

# **Best Practices for Casting Ballots: Early Voting<sup>1</sup>**

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## **Policy Proposal for Implementing Early Voting:**

**We remain agnostic about the wisdom of early voting. There is a normative argument against early voting, but the empirical evidence is too sparse, overly focused on turnout and on federal elections to support a clear policy recommendation for or against this mode of balloting.**

- 1. A Federal standard for the early voting period should be established; we recommend approximately two to two and a half weeks prior to the election.**
- 2. If a political decision to adopt early voting has already been made:**
  - a. The early voting period should extend no longer than two to two and a half weeks prior to the date of the election**
  - b. Both early in person and no excuse absentee balloting should be available**
  - c. States should provide guidelines and, if necessary, funding so that early in person voting is equally accessible to citizens across a state**
  - d. In state election systems, capture the date that ballots are processed (the date of early voting, or the date that an in person early vote was cast), and make this information cheaply available on a live-time basis.**

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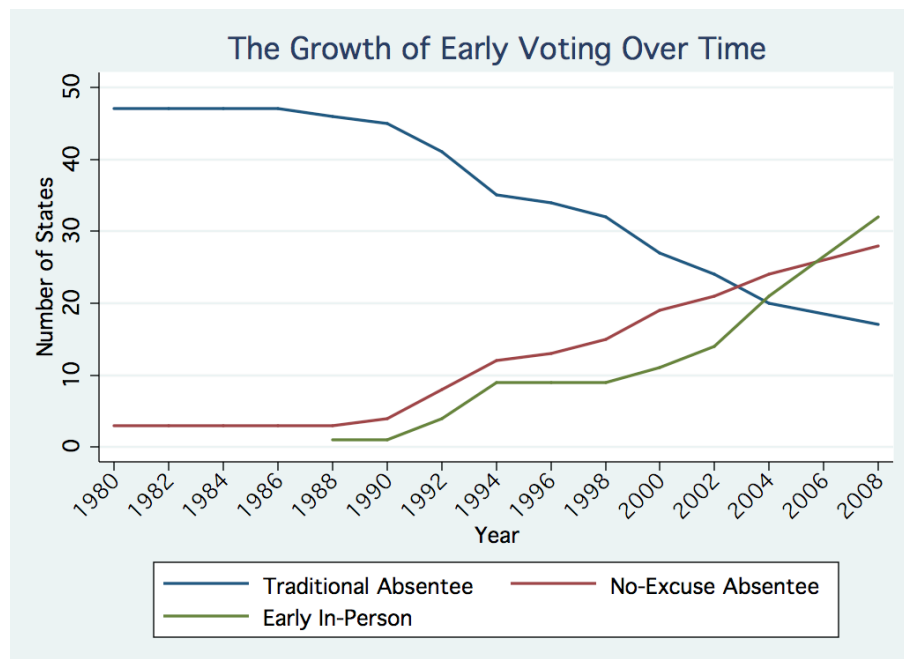
<sup>1</sup> James Hicks and Daniel Krantz Toffey provided valuable research support and produced all graphics contained in the document. This work was partially supported by the Pew Charitable Trusts, but responsibility for all conclusions rests with the author.

## Introduction: Eighteen Years of Quiet Early Voting Reform

In the past eight years, the technology of elections has become a flashpoint of concern for scholars, advocates, elected officials, and election administrators. Before the era of hanging chads, it would not even have been possible to describe an “election reform” community that was of much note. Much of this activity culminated in the passage of the Help America Vote Act (HAVA) in 2002 and subsequent end to the use of outmoded election technology in much of the country.

In the past eighteen years, a much more quiet, but potentially more transformational change—early voting—has altered the way that Americans cast their ballots, expanding outwards from its modest beginnings in a small number of reformist Western states (California, Oregon, Washington) joined by one Midwestern (Iowa) and two Southern (Texas, Tennessee) pioneers, to a point now where nearly one-third of votes in the 2008 presidential contest were cast at a place and time other than the precinct place on election day<sup>2</sup>.

Early voting has grown rapidly over the past three decades, starting with the adoption of no-excuse absentee balloting California, Oregon, and Washington in the late 1970s followed by Texas, which allowed voters to cast early in-person ballots in 1988.<sup>3</sup> These legal reforms grew steadily after 1990 (which is why we describe this as an 18-year period of reform, and really began to accelerate after the 2000 election.)



