

6. EARLY VOTING

BACKGROUND

Over the past several years, the use of liberalized absentee voting rules and in-person early voting has grown enormously throughout the country, and in 2004 the trend accelerated. In that year, thirty-two states allowed for some form of early voting.⁵¹ Twenty percent of voters voted early in 2004, up from 14 percent in 2000.⁵²

In states throughout the country, the number of people voting early clearly spiked, including in many of the “battleground states.” For example, the numbers of people voting early in Florida, Iowa, and New Mexico all more than doubled between the 2000 and 2004 presidential elections. In Florida alone, the number increased from 720,453 in 2000 to over 2 million early voters in the presidential election of 2004.⁵³

For purposes of this report, the term “early voting” is used to encompass two distinct practices: in-person early voting, in which voters may choose to appear at a central polling location set up before election day and cast their ballots in the privacy of a voting booth; and voting by mail, in which ballots are mailed to all voters who request them, regardless of whether they have an excuse for not voting in person, so that they may be marked and delivered back to the registrar before election day. While there are some important differences between these two practices, particularly when it comes to fraud, there are similarities as well that warrant their being discussed together.

Many elections administrators, voting advocates, and voters have embraced the movement toward early voting. The legislatures in states that do not have early voting—in-person early voting, voting by mail, or both—are closely examining it, and states that do have some version of early voting are looking at expanding it. However, it should be noted that there are powerful arguments both for and against the expanded use of early voting and competing data on its usefulness for both administrators and voters, not to mention campaigns. Before rushing to join the trend, we advise states, administrators, advocates, parties, and voters to take all of the competing arguments and studies into account.⁵⁴ Some of those arguments and supporting research are outlined here.⁵⁵

BENEFITS OF EARLY VOTING

- ◆ The primary argument is that pre-election day voting increases turnout. There is some limited evidence to support this view. For example, Curtis Gans has done research on “convenience voting” and turnout in 2004, finding that:

—The 24 states with no excuse absentee voting (where an individual need give no reason for requesting an absentee ballot) had a turnout performance at virtually the same level as the states which did not have that provision in their election laws. Turnout increased in no excuse absentee states in the aggregate by 6.7 percentage points as opposed to 6.2 for the other states.⁵⁶ Still this performance is better than every previous election—both Presidential and mid-term—when the states with no absentee voting in each year recorded worse performances—greater declines in years of decline and lesser increases in years of increase.

—For the second consecutive election (2002 being the previous one), the 11 early voting states (where the state creates convenience satellite locations for people to vote early—but not necessarily often) showed a small but positive impact on turnout. Turnout increased by an aggregate average of 7.2 percentage points in early voting states as opposed to 6.2 in the states without early voting.⁵⁷

- ◆ In a Canadian study (2003) of 151 elections in 63 countries, researchers found that turnout in countries with the option of mail-in or early voting was 10 percent higher than in those countries that did not have that option.⁵⁸
- ◆ Some voter advocates argue that making voting as convenient for the voter as possible easily trumps other considerations. Miles Rapoport of the advocacy organization Demos has written:

We have a quaint myth that it is a wonderful “civic exercise” to have one day (and a working Tuesday at that) where everyone goes to the polls. But the reality is democratic in form but undemocratic in content. Who remembers with any nostalgia racing to the bank on Friday afternoon and waiting in line for two hours to get cash for the weekend? And what if your employer won’t give you several hours off during the day? The real civic exercise is exercising the right to vote, and we ought to make that act as accessible as possible.⁵⁹

- ◆ From some press reports, it seems that at least some administrators favor early voting because they feel it is easier to service voters and process voting over a longer stretch of time, reduces the number of poll workers needed, and cuts long lines at the polls on election day. They also believe it may be the solution to declining voter turnout.
- ◆ Given the steady growth in the number of voters opting to vote early, it is reasonable to assume that some voters like this alternative, either out of convenience or because it helps reassure them that if there is a problem at the polls, there is time to rectify it.

PROBLEMS WITH EARLY VOTING

- ◆ Mail-in absentee ballots in particular are susceptible to fraud. As noted by the National Commission on Federal Election Reform, “Growing use of absentee voting has turned this area of voting into the most likely opportunity for election fraud

now encountered by law enforcement officials. These cases are especially difficult to prosecute, since the misuse of a voter's ballot or the pressure on voters occurs away from the polling place or any other outside scrutiny. These opportunities for abuse should be contained, not enlarged."⁶⁰

Concern about voter fraud through absentee ballots is bipartisan. Kansas secretary of state Ron Thornburgh, a Republican, said that people getting absentee ballots that do not belong to them represents a threat to elections. "The greatest potential for abuse in the state of Kansas in our election system right now is advance voting. We've got a situation where any person may return another individual's ballot," he commented in March.⁶¹

