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EXPANDING AND IMPROVING OPPORTUNITIES TO VOTE BY MAIL OR ABSENTEE

HEARING

BEFORE THE

SUBCOMMITTEE ON ELECTIONS

OF THE

COMMITTEE ON HOUSE ADMINISTRATION
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC, OCTOBER 16, 2007

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EXPANDING AND IMPROVING OPPORTUNITIES TO VOTE BY MAIL OR ABSENTEE

TUESDAY, OCTOBER 16, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELECTIONS,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The subcommittee met, pursuant to call, at 2:02 p.m., in room 1310, Longworth House Office Building, Hon. Zoe Lofgren (chairwoman of the subcommittee) presiding.

Present: Representatives Lofgren, Gonzalez, Davis of California, Davis of Alabama, and McCarthy.

Staff Present: Liz Birnbaum, Staff Director; Matt Pinkus, Professional Staff/Parliamentarian; Thomas Hicks, Senior Election Counsel; Janelle Hu, Election Counsel; Jennifer Daehn, Election Counsel; Kristin McCowan, Chief Legislative Clerk; Daniel Favarulo, Staff Assistant/Elections; Matthew DeFreitas, Staff Assistant; Fred Hay, Minority General Counsel; Bryan Dorsey, Minority Professional Staff; Gineen Beach, Minority Election Counsel; and Roman Buhler, Minority Election Counsel.

Ms. LOFGREN. As it is 2 o'clock, the subcommittee will come to order.

Good afternoon and welcome to the Subcommittee on Elections, our hearing on "Expanding and Improving Opportunities to Vote by Mail or by Absentee."

Absentee voting and vote-by-mail are increasingly being used by State and local governments; however, the concept is not a new one. In 1998, it is worth noting that Oregon passed legislation directing all elections to be conducted by mail; and other States such as California, Ohio, Maine, Maryland, South Dakota, Vermont and Washington have vote-by-mail or allow for permanent absentee ballots. In fact, under a law signed by then-Governor George Bush, Texas even allows residents to cast absentee ballots from space.

Research on vote-by-mail shows that it results in increased turnout, a less costly election, uniform and strict compliance to State law through a centralized process and an automatic paper trail. Voters find that vote-by-mail is more convenient and user friendly. It also provides them more time to study the ballot.

However, vote-by-mail and absentee voting is not without criticism. Some are concerned about chain-of-custody issues, possible voter fraud, and suppressed voter participation. While I respect these criticisms, I believe that studies show otherwise. A centralized location for ballot collection and counting results in increased security and compliance with State law. On average, vote-by-mail

elections cost 30 percent less than regular polling place elections, and I would note that in my own county of Santa Clara, the county has bought ads on the buses asking people to please sign up because it will help with their budget issues on elections.

I believe also that the concern over voter fraud is overblown. Oregon, which has been doing vote-by-mail for the past 9 years, has only prosecuted one case of voter fraud since 1998. Vote-by-mail is also a significant tool used by States to maintain their voter lists. Most States which use no-excuse vote-by-mail result in about a 15 percent increase in voter participation.

I think it is also important to note that absentee voting can be used by our military to vote in all Federal elections. If absentee voting is good enough and secure enough for the men and women in the military, does it not make sense to extend that right to all eligible voters?

Absentee voting and vote-by-mail provide a means for qualified voters to participate in upcoming elections. Access to the democratic process for all voters, be it at the polls or by mail, should be made as easy and secure as possible.

Our witnesses today will discuss their experiences with absentee and vote-by-mail and how the process has changed and developed over the years to ensure the integrity and accessibility of the electoral process.

At this point I would like to recognize the Ranking Member of this subcommittee, our colleague from California, Kevin McCarthy, for any opening statement that he may wish to offer.

[The statement of Ms. Lofgren follows:]

Committee on House Administration
Subcommittee on Elections
Expanding and Improving Opportunities to Vote by Mail or Absentee
Tuesday, October 16, 2007
Chairwoman Zoe Lofgren
Opening Statement

Good afternoon and welcome to the Subcommittee on Elections hearing on expanding and improving the opportunities to vote by mail or by absentee.

Absentee voting and vote by mail are increasingly being used by state and local governments. However, the concept is not a new one. Voting by mail was first tried in Monterey, California in 1977 and nearly half of the state's votes are now cast by mail.

Following this trend, many states have adopted different variations on vote by mail and absentee voting. In 1998, Oregon passed legislation directing all elections to be conducted by mail. Other states such as California, Ohio, Maine, Maryland, South Dakota, Vermont, and Washington have no fault vote by mail or allow for permanent absentee ballots. In fact, under a law signed by then Governor George Bush, Texas even allows residents to cast absentee ballots from space.

Research on vote by mail shows that it results in increased voter turnout, a less costly election, uniformed and strict compliance to state law through a centralized process, and an automatic paper trail. Voters find that vote by mail is more convenient and user friendly. It also provides them more time to study the ballot.

However, vote by mail and absentee voting is not without criticism. Some are concerned about chain of custody issues, possible voter fraud, and suppressed voter participation. While I respect those criticisms, studies show otherwise. A centralized location for ballot collection and counting results in increased security and compliance with state law. On average, vote by mail elections cost 30% less than regular polling place elections. The concern over voter fraud is overblown. Oregon, which has been doing vote by mail for the past 10 years, has only prosecuted once case of voter fraud since 1998. Vote by mail is also a significant tool used by states to maintain their voter lists. Most states which use no excuse vote by mail result in about a 15% increase in voter participation.

I think it is also important to note that absentee voting can used by our military to vote in all Federal elections. If absentee voting is good enough and secure enough for the men and women in the military, doesn't it make sense to extend that right to all eligible voters?

Absentee voting and vote by mail provide a means for qualified voters to participate in upcoming elections. Access to the democratic process for all voters, be it at the polls or by mail should be made as easy and secure as possible. Our witnesses today will discuss their experiences with absentee and vote by mail, and how the process has changed and developed over the years to ensure the integrity and accessibility of the electoral process.

Mr. MCCARTHY. Thank you for recognizing me, Chairwoman Lofgren.

Expanding opportunities to encourage more Americans to vote is a goal that cuts across party lines. To that end, the subcommittee will hear about four bills that our colleague from San Diego has introduced, which she will provide testimony to, and we will further discuss with a panel of witnesses.

Before we analyze those bills, I want to point out my great disappointment with the majority's conduct in preparation for this meeting. I believe that Congress should conduct itself with fairness, transparency, and cooperation because in the end, Congress needs to push aside politics and instead push forward fair debate and the best solutions to address the needs of the American people.

When I was sworn in this year, I listened very closely to our new Speaker. She used the phrase "partnership, not partisanship." there are few issues in Congress that cry bipartisanship more than those within the jurisdiction of this subcommittee. We have the responsibility to find solutions that ensure elections are fair and give the American people confidence that their vote will not be diluted, miscounted, or manipulated for one party's gain.

As you know, I produced the letter to you, Madam Chairwoman, asking that we have a level playing field, that we hear from all views. In the 109th Congress when the majority was different, when I look back upon the hearings, I look at the HAVA hearing where there were four Democrats and four Republican witnesses. Then I studied the 527 hearings on April 20, 2005. There were four Democrats and three Republicans, when the Democrats were in the minority party. Then I studied the FEC-Internet hearing in this committee on September 22, 2005. There were four Democrats and four Republicans. I went to the Milwaukee hearing on 10/24/05. There were six Democrats and five Republicans.

When I requested to have a panel here, that was individuals who were able to give testimony—I know it would be 10 minutes longer—I was denied because how hearings were held inside the Judiciary Committee. This is the House Administration Committee. When we had the Election Assistance Commission on June 8 of 06 we had two Democrats and two Republicans. When we had ID hearings when it came to voters on proposing IDs, we had five Democrats and five Republicans.

A hearing on securing the vote of Arizona on 8/3/06, we had four Democrats and four Republicans. On the hearing of securing the vote in New Mexico, we had three Democrats and three Republicans. On the paper trail hearing on September 28, 2006, we had three Democrats and three Republicans.

Today will be different. Today, we will have one side. We will have the testimony of the author and then we will have three witnesses from the majority and one witness from the minority.

That is a disappointment to me. I want to make sure elections are entrusted, that we are given all the information possible, and I don't believe 10 minutes is too long to hear from all sides. There are lots of things that I wanted to change when I ran for Congress, but one thing I wanted to keep was House Administration being fair, honest, and being appropriate. I will submit my statement for the record.

Ms. LOFGREN. Without objection, your statement is submitted for the record, and other opening statements will be submitted for the record.

[The statement of Mr. McCarthy follows:]

Opening Statement: Vote by Mail Hearing
October 16, 2007
Congressman Kevin McCarthy

Thank you for recognizing me, Chairwoman Lofgren.

Expanding opportunities to encourage more Americans to vote is a goal that cuts across party lines. To that end, this Subcommittee will hear about four bills that our colleague from San Diego has introduced, that she will provide testimony to, and that we will further discuss with a panel of witnesses.

Before we analyze those bills, I wanted to point out my great disappointment with the Majority's conduct in preparation for this hearing. As a new member of Congress, I come with a new perspective that is not grounded in the traditional Washington ways. I believe that Congress should conduct itself with fairness, transparency, and cooperation because in the end, Congress needs to push aside politics, and instead push forward

fair debate and the best solutions to address the needs of the American people.

There are few issues that cry for bipartisanship more than those in the jurisdiction of this subcommittee. We have the responsibility to find solutions that ensure election rules are fair and give the American people confidence that their vote will not be diluted, miscounted, or manipulated for one party's gain.

It is my view that when considering election rule changes, members of this Subcommittee should hear a number of perspectives. We should question different experts whose views range across the spectrum. Why? So that we can be best informed about all the possible ramifications of changing our election rules. With that in mind, the Majority has seen fit to invite three of their recommended witnesses to testify today to present some perspectives. But for some reason, the Majority believes it is reasonable to not allow the Minority to invite three

experts to provide additional views that could round out the Subcommittee's study of these issues. Instead, this Subcommittee will only have the benefit of hearing from just one witness recommended by the Minority.