<sup>2</sup> Source: Associated Press, Elections Division. Data available from EVIC.

<sup>3</sup> We do not consider in this chart recent adoptions of “permanent” no excuse absentee balloting, in use in four states prior to the 2008 election, nor do we distinguish Oregon’s fully vote by mail system separately from no-excuse absentee.

This may disguise a highly diverse legal landscape in early voting laws, as is the case in much of our decentralized elections system. Even the terminology is confusing and contradictory across states. States use different terms for describing the same thing. Kansas, for example, refers to “early in person” voting as “advance” voting.<sup>4</sup> Other states blur the distinctions between these categories. North Carolina ostensibly only allows no-excuse absentee balloting, but has installed “one-stop in person absentee balloting” locations throughout the state, and, during the 2008 election, citizens could even take advantage of same day registration at those locations.<sup>5</sup> And not surprisingly, to anyone who has studied election administration at the local level, implementation of the state laws varies enormously. Virginia ostensibly is an “excuse required” absentee balloting state,<sup>6</sup> yet in the 2008 election, many individuals reported to EVIC that local officials in Fairfax County (one of the most populous suburban counties outside of Washington DC) openly advised citizens that the excuses were not checked, and some individuals even told us that “absentee” ballots could be cast on an direct recording electronic voting machine (DRE).

State legislatures remain very interested in adopting new early voting laws or changing the regulations already on the books. As shown below, 26 state legislatures debated one or more pieces of legislation that dealt with a major category of early voting, although few of these bills became law (states that adopted at least one type of legal change have an asterisk). In the last session of the U.S. Congress, at least five major pieces of election reform legislation mandated either no-excuse absentee voting and/or early in person voting for all Federal elections, and two of these bills had Senators Hillary Clinton and Barack Obama as co-sponsors.<sup>7</sup> It is virtually certain that the next piece of voting reform legislation will contain this mandate.

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<sup>4</sup> Kansas statute 25-1122a. Advance voting; casting ballots upon voting machines.

<sup>5</sup> AP, 11/12/08: “Despite his successful effort to register tens of thousands of voters this summer, President-elect Obama might not have won North Carolina without the state's new law allowing same-day registration and voting before Election Day.”

<sup>6</sup> § 24.2-700. Persons entitled to vote by absentee ballot.

The following registered voters may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+24.2-700>

<sup>7</sup> H.R.6077, neither; S.730, neither; S.804, Clinton & Obama; S.1487, Clinton & Obama; S.3100, neither

<b>Early Voting Legislation in 2008</b>			
	No Excuse Abs/EIP	VBM	Perm Abs
Alaska		1	1
Arizona		1	1
Florida		2	
Georgia	2*		
Hawaii		4	7
Illinois	3	2	
Indiana	2		
Iowa			1
Kansas		1	1
Kentucky	1	1	
Louisiana	1		
Maine	1		
Massachusetts	3	1	
Michigan	8	2	5
Minnesota		2	2
Mississippi	6		1*
Missouri	5		
New Jersey			2
New Mexico		1*	1
New York	4	2*	
Oklahoma		1	
Pennsylvania	1		
Rhode Island	2		
South Carolina	3		
South Dakota			1
Tennessee	2		
* = one or multiple pieces of legislation passed			
Source: NCSL Legislative Database, coded by EVIC			