Georgia secretary of state Cathy Cox, a Democrat, told the *New York Times* in April that she had not heard of any cases of voters accused of fraud at polling places. Cox, however, said in the same article that stringent voter identification rules at polling places "opens the floodgates" to "already rampant fraud in absentee voting."⁶² According to Gary Bartlett, director of elections in North Carolina, "It seems like whenever there is hanky-panky in elections, it's usually through absentee voting."⁶³

If not amounting to outright fraud in all cases, recent newspaper reports detail numerous incidents of, at the very least, questionable handling of absentee ballots. The South Dakota Republican Party hired eight people to register voters and fill out absentee ballot applications. The state GOP has previously been accused of improperly notarizing absentee ballot applications.⁶⁴ Illinois officials began investigating allegations of voter fraud in January. The investigation centers on thirteen ballots cast from a boarding house in East St. Louis.⁶⁵ Questionable absentee ballots resulted in a New Jersey judge overturning two elections in Atlantic County. In the city of Passaic, New Jersey, three dozen voters claimed they had been victims of absentee ballot fraud in 2003.⁶⁶ One hundred twenty-two Colorado residents are under investigation for allegedly voting twice, once with an absentee ballot and again at a polling place. The incidents occurred despite the state's requirement that all voters present identification before casting ballots.⁶⁷ From 2000 to 2004, prosecutors brought criminal cases in at least fifteen states for absentee ballot fraud.⁶⁸

An unscientific but thorough Nexis search of incidents of voter fraud involving absentee ballots pulls up more than 120 stories just from the past six months. According to a Demos study of voter fraud, “Overall, the absentee mail-in ballot process is the feature most vulnerable to voter fraud within the decentralized, patchwork U.S. electoral system, at least in theory. This is not to say that there is a lot of evidence of absentee ballot fraud but rather that the potential for fraud is greatest in this area because of a lack of uniformly strong security measures in place in all states to prevent fraud.”⁶⁹

- ◆ It is not clear that early voting increases turnout. Indeed, an earlier Gans report published in September 2004 found that in 1992 and 2000—years when turnout increased nationally—states with early voting saw smaller increases in votes cast. In 1988 and 1996, the declines were larger where early and no-excuse absentee voting was available. A variety of research seems to support the idea that early voting does not really mobilize voters who would not otherwise vote, with the possible exception of states where there is heavy partisan mobilization.⁷⁰ Recent research by Martha Kropf and her colleagues in two battleground states finds that “early voters would be the individuals who would vote whether there was an option to vote early or not.”⁷¹
- ◆ It means voters are casting ballots on the basis of potentially radically different information: all sorts of information about the candidates might emerge, or critical events might occur, in the weeks and days just prior to the election. Indeed, it is conceivable that events might be manipulated by candidates or outside groups or individuals so as to influence different groups of voters at different times. In the worst-case scenario, a voter might be completely disenfranchised in a particular race because of early voting. In 2002, Senator Paul Wellstone of Minnesota died in a plane crash well after many absentee ballots had been submitted. Those voters were not permitted to change their votes or vote again. It also is not infrequent for candidates to drop out of the race close to election day, raising similar problems.

- ◆ It distorts the campaign process and adds some burdens and complexities to the work of parties and campaigns. Rather than focus “Get-out-the-vote” efforts toward one day, campaigns must engage in such efforts for weeks before election day. The 2004 race witnessed campaigns holding rallies and then busing supporters to early voting sites and delivering absentee ballots. Get-out-the-vote operations are time-consuming and expensive for any organization that engages in them, and prolonging that process only increases the costs. Finally, this constant and drawn-out concentration on voter turnout detracts from the discussion of issues and the merits of the candidates.
- ◆ In-person early voting may be more expensive for election officials to implement owing to the staffing and voting equipment changes necessary to administer elections on additional days. States considering these changes should closely investigate possible changes in cost.
- ◆ It detracts from the idea of having one day of collective, deliberative democracy. As Norman Ornstein has written,

Voting is one of the most precious privileges of a free society (as is the freedom not to vote). In America, individuals join their neighbors at a local polling place, underscoring their role as a part of a collective society, then go into a curtained booth to make their choices as free individuals. Every conceivable step should be taken to make the votes cast on Election Day easy to do—longer hours, ample poll workers and voting machines, easier registration, and so on. But we should not make voting the equivalent of sending in a Publishers Clearing House contest form.⁷²

It is not at all clear that the benefits of early voting outweigh the costs. We urge elections officials, elected leaders, and voters to consider carefully both the positive and negative implications of this voting option before further expanding its use.