Would the other witnesses provide the Subcommittee with invaluable counsel today? Curtis Gans, who is in the audience but will not be able to testify because the Majority will not allow him, is the Director of the Committee for the Study of the American Electorate and one of the foremost experts on election turnout in America, and states in his written testimony that "no excuse absentee voting hurts voter turnout." But we will not be able to question him today. Norm Ornstein, the co-director of the American Enterprise Institute-Brookings Election Reform Project and a *Roll Call* columnist, provides expertise in the area we are analyzing today, and states in his written testimony that

"weakness of absentee voting [and] wary of forcing states to implement it wholesale."

This Subcommittee ought to work as hard as it can, in appearance and in substance, to ensure that the American people have confidence that we are working with the best information, that we are working to improve the administration of elections, but that we are always working with fairness in mind. As Ranking Member of this Subcommittee, I believe it is my obligation to ask for simple fairness that will improve the product and the deliberations of this subcommittee, and I will continue to push for this simple fairness. I respect the Chairwoman. You control the votes and you control the agenda. But I cannot comprehend why you insist on controlling who gets to talk and who gets gagged when we are trying to improve Federal elections. The extra 10 minutes in this hearing that you could provide today would allow for procedural

fairness, and additional vetting of these important issues before the Subcommittee. When it comes to writing election law, we must rise above politics. A partisan political process of diluting minority participation to write election rules, that both parties compete in, seriously questions the merits of those proposed rule changes and the integrity of our elections.

Ms. LOFGREN. And I will take the prerogative of the Chair just to briefly respond to the comments made. The ratio of witnesses in committees throughout the Congress is 3 to 1, and that does not mean we will never vary from that. But when I received your letter, actually Friday, this hearing had already been set.

And certainly the majority reserves the right to set the agenda in the Congress and we hope to do that in as collaborative a way as possible. But I do not want to take further time from the testimony we will receive today.

So we will go first to our first witness, Congresswoman Susan Davis, who was first elected in 2001 to represent California's 53rd Congressional District in the United States House of Representatives. She sits on the House Armed Services Committee, where she served as Chairwoman of the Subcommittee on Military Personnel. She also sits on the House Education and Labor Committee and the House Administration Committee.

Prior to her service in Congress, Representative Davis served on the San Diego City School Board as well as three terms in the California State Assembly. Born in Cambridge, Massachusetts, Susan grew up in Richmond, California. She graduated from the University of California at Berkeley with a degree in sociology. She then earned a master's degree in social work from the University of North Carolina. And she is not only our colleague from California, but our colleague on the committee and really a leader in authoring bills that deal with this general subject. So we are thrilled to have you testimony here today, Susan.

STATEMENT OF THE HON. SUSAN A. DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. DAVIS of California. Thank you. Thank you, Chairman Lofgren and Ranking Member McCarthy and fellow members of the subcommittee. I want to thank you for the opportunity to testify about giving all voters the option to vote by mail.

I vote at the polls because I like to. As a Member of Congress, like you, I always have the general Election Day off, and sometimes even cameras show up. But voting in person is not so easy for many people.

As my colleagues from California know, anyone can vote by mail in California for any reason. Voting by mail is so popular that 46 percent of Californians chose to vote that way in 2006. I took the right to vote by absentee for granted until 2004, when a nurse from Ohio that I met told me that she could not vote for President because the polls there were only open from 7 a.m. to 7 p.m., hours that overlapped with her commute and her shift. She called her elections office in advance to request an absentee ballot but was told her work was not a valid reason to vote absentee. Since she would not abandon her patients, she did not vote. And neither did coworkers, nor undoubtedly thousands of citizens in Ohio and States with similar laws. Fortunately, Ohio has changed its laws to allow no-excuse absentee voting, but 28 States and territories still have not.

I am going to turn to the slides. On this map the States in dark blue are either all vote-by-mail or offered no-excuse absentee voting. The lighter blue States require certain reasons or excuses to

send an absentee ballot. Since Kansas started no-excuse absentee voting in 1967, 28 States have followed suit and no one has switched back.

Notice that this map does not look like the red State, blue State map. States with both Democratic and Republican Governors and legislatures have switched to no-excuse absentee voting.

As with poll voting, the advantage in mail voting goes to the better organized campaign, not to the political party.

The next slide shows that the States that require excuses, these reasons vary widely. Many even basic excuses that we think of do not count in some States. As you can see, some States do not even allow election responsibilities, those who work at the polls, school, or jury duty to count as excuses. Sometimes work counts as an acceptable reason for requesting an absentee ballot, but sometimes it does not. And in some States any work is an excuse, but others have odd limiting laws.

In Tennessee, you must be working outside the county with a commercial driver's license. In Alabama you must work at least a 10-hour shift. Every State has allowances for physical absence, but there is a range there, too. For example, in Indiana you must be out of the county for all 12 hours the polls are open. And in Louisiana you must be outside your parish not only on Election Day but for the entire early voting period.

Illness and disability requirements vary as well. In Missouri you must be incapacitated or confined. In Michigan you can vote by mail only if you cannot make it to the polls without the assistance of another person. Some States allow people over a certain age to vote absentee. In Michigan it is over 60, in Mississippi it is 65, and in Georgia it is 75. Verification required for excuses also ranges and much of it is an invasion of privacy.

On the next slide, this is the Virginia absentee voting ballot application. By the top circle you can see that it requires the voter to state where he or she will be vacationing. In the next area you have to indicate the exact hours of your work and give your employer's name and address. On the next you must list the nature of your disability or illness. And in the religion section, you have to explain the nature of your religious obligation.

Does the government need to know this personal information just to let an American citizen exercise his or her right to vote?

In the next slide, you will see in Delaware you need to put your location and phone number on Election Day. And here you need a notary signature to prove that you are on vacation or have religious obligations. The cost and hassle of this requirement equates to a modern-day poll tax.

In Tennessee, on the next slide, there is not even an application form. You just have to write a letter. You can see from the requirements on the official Web site that the voters—and I would quote—the voter's licensed physician must file the statement with the County Election Commission stating that in the physician's judgment that the voter is medically unable to vote in person, unquote. It is not surprising that only 1.7 percent requested absentees are in Tennessee.

These individual State restrictions are totally unnecessary as they do nothing to increase security. All they do is suppress the use

of absentee ballots, which is around 1 to 10 percent in most excuse States as opposed to the 20 to 50 percent in no-excuse States. Voters have repeatedly shown that they want to be able to vote by mail.

Allowing no-excuse absentee voting can increase turnout from anywhere between 2 and 10 percent, and sometimes much more. That may sound small but it would, in fact, be millions of voters nationwide. No voting system can ever be perfect, but absentee voting has proven to have comparatively few instances of foul play, as the other panelists will detail. The potential for vote suppression is clearly a much greater problem than the potential for fraud. Our goal should be to enable people to take part in the process, not to put up barriers.

The reality today is that people pursuing the American dream are buying homes far from where they work. They get up early, commute long distances, and savor precious family time. Many people work hourly wage jobs and have to balance child care. They want to participate in democracy, but cannot or do not want to make a trip to the polls.

With all the referendums on ballots these days it can take 20 or 30 minutes to vote, even if you are first in line. Is a person any less patriotic for wanting to do his civic duty at his kitchen table rather than braving bad weather long lines and partisan politicking at the polls? Does he or she have less of a right to vote than other Americans?

No excuse absentee voting does not force anyone to vote by mail. What it does is give voters a choice. Some people say the Federal Government has no business implementing no-excuse absentee voting. As a former State and local official, I have great respect for the role of the States but no-excuse absentee voting is not a violation of States rights. In fact, first, it levels the playing field. Keeping our current system allows voters in some States more opportunities to vote than others, and it creates a kind of inequity when voters are voting in the same election.

Perhaps more important on a constitutional level, State and local officials are responsible for administering elections, but they cannot decide who can vote. That is the job of the Federal Government.

In a recent national poll 94 percent said they believe society should make it as convenient as possible for eligible citizens to vote, and 58 percent said Congress should work to make voting easier.

I ask that the subcommittee members support my Universal Right to Vote by Mail bill, H.R. 281. This bill would simply require that all voters be given the opportunity to vote by mail for any reason, and without the added burdens such as a notary and doctor's signatures. It would not change any State laws regarding deadlines or voter ID requirements.

I certainly hope that this Congress will expand absentee voting and by doing so move forward in fulfilling the American promise of democracy: A vote for every citizen.

Thank you very much, Madam Chair.

Ms. LOFGREN. Thank you very much, Congresswoman Davis.

[The statement of Mrs. Davis of California follows:]

Testimony
Subcommittee on Elections

"Expanding and Improving Opportunities to Vote by Mail or Absentee"

Honorable Susan A. Davis
October 16, 2007

Chairwoman Lofgren, Ranking Member McCarthy, fellow members of the Subcommittee,

I appreciate that we have the opportunity today to discuss an often overlooked but critical piece of our elections process—absentee voting. My testimony will focus on No-Excuse absentee voting.

I vote at the polls whenever I can because I just like to. As a Member of Congress, I always have the day off and sometimes cameras even show up. But voting in person is not so easy for many people.

As my colleagues from California know, anyone can vote by mail in California for any reason. Like voters in seven other states, a Californian can even choose to be a "permanent absentee"—someone who always votes by mail. Voting by mail is so popular that 41% of Californians chose to vote that way in 2006 and 25% list themselves as permanent absentees.

I took the right to vote by absentee for granted until 2004 when I heard from a nurse in Ohio who could not vote for President because the polls there were open only from 7:00 am to 7:00 pm, hours that overlapped with her commute and her shift. She called her elections office in advance to request an absentee ballot but was told her work was not a valid reason to vote absentee. Since she would not abandon her patients, she did not vote and neither did her coworkers—or undoubtedly thousands of citizens in Ohio and states with similar laws.