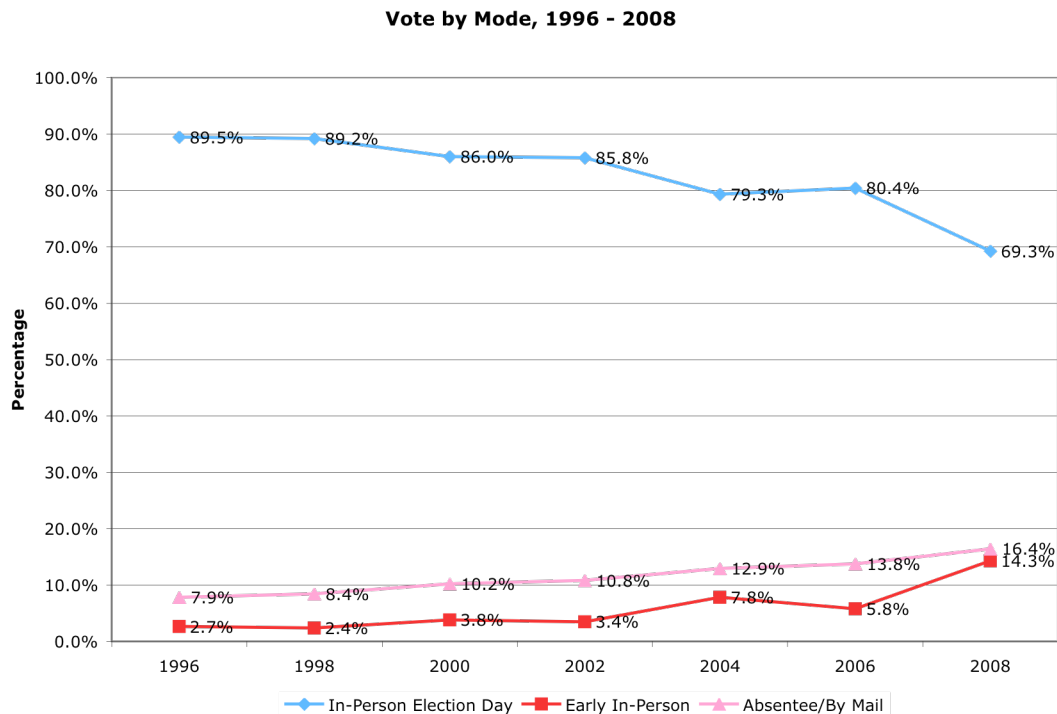
In summary, it is not if we should adopt early voting, therefore, but when and in what format. Any reform agenda must reflect those political realities.

### **The Citizen Response: A Dramatic Rise in Early Voting**

Along with voter registration, early voting was the main election reform story to come out of the 2008 contest. Black North Carolinians and Georgians standing in lines for over four hours to cast an early ballot was both inspiring and disturbing. What is the point of “convenience” voting methods if they are even less convenient than voting at the precinct on Election Day?

While these scenes in October 2008 opened the eyes of the national media to the early voting revolution, party operatives, candidates (particularly in a number of states with high levels of early voting), and some members of the academy have been paying attention for a longer period of time.

Figures collected by EVIC indicate that approximately 14% of ballots were non-precinct place<sup>8</sup> ballots in 2000, 21% were in 2004, and 31% were in 2008.<sup>9</sup> While the overall numbers are not identical, the biennial Current Population Survey's Voting and Registration Supplement (CPS) has queried respondents about how they cast a ballot for more than two decades. Below, we plot these data since 1996, and the fairly dramatic drop in Election Day voting (the blue line) is apparent from 2000 to 2008, from 86% to 69.3% of voters.



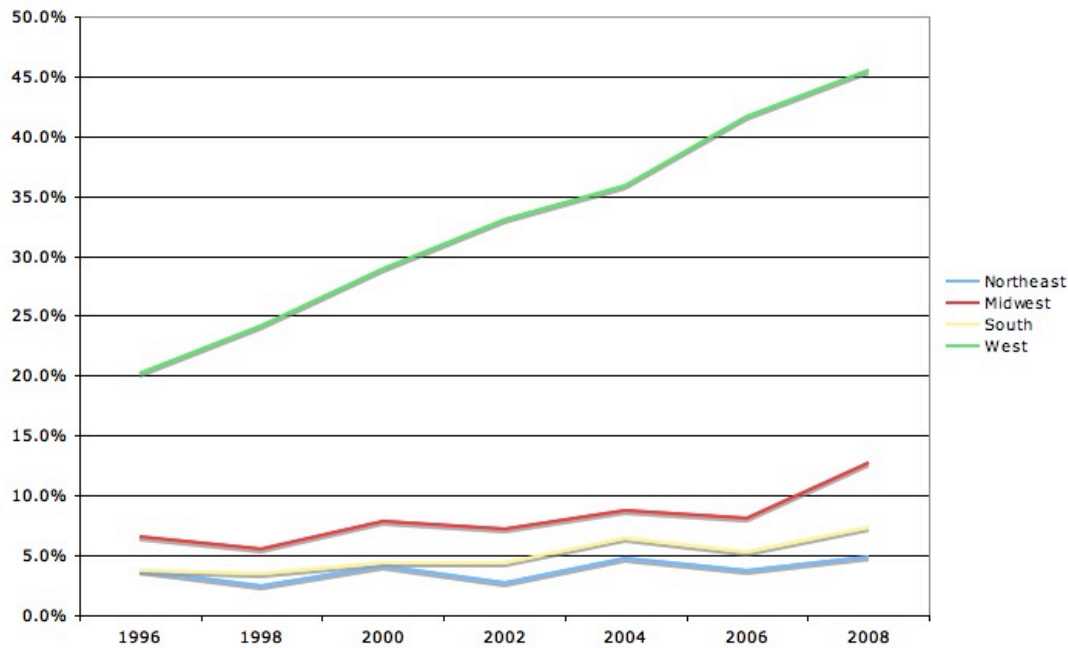
Diversity among regions and races is the watchword once again, however, making it difficult to render a single conclusion or formulate a single set of recommendations. It will surprise no one that the use of any alternative methods of voting is highly dependent upon the availability of the alternatives. Because new modes of balloting have been unequally spreading across the country, the differences can be rather stunning. Below, we plot the use of by-mail alternatives by region. Even today, when most of the nation

