, would you want to go back to running an election with just an Election Day option for voters?

Response

Absolutely Not.

I would probably be lynched by irate voters. I cannot emphasize enough how popular early voting is and how much the voters appreciate (and have expressed their appreciation to me) the opportunity to vote at a time and place convenient for them.

Early voters are “happy” voters because they are at the polling place because they want to be, not because they have to be. The atmosphere at an early voting site is generally festive and people will wait in lines (if necessary) without complaining because they have the choice to vote somewhere else or on another day if they prefer. I describe Election Day voters as “grumpy” voters because they have been compelled to go to a specific location on a specific day. They do not tolerate lines and are quick to complain.

Administering an election is so much easier when 50% - 60% of the in-person voters have “happily” cast their ballots prior to Election Day. For example, in Clark County’s 2012 presidential election, 437,000 early voters were out-of-the-way on Election Day and not standing in line in polling places to delay the 205,000 voters who chose to vote on Election Day. It’s a win – win situation that keeps the voters happy which makes the election administrators (and politicians) happy.

Since we conduct early voting in the malls and since Las Vegas is a tourist destination, every election hundreds of tourists (who are shopping in a couple of the malls that attract tourists) see our early voting sites and stop by to ask us what is going on. When we explain that for two weeks, our residents can vote in the mall while they are shopping, the response (if I have heard once I have heard it a thousand times) is, “Why don’t we do that in our state?”

Question

2. In your testimony, you mention the benefit that election poll workers gain a significant amount of experience in the two weeks of early voting that Clark County has – can you expand on that or the types of issues that are reduced or eliminated?

Response

The biggest problem in any election is a voter being given the wrong ballot style [Each style presents a unique set of contests on the ballot in which voters living in certain precincts are eligible to vote]. In a typical Clark County election, we have about 300 ballot styles and because of the manner in which political districts are drawn in Nevada, virtually every polling place has multiple ballot styles.

If a voter is issued a ballot with the wrong style, it means the voter can either vote in a contest in which he/she should not vote, is deprived of voting in a contest in which he/she is eligible to vote, or both. Because in post-election auditing, we can tell how many times and where this occurs, in a close race it can potentially change the outcome.

In spite of the fact that we do all we can in training to ensure the workers understand how to properly process a voter (which will prevent this from ever happening) and the significance of issuing the wrong ballot, it happens on Election Day far too often.

Dealing with voting machine issues is the second area where experience makes a big difference. Although the machines work very well, things can happen (paper jams, stuck activation cards, power issues, etc.), which if handled incorrectly can cause the voter's ballot not to be counted, or in other cases, can allow the voter to vote twice. Again, either way can change the outcome of a close election.

I should point out that our early voting workers not only work for the two-week early voting period, but most return each election. They also receive more training than Election Day workers. Thus, they have significantly more experience and knowledge than someone working only on Election Day.