Ohio has since changed its laws to allow "No-Excuse" Absentee voting but twenty-eight states and territories still have not.

Since Kansas started No Excuse Absentee voting in 1967, 28 states have followed suit and no one has switched back.

States with both Democratic and Republican Governors and legislatures have switched to "No-Excuse" absentee voting. Giving all citizens the right to vote is something we believe in as Americans, not as Republicans or Democrats.

Vote by mail should not be a partisan issue as multiple studies show it does not give either party an inherent advantage. Like poll voting, the advantage goes to the campaign which is better funded and better organized.

In my district, the Republicans always seem to do well in the absentees and I have to get a lot of votes on Election Day to counter that.

In the states that require "excuses," the excuses allowed vary widely and many even basic excuses do not count in some. Some states do not even allow elections responsibilities, school or jury duty to count.

Sometimes work counts as an acceptable reason for requesting an absentee ballot, while sometimes it doesn't. In some states, any work is an excuse but others have odd, limiting laws. In Tennessee, you must be working outside the county with a commercial driver's license. In Alabama, you must work at least a 10-hour shift that coincides with polling place hours. In Guam, only employment in navigation or the government counts.

Every state has allowances for physical absence but there's a range there too. For example, in Indiana you must be out of the county for all 12 hours the polls are open. In Louisiana, you must be outside of your parish not only on Election Day but for the entire early voting period to request an absentee ballot.

Illness and disability requirements vary as well. In Missouri, you must be incapacitated or confined. In Michigan, you can vote by mail only if you cannot make to the polls without the assistance of another person. In the Northern Mariana Islands, sick people can only vote by proxy-- without privacy.

Some states allow people over a certain age to vote absentee—in Michigan, it's over 60, in Mississippi, it's 65 and in Georgia it's 75 to be a permanent absentee. As someone over 60, I know it's a lot easier for me to get to the polls than for many younger people.

Verification required for excuses also ranges and much of it is an invasion of privacy.

In Virginia, a voter must indicate the exact hours of his or her work and the employer's name and address, list the nature of a disability or illness or explain the nature of a religious obligation. Does the government need to know this personal information just to let an American citizen exercise his or her right to vote?

New York requires that a voter list the location of his or her vacation.

Most stunning is that in Delaware and Rhode Island you need a notary signature to prove that you're on vacation or have religious obligations. The cost and burden of this requirement equate to a modern day poll tax.

In Tennessee, there's not even an application form. You have to write a letter containing seven items. If you are ill, you are required to provide a note from your doctor. That can require an extra visit and extra costs.

The expense and burden required for both the voter and the elections officials in these restrictive states are totally unnecessary, as they do nothing to increase security. All they do is suppress the use of absentee ballots, which is around 1-10% in most of these states as opposed to 20-45% in No-Excuse States.

Allowing no excuse absentee voting can increase turnout from anywhere between 2 and 10 percent or even much more depending on where you look and for how much time you look. That sounds small but in fact equals millions of voters.

Since absentee voting was first allowed around the Civil War, there have been concerns about the potential for fraud. No voting system can ever be perfect but absentee voting has proven to have comparatively few real incidences of foul play and mechanical error.

Because an absentee ballot must go to a person's address and the voter's signature must match the voter's registration card, it is quite difficult to commit fraud on a widespread basis and not be detected. Penalties of many years in jail and thousands of dollars in fines are more than adequate deterrents. Although there have been a handful of isolated incidents of people tampering with absentee ballots, there is no concrete evidence that voting by mail leads to vote stealing any more than in-precinct voting.

Moreover, with absentee voting, we don't have to worry about the spectrum of problems we've seen with voting machines. In Sarasota County in 2006 when there were 18,000 undervotes, the absentees came out with normal undervote rates.

Since absentee fraud and technical error are so rare, why are we preventing people from voting that way? Let's be realistic. The potential for vote suppression is clearly a much greater problem than the potential for fraud. Denying people absentee ballots or requiring them to jump through hoops to get them is sacrificing equitable treatment when there is no real evidence of foul play.

The true scope of acceptable excuses is vast--What if you're working or taking care of your children or just not sure how busy your day will be? The bottom line is, our goal should be to enable people to take part in the process not put up barriers.

In many cases, the restrictions on absentee voting in state codes dates to a time when Americans were less mobile. The reality today is that people pursuing the American Dream are buying homes far from where they work. The get up early, commute long distances and cannot spend as much time with their families as they would like. They want to participate in democracy but cannot or do not want to make a trip to the polls.

Some people can go to the polls but prefer to take the time to study their options in their own home at their own pace. Voting can take a while especially in states with referendums and very, very long ballots. It can be stressful to feel rushed with a line of people behind you.

Is there any real reason a person should fill out a sample ballot at home, then wait in line to mark a ballot in person when you can just vote a mail-in ballot at home and be finished?

Is a person any less patriotic for wanting to do his civic duty at his kitchen table rather than braving bad weather, long lines and partisan politicking at the polls? Does he have less of a right to vote than other Americans?

No Excuse absentee voting is a popular option for elections officials as well as we'll soon hear from our other panelists. It affords a greater time window to administer elections and deal with problems and is the ultimate paper trail in case there is need for a recount.

No Excuse absentee is not only a win for absentee voters and election administrators but it's a win for the voters and poll workers who show up on Election Day and face less congestion and fewer problems.

In our last hearing, we were told that there is a national shortage of 500,000 poll workers and officials have to bring in "warm bodies" to administer our elections. If voters are allowed to vote by mail when they want to, much of the pollworker shortage could be alleviated especially if more states offer the permanent absentee option.

No Excuse absentee voting does not force anyone to vote by mail—what it does is give voters a choice.

Some people say the federal government has no business implementing No Excuse absentee voting. They think we should let the states do it as will likely occur eventually.

As a former state and local official, I have great respect for states' rights but know this is just one of those things every state should be doing.

First, it levels the playing field. Keeping our current half and half system allows voters in some states more opportunities to vote than others and creates inequity when voters are voting in the same election. In the 2004 presidential election, should California voters have had more opportunity to vote than Ohio voters?

Perhaps more important, on a constitutional level, state and local officials are responsible for administering elections but they cannot decide who can vote—that is the job of the federal government.

No Excuse absentee voting also does not add the undue burden for local elections officials of having to deal with something new since all already have systems for absentee voting for military voters. It merely increases the number of people who are eligible to have a fair chance to vote.

In a recent national poll, 94% said they believed society should make it as convenient as possible for eligible citizens to vote and 58% said Congress should work to make voting easier.

I ask that the subcommittee members support my Universal Right to Vote by Mail bill, HR 281. This bill would simply require that all voters be given the opportunity to vote by mail for any reason and without added burdens such as notary and doctor signatures. It would not change any state laws regarding deadlines or voter ID requirements. It has seventy cosponsors and counting, and a great deal of organizational support.

Allowing everyone to vote by mail is step one. We also need to increase security and convenience even more. That's why I've sponsored other bills to improve the vote by mail process by providing free postage to voters, allowing absentee ballots to be tracked like overnight packages, and giving grants to states that want to conduct mail elections in certain situations.

As you consider all the things we can do to improve our elections, I hope that you will look beyond just election day poll-voting and consider the ways we can improve the other major element of our elections—absentee voting—and by doing so move forward in fulfilling the American promise of democracy—a vote for every citizen. Thank you.

Ms. LOFGREN. I don't know whether members have questions for our colleague.

Mr. McCarthy. You are recognized for 5 minutes.

Mr. MCCARTHY. You have no questions?

Ms. LOFGREN. I was going to defer to you.

Mr. MCCARTHY. I will defer to the Chair. I will go after you.

Ms. LOFGREN. Mr. Gonzalez, do you have questions?

Mr. GONZALEZ. Thank you very much, Madam Chair. And I know, Congresswoman Davis, you already pointed out, the only thing you are looking for, and many that are supporting what you are doing here today, is to give the voter a choice to actually vote by mail or drop-off. But you would not be imposing an Oregon-style model on any State where it would be the only way that basically you would be able to vote. That's not what you do. You are not replacing the polling place; it is just an alternative that we already have in many States, except that it does require an excuse.

Mrs. DAVIS of California. Actually, one of the things that we are doing is building on what is already there. Every State allows some absentee voting. So you are building on what has been established over many, many years in these counties. But this, the excuses that we talked about, that people have to demonstrate and have the doctors' or notaries' signatures, that does not seem to create security at the polls. I think it only creates an additional burden on the voter.

Mr. GONZALEZ. Now, the fears that have been expressed, of course, is that this provides greater opportunity for fraud. And what would be your response? I know you say that there is no evidence out there. I think we are going to have a witness that will testify to the contrary. But what is your experience or your knowledge regarding that particular fear?

Mrs. DAVIS of California. I think we do have some folks here who will testify on both sides essentially of that issue. But the check of a signature is actually quite substantive and quite different from at the polls. I don't know, Mr. McCarthy, if you recall, we had a discussion about this when we were talking about other pieces of legislation. And, in fact, that check is significant for absentee voters. And we have even better qualified in some cases and highly trained people who are doing that process. We have a gentleman who will testify that they have an automatic process in terms of the check on signature.

So I think that there are always going to be a small number of problems. We have them whether people are at the poll site or not. But we have found that that particular check really does increase the opportunities for people and does not increase the fraud. And I think there will be folks who will testify on that.

Mr. GONZALEZ. Thank you very much. I yield back.

Ms. LOFGREN. Mr. McCarthy.

Mr. MCCARTHY. Thank you. I know we had a conversation, and I was just wondering if you could—I noticed you said that you haven't had any knowledge of fraud in absentee ballots; is that correct?

Mrs. DAVIS of California. There is very little over the years that has been substantiated in that regard——

Mr. MCCARTHY. You know there was a Dallas Morning News story this week——

Mrs. DAVIS of California. There, again, having a perspective on that.