<sup>8</sup> We use the phrase “non precinct place” ballots because all “early” ballots may not, in fact, be cast early. Up to 25% of ballots cast in Oregon’s all “vote by mail” election, for example, are dropped off or otherwise processed on Election Day, while millions of Californians drop their absentee ballots off at a precinct place on Election Day.

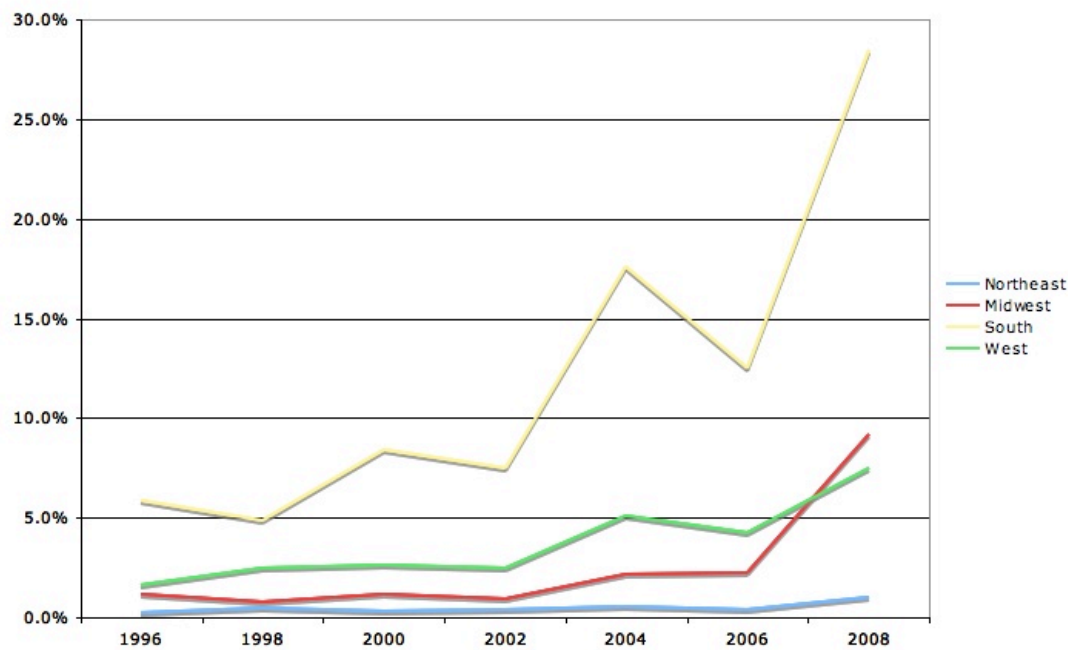
<sup>9</sup> For 2000, we compared results from the 2000 Annenberg National Election Study and the American National Election Study. For 2004, we used data from the Election Assistance Commission’s Election Day Survey. For 2008, we used data provided to us by the Associated Press’s Election Division. We are currently in the process of confirming the AP data and trying to obtain their data over time.

outside of the Northeast allows no-excuse absentee balloting, the overwhelming use of these methods in the West is triple that of the next highest region, the Midwest. The contrast with in-person early voting is stark. Here, the region leading the charge is the South, where usage rates in 2008 were again more than triple the next closest region.