Mr. MCCARTHY. There is a Dallas Morning News story this week and then there is also actually a Postal Service serving 18 months that just happened this year. Unfortunately, we are not able to have more than one witness, but there are others who have submitted some information. You have the Indiana Democratic Party, Dan Parker, he is the chair. He says mail-in absentee vote fraud is the only type of vote fraud that has ever been in existence. And I think some of their arguments from one standpoint is when you go inside the ballot box, nobody is around that can influence. When you vote by absentee, no one knows who is around. There can be influence around them.

When you vote by absentee, someone puts it in the mail. I know you and I talked about the voter check on the signature. Do you think that is sufficient for everybody across the country to have that?

Mrs. DAVIS of California. Well, I think it is a strong check. And there are ways that, if they receive at the registrar a signature that does not match, they contact that individual.

Mr. MCCARTHY. They contact them now? Like if I voted in Kern County and my vote did not count, they would call me?

Mrs. DAVIS of California. Yes. I know that from personal experience because my husband's signature has gotten less legible than it used to.

Ms. LOFGREN. He is a physician.

Mr. MCCARTHY. So everybody who votes gets contacted? Because I have had a different experience.

Mrs. DAVIS of California. It depends. I can't speak for every county, but I know that——

Mr. MCCARTHY. How does that work? If I vote absentee, isn't it in California there are certain people that can—you cannot turn in your absentee—you could also turn it in at a polling place and it could not be you who turns it in. Who all can turn in an absentee ballot?

Mrs. DAVIS of California. If it is signed, my understanding is that somebody can bring it to the polls.

Mr. MCCARTHY. Anybody could? If I am a neighbor, I could pick it up and turn it in if they signed it?

Mrs. DAVIS of California. I believe they can, yes. Once that person has voted. Again, you can tell if it has been tampered with after somebody has sealed it.

Mr. MCCARTHY. One of my prior jobs was working for a member who was on this committee and we did many contested elections. One was Charlie Rose, who happened to be Chair, and we found voter registration absentees were a great deal. One happened to be Dornan and Congresswoman Sanchez. And in California you can only be a relative. And in L.A., one of the contested races when they were going through—what they do is when they send it in, you sign it, they run the absentee, which the ballot is inside, and they don't open it until they check. So they put on and have one person checking, based on the voter registration, to see if it has

ever changed. On there it asks you what member of the family you are. If you leave it blank, they assume you are a member and count it. If you put in that you are a neighbor, they throw it away. And they never contacted that person that it was going through. So I have some concerns from that perspective.

Now on your slide, you put up Tennessee as one of your States. Is your goal here to get greater turnout for Tennessee, because absentee would provide that?

Mrs. DAVIS of California. The goal is to allow someone who wants to vote absentee to be able to do that without an unnecessary burden of having a notary sign that, of having a physician—perhaps your physician is not available to be able to sign for you that you, in fact, are ill and are not able to go to the polls that day.

Mr. MCCARTHY. What was the percentage you said in Tennessee? Because they had a problem such as that, correct?

Mrs. DAVIS of California. About 1 percent request absentee ballots in Tennessee; 1.7 percent.

Mr. MCCARTHY. And you believe—and that is based upon that they have to get a physician's signature?

Mrs. DAVIS of California. I don't know what it is based upon. I am just suggesting that that is a very low percentage of people requesting absentee ballots.

Mr. MCCARTHY. How many people in Tennessee vote early voting?

Mrs. DAVIS of California. A larger number vote early voting. And we actually had some numbers and we wanted to check those thoroughly. But I don't believe—I don't know how they put those together. But we have the 1.7 percent of those who request absentee ballots.

Mr. MCCARTHY. California has absentee. How many vote absentee in California? Is it 30 percent?

Mrs. DAVIS of California. It depends on the number. I think, as they will testify in Santa Barbara, far larger numbers than that request absentees or have permanent absentees. And, again, you have high voting turnout in those particular communities.

Mr. MCCARTHY. Unfortunately, I am sorry, we had a couple of witnesses that have studied this and are experts in it. And their argument from one standpoint is on the studies that absentee voters turn out more when it is a local election, but when it is taken over the whole State you don't get greater turnout. Tennessee, you said, there was 1.7. But I have a fact that 50 percent of them vote early voting. I would love to be able to question them and go back on their statistics. Is that because they can vote 2 weeks in advance, vote in shopping centers and others, is that why they are not requesting absentee because it is fulfilling the need? They know they are going to be gone that day at work. We are solidifying their problem, but the other fact they have is you don't get a greater turnout.

So I wish that we would be able to have that dialogue and that debate, but unfortunately we won't today.

Mrs. DAVIS of California. As I testified, sometimes it is a few percentage points. But if you count those up nationally it is a significant number.

Ms. LOFGREN. I will just make one comment and then get to our witnesses. One of the arguments that is made in opposition to absentee ballots is that somehow there might be undue influence. And this has always mystified me because the person who asked for the absentee ballot gets to fill it out wherever they want. They can fill out at the dinner table or in the backyard. It is their choice.

I don't see how you could ever be oppressed by that when it is the voter making the decision on what they want to do. I mean, do you understand that?

Mrs. DAVIS of California. I don't understand that. I know that certainly in families we also influence one another in our——

Ms. LOFGREN. We try.

Mrs. DAVIS of California. We try. Exactly. I remember—maybe you have had this experience—of going to a door and asking for somebody and them saying, "You talk to me." You don't talk to the person you just asked for.

Obviously there is a certain amount of influence, but again, you point out that they are doing that by choice. And I think that certainly in California we have very complicated ballots. And I think that is one reason why absentee voting is very popular because people can take the time. They don't feel stressed, they are not standing in line, they are not worried if a machine is going to break. All those things.

And I think across the country, you want to have it equal. So everybody who has a desire to be able to vote in that frame is able to do that. It does not put any pressure on them to do it, but it does allow them to do it, and I think the map is quite striking that we haven't had any kind of a universal plan—up until this time, hopefully.

Ms. LOFGREN. Thank you very much. And with that, we will ask you to join us up here on the panel and we will ask the next witnesses to come forward.

Mr. MCCARTHY. Madam Chair.

Ms. LOFGREN. Yes.

Mr. MCCARTHY. As we have been discussing over the past few days, I would like to make my request again that Mr. Curtis Gans—who is in the audience today and we have submitted his testimony—be allowed to testify and answer questions as part of the second panel. I strongly believe that as this is the subcommittee that conducts oversight of Federal elections and considers legislation effecting the way in which Federal elections are administered, it is crucial that this subcommittee hear from and have the opportunity to question witnesses with the broadest spectrum of opinions as possible. I ask again that Mr. Gans be invited at that time to the panel.

Ms. LOFGREN. I would be happy to make his testimony a part of the record by unanimous consent. And I will just say that I think this is a stunt on your part, Mr. McCarthy. I got this letter, it was late. If you were serious, you would have talked to me personally.

I am not ruling out the opportunity to do various ratios in the future. The majority has the responsibility to set the agenda in the Congress. Certainly when the Republicans were in the majority, that was the case. And I am not going to be willing to deal with a stunt here the day of the hearing.

I would note also that by practice the majority also always issues the invitation to the witnesses, and the minority has varied from that practice in this case, which I find disrespectful.

So with that, we will ask the witnesses to come forward.

Mr. MCCARTHY. Madam Chair, I ask unanimous consent that the written testimony of Mr. Curtis Gans be included in the record. In addition, the minority has just received written testimony from Indiana Secretary of State, from John Fortier from the American Enterprise Institute, and from Norm Ornstein. I believe that they have some important opinions to share with us on this topic and I ask unanimous consent that their written statements——

Ms. LOFGREN. Without objection, the written statements will be entered into the record.

[The statement of Mr. Gans follows:]

AMERICAN UNIVERSITY
WASHINGTON, DC

Curtis Gans, *Director*
Center for the Study of the American Electorate

TESTIMONY

of

CURTIS GANS, DIRECTOR

CENTER FOR THE STUDY OF THE AMERICAN ELECTORATE

at

AMERICAN UNIVERSITY

to the

COMMITTEE ON HOUSE ADMINISTRATION

U.S. HOUSE OF REPRESENTATIVES

October 16, 2007

My name is Curtis Gans. I am presently the director of the Center for the Study of the American Electorate at American University. For the past 31 years, first as the director of the independent non-partisan, non-profit Committee for the Study of the American Electorate and now in its reincarnation at American University, I have been studying voter participation in the United States and have become a principal source of data, information and analysis with respect to registration, voting and the reasons why people do or do not vote.

I want to thank the chairman and ranking minority member for inviting me to participate in this hearing, the staff for being unfailingly helpful and the members in attendance for being part of this hearing.

There are times when for the best of reasons people put forward the worst in public policy. The most egregious example of this was, perhaps, the decision to involve ourselves militarily in the civil war in Vietnam. On a much smaller scale, this is the situation facing this committee with respect to legislation which would seek to encourage no excuse absentee and mail voting.

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The people who propose such legislation have the benign or even meritorious intent of enhancing voter participation. But the methods they are proposing have been shown to have precisely the opposite result and to pose other serious problems for the health and integrity of the conduct of elections.

1. No Excuse Absentee Voting Hurts Voter Turnout: My organization has been tracking no excuse absentee voting and early voting since 1992 or since those changes in the voting process have been adopted in an every widening number of states. What we have done is aggregate the states with the reform in question (either no excuse absentee voting or early voting – voting prior to election day in person at locations of convenience selected by those running elections – or both) and the states which had not, in each given election year, adopted these changes. With one exception, the election of 1998, the states which had adopted no excuse absentee voting either performed no better or, more often, worse, than the states which did not adopt these changes. Which is to say that in years in which voter turnout was higher than the previous election (in both mid-term and Presidential election years), the states which adopted no excuse absentee voting had lesser increases than the states which had not adopted this change. In years when turnout went down in comparison to the previous election year, the declines in states which adopted no excuse absentee voting were greater than those which did not adopt this change.

This should not be surprising for two reasons – with the exception of Oregon with its all- mail ballot and Washington (for the past few elections) and California now which allow citizens to apply for permanent absentee status and get their ballots routinely mailed to them – the people who avail themselves of the no excuse absentee ballots are likely to have been regular voters at the polls, since they would need to request an absentee ballot. And some of them will likely have forgotten they had the ballot by Election Day. Equally important is that while some political consultants may like no excuse absentee balloting because it allows them to track who of their particular set of likely voters for their side has and has not voted and enables them to follow up with those who haven't, the larger impact of no excuse absentee voting is to diffuse mobilization activities which formerly were concentrated on getting out the vote on one day over a period of several. This, in turn, reduces the impact of those activities and makes them both less forceful and less efficient.

2. Oregon's All-Mail Voting System Either Hurts Turnout or Has a Null Effect: The reform first went into effect in the special election in which Sen. Ron Wyden defeated Sen. Gordon Smith. Because it was a special election and there were no other statewide special elections in recent Oregon history and very few in other states with which to draw comparisons, whatever conclusions that various groups (including mine) and academics put forward about the impact of mail voting on turnout in that election need to be taken with several grains of salt .But after that election, the impact (or lack thereof) of the mail voting can be evaluated. The first comparable election in which it was used was the 1998 statewide primary which had a turnout which was the lowest in Oregon's history. The 1998 general election had the lowest turnout since World War II. The 2000 Presidential primary was the lowest ever as was the 2000 primary for other

statewide offices. In the 2000 general election, Oregon's turnout performance was very slightly better than the nation average (up 2.81 percentage points as compared to 2.77 for the national as a whole), but it was lower than the average turnout increases for battleground states (of which it was one) and there were 26 states which had greater percentage point increases in turnout since 1996 and none of those had adopted the all-mail ballot. In 2002, the turnout in the statewide primary was the fourth lowest in the state's history and six states which did not adopt mail voting had greater increases in turnout from 1998 than Oregon. Turnout in the 2002 general election was the third lowest since World War II – higher only than the 1998 and 1974 general elections in the state. Turnout in the 2004 Presidential primary was the lowest ever for such a primary. Turnout in the 2004 general election was the highest in the state since 1960, but while the turnout increase (as compared to the 2000 Presidential election) was greater than the national average, it was slightly below the average of battleground states and ten states had greater increases than Oregon without resorting to the mail ballot. The 2006 statewide primary had the second lowest turnout in Oregon's history. The turnout in the general election was on a par with turnouts (higher than some and lower than others – all narrow differences) back to 1966 when turnouts were all higher than 2006 after World War II. All of which is to suggest that whether one wants to adopt mail balloting or not, turnout effect is NOT a good argument for its enactment.

(It should be noted that the Oregon Secretary of State's office tends to claim a greater turnout impact, but they use registration for their denominator which is a very unsound figure to use. If one purges the registration lists close to election, the percentage of those registered who vote appears higher. If like Alaska and Maine, the number of citizens on the registration lists exceeds the number of citizens 18 years of age and older, turnout of registered would tend to be quite low. The only consistent base to look at turnout is as a percentage of eligible citizens.)

3. Mail and No Excuse Absentee Voting Are an Invitation to Fraud and Manipulation: The effect of these two approaches is to, in essence, eliminate the secret ballot (albeit only when someone wants their ballot not to be secret). But this is an invitation to vote buying. Also, in states where someone other than the person casting a vote may deliver a ballot, these approaches are an invitation for the person so delivering to discard a ballot if the political preferences of the person casting the ballot are not congruent with the ballot deliverer. And, these procedures can and will lead to what may be called the pressured vote – where citizens are invited to ballot signing parties in a living room of one of their peers, where for any number of reasons the citizen is asked to fill out his or her ballot a certain way, something that is hard to resist in public amongst one's peers but easy to resist behind the curtain at a polling place.

4. Citizens Who Cast An Early Vote Could Be Voting On A Very Different Set Of Issues Than Those Who Vote On Election Day: Imagine if on the weekend before the 2004 election day Osama Bin Laden had been captured or there was a domestic terrorist attack or the stock market had crashed or there was a valid revelation of moral turpitude on the part of one of the major national candidates. There would have been between 20-25 million citizens who would have already cast irrevocable votes who

did not have this important information upon which to make their voting judgments. In 1992, this happened in a perhaps less dramatic way. Ten days before Election Day, Ross Perot was on 60 Minutes and accused the Bush White House of sabotaging his daughter's wedding. This probably didn't say anything about the Bush White House but did say something about Perot's level of paranoia. But those who voted before that Sunday did not have that information. The Friday before the election former Defense Secretary Casper Weinberger was indicted on a bill of particulars that indicated that President George H. W. Bush lied about his knowledge of and involvement in the activities which had become to be known as Iran-Contra. Those who voted prior to that Friday did not have this information. When casting our votes, we all should have the same base of information, unless we cannot physically – either for reasons of infirmity or real absence from the place of voting – cast our ballots.

5. Eliminating One of the Only Remaining Communal Acts: For some this consideration may seem unimportant. But we have so fragmented and atomized our society – through a media which makes people spectators and consumers; through our growth patterns which undermine community, through our politics and its wedge issues – that we have perhaps only two communal acts left – gathering to watch fireworks on the 4th of July and gathering with our peers at the polls to perform the most basic act of citizenship. We should think twice before making this rite obsolete.

When I was in Marine Corps boot camp, my senior drill instructor often said to us whenever we were flustered, "Do something, even if it's wrong." The impulse to try to do something about the level of voting in America in which we stand 139th out of 172 democracies in the level of voting is strong. But the approaches being contemplated in this legislation are wrong.

It will be hard to roll back these unfortunate innovations in the states that have adopted them. The people who most avail themselves of no excuse absentee voting tend to be middle class, upper middle class and upper class citizens who like the convenience despite the dangers that these approaches pose to the health of the American political system. In the states which have adopted one or more of these innovations, rolling them back will likely take a major incidence of fraud or a major event occurring after a large percentage of voters have cast their ballots and before the elections. But we need not, as is contemplated here, spread bad public policy beyond its existing confines.

Are there procedural fixes that might, in minor ways, enhance turnout? The answer is, "Yes," if the expectations are not too high. We could provide sufficient machines at polling places to eliminate long lines. Every state could and should have New York's hours – from 6 a.m. to 9 p.m. or three hours on each side of the working day. Every state should have the type of voter pamphlets which exist in several western states – which give the biographies and self-ascribed issue positions of all the candidates and the pros and cons of ballot propositions. We should explore spreading the experiment which was started in Larimer County, Colorado of voting kiosks where citizens can vote in person at centralized places an get the ballot particular to their voting precinct. We can expand on the work of the National Association of Secretaries of State and the League of

Women Voters in making it possible for citizens to type their address into a computer and get their polling place, in the same manner as one can get a zip code. And, if we wanted to do something larger not only for voting but also for national security, immigration reform, identity theft protection – among other things – we could mandate a national biometric identification card for all those both in and coming to the United States provided by the government. This would, in the voting arena, eliminate registration and eliminate all forms of potential fraud, save vote buying and election official malfeasance.

But, the evidence is clear. The principal cause of the low level of American voter turnout is not procedure but rather motivation. With the exception of the polarizing elections of 1992 and 2004, American voter turnout has been declining since 1960 despite continuing and successful efforts to make it easier to vote. On the other side of the coin, in 1992 and 2004 citizens stood in lines for eight or more hours in unfavorable weather conditions to cast their ballots. While we should do something about eliminating long lines at the polls, it is clear that the public will turn out when they believe that something important is at stake.

We will durably improve voter turnout, not through procedural gimmicks but rather through improvements in the macrocosm of American politics – in the quality of our education, the quality and quantity of civic education, the restoration of strength and sound alignment of our political institutions, in a renewed sense of responsibility in our media, in better conduct of our campaigns, in the promotion of civic values and in the restoration of trust in our leadership through the rekindling of perceived responsibility of our leaders in restoring that trust through their conduct, among other things. Then perhaps we will restore the religion of civic duty and responsibility which no longer exists nor motivates citizens to vote.

Curtis B. Gans

Curtis B. Gans is presently and, for the last 25 years, has been the director of the Committee for the Study of the American Electorate. As director of the Committee, Gans is the acknowledged ranking expert on voter turnout and participation. On matters of voting, he has become the primary source of information for most newspapers, wire services, news magazines and columnists. His writings have appeared in a number of major publications and he has appeared on various talk shows, including TODAY, GOOD MORNING AMERICA, ALL THINGS CONSIDERED, THE MCNEIL-LEHRER REPORT, among others. He has spoken in various capacities on more than 200 college campuses and before political and trade associations. For a period of six years, he wrote a self-syndicated column which appeared in more than 20 newspapers in major urban centers.

In a career that straddles both politics and journalism, Gans is also well known for leading the effort against the re-election of President Lyndon Johnson in 1967 and serving as staff director of the Presidential campaign of Senator Eugene J. McCarthy the following year. He is former member of the Democratic National Policy Council and its Foreign Policy Subcommittee. He has served as a consultant to the Woodrow Wilson Center for International Scholars, the National Committee for an Effective Congress, and has managed a number of political campaigns.

He has also been a newsman for the *Miami News,* and United Press International and has written numerous articles and reviews for such publications as *The Atlantic, Public Opinion, The Washington Monthly, The Nation, The New Republic, Social Policy, The National Observer, The New York Times Book Review, Book World,* and the opinion pages and sections of many newspapers. He has also contributed to many books and anthologies.

A 1959 graduate of the University of North Carolina with an A.B. degree in English and Philosophy, Gans is an honorably discharged member of the United States Marine Corps Reserve.

He is an avid baseball fan and is noted for planning his vacations and business travels to coincide with the flights of the St. Louis Cardinals.