**Absentee/VBM Voting by Region, 1996 - 2008**

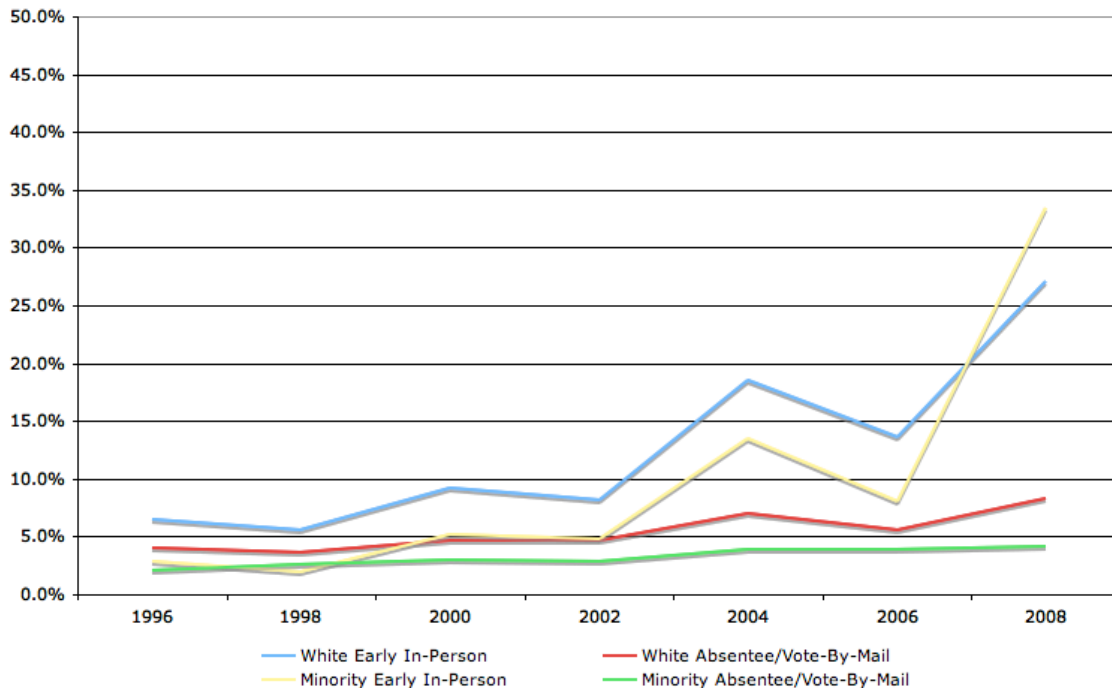


**Early In-Person Voting by Region, 1996 - 2008**



Racial and partisan differences in voting underlie, and may account for, some of these regional differences. While we have not assembled figures at this stage in our research, we have reported partisan differences in the use of voting by mail and early in person voting in past research—Republicans vote absentee and Democrats vote in person.<sup>10</sup> Below, we report on racial differences in the use of the early ballot. Above, I referred to the scenes of long lines of African Americans waiting to vote early in Southern states in the 2008 election—presumably, the overwhelming majority of which were being cast for Barack Obama. As I described it in one interview, “this is the Christmas present that they’ve been waiting for, they’re not waiting for Christmas Day [to open it].”<sup>11</sup> While all voters in the South have responded to the option to vote early in person, minority voters have been especially responsive. The proportion of minority ballots cast early in person tripled since 2004, and increased 400% compared to 2006.

**South: Voting Method by Race, 1996-2008**



## Empirical Social Science Research Into Early Voting

Given the relatively recent emergence of early voting as a phenomena comprising more than 10% of the voting population, it is not surprising that political science and other

<sup>10</sup> See for example Kate Kenski, 2005, “No Excuse Absentee and Early Voting During the 2000 and 2004 Elections: Results from the National Annenberg Election Survey.” Paper presented at the Annual Meeting of the American Political Science Association.

<sup>11</sup> “Early voters turning out in record numbers.” October 24, 2008. *San Francisco Chronicle*.

social sciences have paid only scant attention to its impact on election administration, campaigns, and voting behavior. I will not spend a great deal of time summarizing the social science research into this topic; these matters are described in detail in a recent article in the *Annual Review of Political Science*.<sup>12</sup>

In brief, the bulk of social scientific work to date has focused almost resolutely on the turnout effects of convenience voting, using as their operative model the classic rational choice model of turnout.<sup>13</sup> At the danger of doing damage to the many able researchers in the field, to date political scientists have concluded, with a few dissenters, that most alternative voting reforms have little to no impact on increasing turnout, and instead shift around voters who would otherwise have cast a ballot on Election Day. Most early voters are older, whiter, better educated, and more partisan and ideological—precisely those voters who a) would have turned out regardless and b) are relatively immune from campaign influences.<sup>14</sup> While these patterns may seem contradicted by the heavy African American early turnout in 2008, precisely the opposite is true. There was virtually nothing that would have changed the presidential vote choice of many Southern Black voters in 2008, so if the opportunity was made available to cast an early ballot, many took advantage. It remains to be seen if this pattern holds in future elections.