[The statement of Mr. Rokita follows:]

SECRETARY OF STATE
STATE OF INDIANA

TODD ROKITA
SECRETARY OF STATE

"This law doesn't address the only type of voter fraud that has ever been shown to exist: mail-in absentee voter fraud." - Dan Parker, Indiana Democratic Party Chairman (Indianapolis Star, 9-27-2007)

Chairman Lofgren, Ranking Member McCarthy, and Members of the Committee, thank you for the opportunity to provide to you this written testimony regarding mail-in ballots. I commend each of your for your attention to improving the election process in America and would remind you that the states have worked hard to implement significant improvements to election administration and technology since the passage of the Help America Vote Act of 2002 (HAVA). As the Indiana Secretary of State, my recent experiences with voter fraud and implementing changes in election laws to help prevent and prosecute voter fraud, may be helpful in your deliberations on this matter.

Indiana prosecutors and election administrators have dealt with many cases of voter fraud across the state for a number of years. Throughout my tenure as Secretary of State, allegations of voter fraud have been recorded in Vanderburgh, St. Joseph, Pike, Starke, and Clark Counties come most recently to mind. In addition, recent convictions in Madison, Lake and other Counties reveal this is not solely an urban or rural crime. Voter fraud is a proven danger that dilutes honest votes and erodes public confidence of our electoral process.

In Madison County, Indiana, for example, the county court convicted a 28-year-old man of voter fraud after he collected absentee ballots from mailboxes, filled out alternative names and addresses, voted, and mailed them to the county clerk. He was sentenced to 36 months in prison. Another individual in Madison County was also convicted of voter fraud in the 2003 municipal election.

In Lake County, the 2003 Democratic mayoral primary in East Chicago was overturned by the Indiana Supreme Court because of rampant voter fraud. The Supreme Court ordered a special election after a county judge threw out absentee ballots that included fraudulent information. Over 50 individuals were convicted and a long-time incumbent suddenly found himself unemployed after almost 30 years in office.

I don't bring up these facts to denigrate Hoosiers or the Great State of Indiana. The people of Indiana in the heart of the Midwest are some of the most hardworking, ethical, and God and country loving people in the world. But if these examples are just some of what is happening in good ole Indiana, then it is clear to me and I believe clear to the people across this nation, that absentee vote fraud is happening throughout the country, from New York to California, and even in places like Oregon where voting is all done by absentee ballot.

As Secretary of State and Indiana's chief election officer, my top priority is to protect the voting rights of our citizens. Not one vote should be thrown out or diluted because of voter fraud and activity that works to defraud the system will not be tolerated. In order to help combat voter fraud and intimidation, my administration has worked to ensure that all elections are conducted in a fair and accurate manner.

The Statehouse, Indianapolis, Indiana 46204, (317) 232-6531, Fax (317) 233-3283

Indiana did not sit still and watch while criminals took advantage of an electoral system designed for much simpler times. With my support, the Indiana Legislature passed responsible election reforms aimed at restoring voter confidence with little or no cost to the taxpayers of Indiana. Changes to both the absentee voting process and in-person voting were signed into law in 2005. Since the implementation of these changes, Indiana has held five successful elections.

The following changes to the absentee ballot law have helped improve voter confidence in the integrity of Indiana's elections:

1) applicants must now swear or affirm under penalties of perjury all of the information set forth in the absentee ballot application is true, including the applicant's reason for requesting an absentee ballot;
2) new penalties deter electioneering in the presence of someone with an absentee ballot;
3) political party officials or others are now prohibited from completing absentee ballot information for voters;
4) those assisting a voter in completing the absentee ballot application or absentee ballot must now sign an affidavit indicating the assistance;
5) individuals who cast absentee ballots in person at the clerk's office or satellite absentee office must present photo identification in the same manner as a voter who votes in person at the polls under the photo ID law.

Accompanying legislation requiring a government-issued photo identification card further protects the franchise of law-abiding citizens from those who would attempt to vote in another's name. The two measures together work hand-in-hand to guarantee that every legitimate vote counts, and is not discounted by someone seeking to defraud the system.

While our laws have made it tougher to commit voter fraud, absentee voting has never been easier for Hoosier citizens. State leaders made changes that allow any voter to cast an absentee ballot in person at the clerk's office or a satellite absentee office. If a voter is unable to vote at the polls on Election Day and otherwise qualified, that voter may also request to vote absentee by mail.

While voting absentee by mail is a legitimate and important way to cast a ballot, voting only by mail will remove safeguards Indiana and many other state have put in place to protect the integrity of the voting process. In addition to the safeguards explained above, one of the most important is that of bipartisan precinct election boards (poll workers), political party watchers, media watchers, and the candidates themselves who witness the voting taking place on Election Day. Their contributions to fair and accurate elections are just as important as the reforms implemented through HAVA and those you consider daily. All of these safeguards, including and especially those outside the government apparatus as identified above, are needed to ensure Hoosiers are achieving fairness and accuracy within the election process.

Moving the voting process to a solely vote-by-mail system is an open invitation for voter fraud. We live in a transient society; most voters move many times throughout their lives. Frequent relocation is even more common among students and the younger generations. Mailing ballots to an exponentially increasing number of registration addresses leaves hundreds of thousands of otherwise protected ballots at easy access for those who commit voter fraud.

Not all voters wish to vote in all elections, a reality that would also create thousands of unused ballots floating around in a vote-by-mail only system. There are many voters who only vote in

presidential elections, others only local elections, and still others only because a friend or relative is on the ballot. Sending hundreds of thousands of unwanted ballots is a waste of time, taxpayer dollars, and once again, an invitation to fraud.

Voting is a right that bears some personal responsibility. While voting is a guaranteed right, with that right a citizen bears some responsibility. The voter has a responsibility to be legally registered. The voter has a responsibility to vote for the candidate that best represents his or her values and beliefs. The voter has a responsibility to make time to vote. The voter has a responsibility to cast a legal ballot. Election administrators are responsible for ensuring that a voter has the opportunity to exercise their right.

But, in a vote-by-mail system, real world logistics would inhibit the goals of the system. The postal service, like any other man-made program, is not always 100% reliable, and a potential exists for lost or damaged mail, including ballots. How many voters will be disenfranchised if they don't receive their ballots in time or if their voted ballots are not returned in time through no fault of their own? It is our duty to provide the best opportunity for Hoosiers to make decisions on their leaders and mailing ballots only increases the probability of error. I feel safe in speaking for the majority of Indiana's election administrators when I say this: we are not willing to establish a federal covenant on our state-run election system through a reliance on our national postal service.

An advocate for a vote-by-mail only election is an advocate for fiscal irresponsibility. Congress recently distributed billions of dollars to states under the Help America Vote Act of 2002 (HAVA). Many states have spent most of their distribution on effective and efficient programs to improve the integrity of our current election system. In Indiana alone, over $38 million of our tax dollars has been spent on new voting systems that would be useless under a vote-by-mail mandate by the federal government.

New concepts like vote centers and early voting increase the opportunity to participate in the election process and provide alternatives to traditional voting. If we scrap current voting methods in favor of a fraud-prone and expensive alternative, a significant amount of taxpayer money will be wasted. If the people of Oregon prefer this system, that is their choice and we should respect it, just as Congress should respect every state's duties and rights when it comes to the election process. Because when it comes to the election process and voting, like so very many other things in life, one size does not fit all.

Ultimately, voting is a community event that should be protected with effective absentee ballot processes, increased accessibility to polling locations, and the assurance that each person's vote will not be liquidated through voter fraud. Alternatively, many simple protections would be lost through a new vote-by-mail only system, such as the opportunity for political parties, the media, and concerned citizens to ensure the voting process is conducted fairly and accurately. Most importantly, a vote-by-mail system would increase the opportunity for voter fraud - a risk that works against the very charge kept by many of us in government, the charge to protect each individual's right to vote.

Todd Rokita
Indiana Secretary of State
October 15, 2007

[The statement of Mr. Fortier follows:]

Testimony of John C. Fortier, American Enterprise Institute

For

The Committee on House Administration Elections Subcommittee

Expanding and Improving Opportunities to Vote by Mail or Absentee

October 16, 2007

Madame Chairwoman, Mr. Ranking Member and Members of the House Administration Committee Subcommittee on elections. I am pleased to submit testimony on several bills before you on the subject of absentee voting.

Voting before election day has become increasingly common in America. In 2004, nearly one quarter of all voters voted before November 2nd, with the majority of those voters casting their votes by absentee ballot.

Access to absentee ballots is essential for several classes of people who really need them, overseas military voters, the bedridden, and travelers, to name a few. But many states have encouraged the use of absentee voting for those who could otherwise go to the polls. I would like to sound a cautionary note regarding this trend. Casting an absentee ballot, while necessary for some, is inferior to casting a vote at a polling place for two major reasons.

First, at a polling place, a voter casts a private ballot. By contrast, there is no privacy curtain around an absentee ballot; it has left the protections of the polling place behind. Without privacy protections, absentee voters are susceptible to coercion of their votes. If a voter at a polling place has been pressured by his employer, union, church, community or spouse, he can draw the curtain, vote privately, and thumb his nose at the pressure. With an absentee ballot, voters might not have a choice but to show the filled out ballot to their tormentors or to receive fifty dollars for a ballot "well filled out."

Second, absentee ballots provide greater opportunities for election fraud. Election fraud is very hard to measure, and there are numerous points in the voting process where fraud could occur. But absentee voting opens up additional opportunities for election fraud. Absentee ballots have been fraudulently requested or intercepted in the mail, for example. The most famous instance of absentee voter fraud occurred in the Miami mayoral race in 1998. A court found such irregularities in the absentee ballots, that all absentee ballots were thrown out, which changed the outcome of the election.

There are tow additional reasons to be cautious about the expansion of absentee ballot beyond those who need it. First, absentee ballots are not subject to the same error checking as most ballots cast at polling places. There is no solid body of academic research on error rates of absentee ballots compared to ballots cast at a polling place. But there is the simple fact that voters who vote on Optiscan or DRE voting machines will be warned if they have not cast a ballot for a particular race, or they will be warned or prevented from voting for two candidates and thereby invalidating their ballot. Absentee voters have no such check against ballot errors. If an absentee voter, for example, inadvertently votes for two candidates, then that vote cannot be counted. A Cal Tech/MIT study after the 2000 election found that several million ballots for president were invalidated because they had been cast improperly, and subsequently added error checking mechanisms have reduced that number substantially.

Second, absentee balloting extends the voting period from one day to over a month. Not only does this dilute the civic spirit of a single election day, it also opens up the

possibility that the voter will cast a ballot before important information becomes available. A vote cast in advance for a candidate who makes a last minute gaffe cannot be retrieved. In many instances, absentee ballots are available to be cast before candidate debates are complete.

The advocates of increased absentee balloting put forth two positive reasons in its favor. First, absentee voting is convenient. Second, the convenience of absentee balloting leads to higher voter turnout.

In Oregon, where elections are conducted by mail, surveys have shown that voters like the convenience of the system. They are happy with the system and do not want to change it. But voters also like other convenience measures that are the competitors to absentee voting. Texas, for example, has a very high percentage of voters casting their ballots before Election Day, but at early polling places, not through the mail. And Texas voters are also happy with their convenience system. Voters do like convenience, but they like many forms of convenience.

On the question of turnout, the promise of absentee balloting leading to higher turnout has not been borne out. The assumption has been that if you remove the obstacles to voting, they will come (and vote). But extensive academic research has shown little or no positive effect from increased absentee voting or voting by mail. The one exception to these findings is that in very low turnout local elections, voting by mail does have a significant positive effect. But in statewide election or federal elections, various studies

have found a minimal effect. And to the extent that some studies have shown a small positive effect, the increase in turnout is not due to the attraction of new voters, but from a slightly higher rate of voting from those who habitually vote. The Oregon experience with all mail balloting has shown that the same voters who once went to the polls, now vote from their kitchen tables. Vote by mail has not changed who makes up the electorate, but only how they vote. Oregon election officials have often pointed to its high voter turnout as evidence of the virtues of voting by mail, but Oregon had high turnout before it instituted vote by mail.

Absentee Ballots: Where We Are and How We Got There?

The first major episode of absentee balloting was during the Civil War, where soldiers in the field were able to cast ballots in the 1864 election. But after the war ended, it was not until the early part of the twentieth century that states began to introduce absentee ballots to civilians. An increasingly mobile population, traversing a vast country led states to adopt modest amounts of absentee voting for particular classes of people. States extended absentee ballots to railroad workers, government employees out of state, military voters away from home, and the sick and elderly. This revolution in voting occurred state by state, but by World War II, nearly every state had adopted some form of absentee voting.

The reformers who advocated for absentee voting saw it as a good because it extended the franchise to those who could not get to local polling places on Election Day. But

these reformers also knew that absentee balloting was in conflict with another recently adopted reform, the secret ballot. In the late nineteenth century, states began to adopt the secret or "Australian ballot." These reforms consisted of a standard ballot printed by government and cast at a polling place where the voter could vote in private. The reforms were instituted to combat election fraud perpetrated by big city political machines. Before the adoption of these reforms, parties would often print up color coded ballots that voters could bring to the polls. The ballots were publicly placed in a box, so that everyone was aware if the voter had voted the proper party line. Those holding patronage jobs were expected to vote for their benefactors. Money was paid for correctly cast ballots. Punishments were meted out to renegade voters.

Within a twenty year period at the end of the 19th century, all of the states had adopted the secret ballot, and by most accounts, this reform was successful in weeding out the coercion at the polling place.

When reformers in the early twentieth century advocated for the introduction of the absentee ballot, the issue of the secret ballot was fresh in their minds. There were many legislative and state constitutional battles over whether absentee voting was constitutional, as many states had guaranteed the privacy of the vote in their constitutions. To balance the goods of privacy of the vote and offering absentee ballots to those who needed it, reformers instituted absentee ballot protections. Absentee ballots were only offered to particular classes of people who provided reasons why they needed such ballots, and procedures that preserved a degree of privacy for such ballots were

instituted. The most common set of procedures was for a voter to bring his or her blank absentee ballot to a notary public, showing that the ballot had not been cast. The voter then was to fill out the ballot so that the notary public could see that no one else was filling the ballot out for them or that no one was coercing their vote. The voter would seal the ballot in an envelope, and the notary public would indicate that the ballot had been filled out properly.

Until thirty years ago, most states had requirements like this on the books. And a few states still require witnesses or notaries in filling our absentee ballots. With this system in place, roughly five percent of voters cast their ballots by absentee. But in the 1970s, a number of states, particularly in the West, began to loosen the restrictions on casting an absentee ballot, or even actively encouraging the casting of absentee ballots. The result has been an explosion of absentee voting. Nearly 15% of Americans cast a ballot by mail in the 2004 election, and an additional 8% voted before Election Day at early polling places.

These numbers do not tell the whole story, for the rise in absentee ballots has been even more dramatic even particular states. Many northeastern, midwestern and southern states have very modest amounts of absentee voting that resembles the prevailing rate of absentee voting thirty years ago. But in the last presidential election, Oregon voted 100% by mail, Washington State almost 70%, and Arizona, California and Iowa over 30%. There are also states that have heavy early voting. Texas and Tennessee had nearly half of their voters cast votes early at polling places. Some states have a mix of

both practices. Nevada, Colorado, and New Mexico had over 45% of their voters cast ballots before Election Day, either by mail or at early polling places.

For a more detailed history and statistics about absentee and early voting, see John C. Fortier, *Absentee and Early Voting: Trends, Promises, and Perils* (AEI Press, 2006), pp. 7-39.

Conclusions about H.R. 281, H.R. 1646, and H.R. 1667

H.R. 281 and H.R. 1667 promote absentee voting. H.R. 281 requires that states adopt "no excuses" absentee voting, allowing them to cast an absentee ballot for any reason. H.R. 1667 promotes the adoption of vote-by-mail elections through a grant program to local jurisdictions. H.R. 1646 requires that states carefully track absentee ballots at each stage of the voting process. I will treat H.R. 281 and 1667 together and then return to H.R. 1646.

Advice to States on Absentee Voting

If I were testifying before a state legislature, I would urge caution in expanding absentee and vote by mail programs for many of the reasons stated above. Absentee and mail voting is convenient and liked by many voters, but it comes with a cost, especially the loss of the privacy of the ballot and additional opportunities for voter fraud. I would also

note that states have many options to improve the convenience of elections that do not involve expanding mail or absentee ballots.

First, I would recommend that states significantly improve the convenience of voting on Election Day. I would recommend longer voting hours, better poll worker training, better siting of more accessible polling places. States might also consider adopting Election Day vote centers or super centers as several counties in Colorado have tried. These vote centers allow voters to cast ballots at any location in their county, not just their home polling places. Early academic research has shown that these vote centers do increase turnout and attract new voters to the process.

Second, I would recommend to states that have not already done so to explore a period of early voting at polling place locations. This would contribute to the convenience of the voting process, while retaining the protections of the polling place. Many states that have adopted early voting at polling places allow such voting two to three week in advance of the election. Even a week of such voting would provide significant convenience to voters, but would not substantially lengthen the period of voting. Absentee voting, on the other hand, allows for voters to cast their ballots many weeks before Election Day.

With these forms of convenience voting available to voters, there would only be a small percentage of voters who would need absentee ballots.

Advice to Congress on Absentee Voting

Practice with respect to absentee, mail, and early polling place voting differs significantly from state to state. While expanded absentee and mail voting has been the choice of a number of states, I would urge Congress not to impose this choice on other states. Some states have clearly chosen the early polling place model as a form of convenience voting. Others have little voting before Election Day, but might want to adopt Election Day Vote Centers or early polling place voting in the future. Both the "no excuses" absentee mandate in H.R. 281 and the grant program in H.R. 1667 would have Congress weigh in and make this choice for states. It may well be that most states will adopt the mail and absentee voting model, but early polling place voting is growing rapidly as well, and it would be a mistake for Congress to take one side or the other.

H.R. 1646

H.R. 1646 would improve the practice of absentee balloting in America. No matter what your position is on "no excuses" absentee balloting or mail balloting, there is no question that there will be absentee voting in every state for those who cannot vote at polling places, and there will be substantially more absentee voters in states that encourage the practice.

Given the large numbers of voters casting absentee ballots, it is important for states to track and professionalize the administration of such ballots. While I am in many ways a critic of Oregon's vote by mail system, I recognize that Oregon does take the process of

casting a vote by mail seriously. Unlike many states, Oregon checks a signature on each absentee ballot received. It also has an organized system for tracking ballots. H.R. 1646 is of special importance to states which have recently expanded their percentage of ballots cast absentee. A simple message is: if you are going to rely heavily on absentee ballots, you need to upgrade your system of casting, tracking and counting such ballots.

The details of H.R. 1646 will need to be considered carefully. It may not be possible for states to have all aspects of the proposed tracking system by 2010, but the general thrust of the legislation is clearly in the right direction.

John C. Fortier

John C. Fortier is a research fellow at the American Enterprise Institute where he writes and comments on Congress, the presidency and elections. He writes a weekly column on Congress and elections for *The Hill* newspaper of Capitol Hill.

He is a participant in "Election Watch," AEI's election analysis forum. He also serves as the principal contributor to the AEI-Brookings Election Reform Project and is the executive director of the Continuity of Government Commission. Previously, he managed AEI-Brookings Transition to Governing Project on presidential transitions.

Fortier speaks frequently to academic, corporate and international groups. In recent election years, he has spoken abroad on State Department sponsored trips to discuss American elections. A frequent commentator on politics in both print and broadcast media, he has appeared on ABC's Nightline, CNN, Fox News, PBS's News Hour, NBC's Today Show, NPR, C-SPAN, Bloomberg, BBC, and many other media outlets.