Little research to date has examined the impact of alternative voting systems, particularly full vote by mail or permanent absentee balloting, on state and local contests, where both theory would predict, and anecdotes seem to bear out, the most substantial impact on turnout.

Research into the impact of early voting in other areas of elections and campaigns has been almost non-existent. Scholars have found, for example, that residual vote rates are higher on absentee ballots,<sup>15</sup> and one study reports that absentee voters express lower levels of confidence that their absentee ballots will be counted accurately.<sup>16</sup> Most of these studies preceded the dramatic growth in alternative systems since 2000.

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<sup>12</sup> Paul Gronke, Eva Galanes-Rosenbaum, Peter Miller and Daniel Toffey. 2008. "Convenience Voting." Volume 11 p. 437-55.

<sup>13</sup> In brief, citizens assess costs, benefits, and the probability that their vote will make a difference when deciding whether to turn out to vote. The "paradox" of voting is that according to a strict rational choice interpretation, no one should vote. See John Aldrich, "Turnout and Rational Choice," *American Journal of Political Science* (February 1993) for a summary of the debate.

<sup>14</sup> Paul Gronke and Daniel Krantz Toffey. 2008. "The Psychological and Institutional Determinants of Early Voting." *Journal of Social Issues*.

<sup>15</sup> Stephen Ansolabehere and Charles Stewart. 2005. "Residual Votes Attributable to Technology." *Journal of Politics* 67(2). Laurin Frisina, Michael Herron, James Honaker, and Jeffrey Lewis. 2008. "Ballot Formats, Touchscreens, and Undervotes: A Study of the 2006 Midterm Elections in Florida." *Election Law Journal* 7(1).

<sup>16</sup> R. Michael Alvarez, Thad Hall, and Morgan Llewellyn. 2008. "Are Americans Confident that their Ballots are Counted?" *Journal of Politics* 70(3). The 2008 MIT Election Administration Survey report (Alvarez et al, 2009) found that 75% of in-person



No studies have examined whether alternative voting increases, decreases, or leaves administrative costs unaffected. No scholars to date have paid any attention to how early voting may change political campaigning—either how campaigns are run, how much campaigns cost, or how campaigns appeal to the public. Finally, no one has paid much attention at all to the broader role of campaigns and elections in American democracy. If Election Day is transformed into election days, weeks, or even months, how might this change the role of elections as events that stimulate political learning, political engagement, and build social capital?

One lone voice in the wilderness has expressed concern about the advance of early voting rather than simply exploring its impact on turnout. Dennis Thompson argues that elections have important “temporal” properties, and that these are not just a procedural convenience: “[A]s far as possible the electoral verdict should express the popular will as it exists at a particular time, and . . . the electoral experience . . . should be the same for everyone.”<sup>17</sup> Obviously, systems that allow or encourage many voters to cast their ballots early undermine this feature of elections. Thompson also voices an equity concern—if some voters cast their ballots days or weeks prior to the election, when some events have not occurred, news stories have not been written, and pre-election polls not been publicized, does this seriously undermine the philosophical notion of equality—a core principle of democratic governance?<sup>18</sup>

## **Conclusions and Recommendations**

The terrain of early voting is shifting beneath our feet. Many members of Congress, state legislators, and some voting rights advocates have decided that early voting is a panacea for the ills that afflict our elections system. Early voting, many argue, will improve election administration, reduce lines, increase turnout, and please citizens. More than thirty states now allow early in-person voting while twenty-seven require no excuse to cast an absentee ballot. It is likely that five to ten additional states will adopt these methods by the 2012 presidential contest, if Congress does not mandate these changes first.

Given this rapidly changing legal environment and the paucity of empirical research into early voting, any recommendations have to rely on what evidence we have, sparse though

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Election Day voters and in-person early voters were “very confident,” and 19% were “somewhat confident” their ballots were counted properly. On the contrary, 60% of absentee, by-mail voters were “very confident,” and 31% were “somewhat confident.”

<sup>17</sup> Dennis Thompson. 2002. *Just Elections: Creating a Fair Electoral Process in the United States*, and 2008, “Electoral Simultaneity: The Value of Voting at the Same Time.” *Journal of Social Issues*.

<sup>18</sup> Thompson is interested less in the legal definition of equality as enshrined, for example, in the 14<sup>th</sup> amendment or the Voting Rights Act, as much as he is in a broader philosophical notion—votes should be, as much as possible, “equal” in all respects, cast in the same way and based on the same information.

it may be, and inevitably have to rely more on anecdotal evidence. Based on EVIC's experience in studying early voting for the past four years and collecting detailed case studies of how early voting has been adopted in a number of states, we proposed the recommendations at the start of this document. In this section, I provide a brief justification for each.

**1. A Federal standard for the early voting period should be established; we recommend approximately two to two and a half weeks prior to the election.**

This recommendation draws heavily in the normative arguments made by Dennis Thompson combined with the on-the-ground politics of election administration in the United States. While Thompson provides a convincing normative argument against early voting, I am aware of no positive argument on the other side in favor of an extended period of early voting, either on the basis of costs, administrative convenience or voter turnout.

Currently, early voting periods are as short as a few days and, in a few states, longer than six weeks. In many cases, the domestic absentee ballot mailing deadline is tied to mailing of overseas and military ballots, a timeline that is completely arbitrary. What reason can there possibly be for absentee voters in Kentucky to receive ballots in mid September while voters in California, Oregon, Washington, and many other states receive them in mid October and return them without incident? Finally, without addressing the merits of those who express concern about voter fraud, having ballots out the hands of governmental officials for an arbitrarily long period of time seems unwise.

**2. Both early in person and no excuse absentee balloting should be available**

If a state is going to allow alternative balloting, there is no empirical evidence to argue for one method over another. However, current partisan differences in the use of absentee and early in person voting would seem to favor a mixed system whereby all three methods (no-excuse absentee, early in person, and precinct place voting) are made available, as a way to insulate election officials from charges of rigging the election. States and local jurisdictions will need to monitor the costs associated with these changes.

**3. States should provide guidelines and, if necessary, funding so that early in person voting is equally accessible to citizens across a state**

Currently, some states require either a minimum number of early voting "satellite" locations or put a cap on the number of satellite locations. Most states provide no guidance.<sup>19</sup> Unfortunately, this can lead to substantial variation in how easily a citizen can access early voting across counties. While we have no hard data on the question, we suspect that these differences will be correlated with

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<sup>19</sup> Source: email communications from EVIC and state officials, available upon request.

the wealth of the counties. This kind of unequal access to the polling place would be unacceptable for Election Day voting. Advocates have argued that machines have been unequally deployed and have suppressed turnout. Why do we accept this inequalities during early voting?

This is a case where the state may be unwilling to mandate a particular solution for every county, but should proactively set a floor below which counties cannot go, based on population size, density, and turnout. In order to address the costs of maintaining satellite locations, we advise states to provide base level funding to support satellite voting.

**4. In state election systems, capture the date that ballots are processed (the date of early voting, or the date that an in person early vote was cast), and make this information cheaply available on a live-time basis.**

Academics have a reputation in the elections community for always asking for more data and not being willing to pay for it. This policy recommendation may be seen in that light, but there are good administrative and political reasons for making early voting data far more accessible than it is in many jurisdictions.

Most well-run political campaigns already track early voting patterns. Both major presidential campaigns in 2008 had well-oiled get out the early vote operations. However, assembling early voting turnout can be a daunting task. In many states, these data have to be purchased daily at the county level, running into thousands of and thousands of dollars. Major presidential contenders and the two national parties have the resources to purchase and process this information, but third party candidates, as well as less well-funded candidates for federal, state, and local contests have no such advantage.

As a result, but by allowing counties to charge what is often an exorbitant rate for early voting turnout, election administrators are unknowingly increasing campaign costs for and advantaging a distinct segment of candidates. No longer are we in an age when running a voter file consisted, literally, of photocopying hundreds of pages, loading punch cards, or even mounting an electronic tape. Most of these reports are produced at the push of a button, and the costs of these reports should reflect this.

Furthermore, if election administrators do want to understand the costs of early voting or how a mix of certain modes of balloting may help or hinder participation in their jurisdiction or state, then they must capture the relevant information (who voted early and when) and make this information accessible not just to parties, candidates, and registered political entities, but to anyone.