Fortier is the author of numerous academic articles in political science and law journals and has testified before House and Senate Committees and other private commissions. He is the author of *Absentee and Early Voting: Trends, Promises and Perils* (AEI Press, 2006) and editor and contributor to *Second Term Blues: How George W. Bush Governs* (Brookings Press, forthcoming Spring 2007) and *After the People Vote: A Guide to the Electoral College* (AEI Press, 2004). His opinion pieces have appeared in many publications including, the *Los Angeles Times*, *Washington Times*, the *Philadelphia Inquirer*, and *Washingtonpost.com*.

Fortier has taught political science at University of Pennsylvania, Harvard University, Boston College and the University of Delaware. He holds a B.A. from Georgetown University and a Ph.D. in political science from Boston College.

[The statement of Mr. Ornstein follows:]

Norman J. Ornstein

Resident Scholar
American Enterprise Institute

Testimony before the
Committee on House Administration
Subcommittee on Elections

Expanding and Improving Opportunities to Vote-by-Mail or Absentee

October 16, 2007

Madame Chairwoman, Mr. Ranking Member, and Members of the Committee: For the past 26 years, I have been an absentee voter in federal general elections. My obligations on federal Election Days require me to be in New York City, away from my election jurisdiction. I am certainly not alone. Many eligible voters are away from their home precincts on Election Day: students away at school, soldiers on active duty, people with illnesses, and citizens who travel. Absentee voting is an essential part of the voting system. But there can be too much of a good thing. Absentee voting also has many problems, potential and real, both for the integrity of elections and the importance of Election Day as a time when citizens join together for the supremely individual act of choosing leaders in the privacy of a voting booth, all with a common base of knowledge drawn from a campaign.

I have been working with two colleagues – Tom Mann of the Brookings Institution and John Fortier at AEI – on the myriad election administration reform issues as part of the AEI-Brookings Election Reform Project. Fulfilling our charge to bring together academics and policymakers, we have had the opportunity to review some cutting edge research on election administration. In addition to the project, John has taken a special interest in today's topic with his book, *Absentee and Early Voting: Trends, Promises, and Perils*. I have written a number of articles in places like the *New York Times*, the *Washington Post* and *Roll Call* over several years on vote-by-mail, motivated by its sharp expansion and the aggressive proselytization of it by officials in Oregon and Washington State. Some of the ideas proposed in Rep. Susan Davis' (D-CA) legislation would improve election administration with respect to absentee voting, especially in terms of integrity. But you should be aware of the weaknesses of absentee voting, wary of forcing the states to implement it wholesale, and dubious of its proselytizers, who often exaggerate its benefits and downplay its costs.

Absentee voting began for many of the same reasons we consider today. Soldiers during the Civil War, railroad workers, the elderly and sick all had difficulty getting to the polls on the designated Election Day. The earliest advocates of absentee voting realized that there would be a tradeoff between convenience voting and ballot integrity. Not much has changed today. Contrary to some of the findings of Congress presented in Representative Davis' bills, once a ballot leaves the security provided by the traditional polling place, it is much more difficult to guarantee that the intended person is voting, his or her selection is made without outside and undue influence, and that the voted ballot makes it safely back to the elections office for tabulation. While absentee voting may be essential as a small part of our voting system, any expansion of the practice without a marked improvement in security is a recipe for disaster.

The traditional polling place offers protections that are impossible to provide in absentee voting. Some examples: Since the inception of the Australian ballot, Americans have come to see secrecy in voting as a right. No longer do we vote under the watchful eye of the political machines. Once a voter steps up to the voting machine, no matter what she has said to anyone else about her choice, the secrecy of the ballot protects the voter from retaliation. This is one protection that vote-by-mail can never provide. How do we stop a husband from influencing his wife's vote as they sit around the kitchen table after dinner (or vice versa?) What about a church or synagogue group voting as one unit because members "all share the same beliefs?" Or a shop steward insisting that workers all vote together on the workplace floor? With vote-by-mail, the possibility for voter intimidation, direct and indirect, is very real. And the reality is that serious

corruption is far more widespread with absentee ballots than it is with votes cast at the polls. Consider the story, published just last week in the Dallas Morning News about a Texas elected official convicted of manipulating "a large number of" absentee ballots to secure election.

Beyond the direct corruption, which is not limited to Texas, widespread or universal vote-by-mail represents other losses to our system of campaigns and elections. The vote is a precious thing, and it should not be reduced routinely to the equivalent of a Publishers Clearing House ballot. Congregating with one's fellow citizens at a neighborhood polling place and then going into a booth, closing the curtain to create a zone of privacy, and casting one's individual vote choices, underscores the combination of commitment to society and individual freedom. To be sure, this is a romantic notion of democracy, and to make it work requires that voting at the polling place be convenient and accessible – two things which are in short supply, and about which I have many constructive suggestions. They would not be costless, but it is a small price to pay to enhance our democratic norms.

Moreover, voting at the polls on Election Day ensures that voters will make their choices from a common base of knowledge. In many jurisdictions, absentee ballots can be cast weeks before the election –the equivalent of calling the outcome of an NBA game at the end of the third quarter. Just as much of the meaningful action in a basketball game takes place in the final two minutes, much of the most important dialogue or behavior in a campaign comes in the pressure-packed final few days, long after many voters have voted.

There is another problem. In 2002, this committee spent a lot of time discussing the ways to improve election administration. The Help America Vote Act of 2002 plugged a lot of holes and did a lot of good. For example, section 301 of HAVA requires that voting systems be designed to disallow accidental overvotes, which is a protection not offered when voters use absentee ballots. The law further mandates that voters have the opportunity to change their preferences before casting the ballot. With a vote-by-mail, any mistake can invalidate the ballot. Since absentee voting as a practice is here to stay, these two examples are unavoidable obstacles. However, you should be wary of mandating the expansion of the absentee voting franchise to a general public that is largely unaware of these drawbacks.

As for the legislation being considered today, I will first discuss the proposals with which I agree. H.R. 1646, the Mail-In Ballot Tracking Act of 2007, is a laudable effort to control absentee ballots much more carefully. Thorough tracking of the ballot as it leaves the elections office, through the US Postal Service, and back to the elections office should be a no-brainer. It is shocking that the current system allows ballots to float through the system unaccounted for, as is the current system in most states. Requiring that states allow absentee voters to confirm that their ballots have been received and counted by the local election officials will further raise the confidence in the voters' minds about absentee voting. H.R. 1646 serves only to increase the integrity of the absentee ballot regimes already in place in the states without mandating the expansion of absentee voting nationwide.

One of the bills before this committee today, though, does require every state to provide no-excuse absentee voting. Aside from forcing the states to homogenize their disparate voting regimes, H.R. 281, the Universal Right to Vote by Mail Act of 2007, fails to include mandatory

security provisions to make up for what could be a large increase in the most insecure way of voting in the United States.

Let me add a comment here on the Oregon all vote-by-mail system. Contrary to the statements by many vote-by-mail activists, universal vote-by-mail does not raise turnout in the federal races that would be covered by the proposed legislation. While it is possible that in very low turnout elections – elections for local government seats or issues – there might be a measurable increase in turnout, there has been very good research done recently by Paul Gronke, Michael Traugott, Curtis Gans and others, which shows that Oregon's vote-by-mail experiment has not significantly raised turnout.

Except in a handful of low turnout local elections, nearly all the people who vote by mail would have gone to the polls and are simply voting by a different method. For those not motivated to vote, the convenience of vote-by-mail has not created a new motivation. Outside forces affecting the elections immediately following the switch to all vote-by-mail made it seem like Oregon had experienced a rise in turnout. But a check of Oregon compared to other states experiencing the same outside factors but not rapidly expanding vote-by-mail shows that Oregon's numbers are in line with others.

Still, the part of the process that Oregon does get right is its universal signature match program by which all vote-by-mail ballots are screened by a human to ensure that the proper person is voting. When an Oregonian registers to vote, his or her signature is required to be kept on file and is made available digitally to the local jurisdictions for comparison purposes. This is an excellent way to block some fraud in absentee voting. With universal signature match, it would be very difficult for one person to cast many absentee ballots. On its own, without the federal government's directive, Oregon has put in place the security measures required for the large-scale increase in absentee voting that would likely accompany the passage of this legislation. But who will be paying for this security if H.R. 281, the Universal Right to Vote by Mail Act of 2007, becomes law?

As of the 2006 elections, 29 states allowed no-excuse absentee voting as would be required by H.R. 281. What most of these states have not done in this rapid shift towards convenience over integrity is to put in place the security systems to prevent absentee voting fraud. Expanding the absentee voting franchise is not a wise decision. But it is particularly unwise if it is not accompanied by funded ballot security measures. H.R. 281 provides neither security nor funding. The Mail-In Ballot Tracking Act would be a step in the right direction for ballot security, but there are no authorized funds to pay for its requirements. Absentee voting is a necessary evil, but before you decide to rank convenience over ballot security based on disputed voter turnout research, please consider all of the consequences.

Thank you for the opportunity to testify today.

Norman J. Ornstein is a resident scholar at the American Enterprise Institute for Public Policy Research in Washington, DC. In addition to serving as an election analyst for CBS News, he writes a weekly column called "Congress Inside Out" for *Roll Call* newspaper. He has written for the *New York Times, Washington Post, Wall Street Journal, Foreign Affairs*, and other major publications. He appears regularly on television programs including *The NewsHour with Jim Lehrer, Nightline*, and *Charlie Rose*. At the 30th Anniversary Celebration of *The NewsHour*, he was recognized as the most frequent guest over the history of the program. He also was the first person to appear twice on Comedy Central's *The Colbert Report.*

He serves as senior counselor to the Continuity of Government Commission, and is co-director of the AEI-Brookings Election Reform Project, a collaborative effort to improve federal election administration with regard to the Help America Vote Act of 2002. In addition to his work on election administration reform, his campaign finance working group of scholars and practitioners helped shape the Bipartisan Campaign Reform Act, also known as McCain-Feingold, which reformed the campaign financing system. *Legal Times* referred to him as "a principal drafter of the law," and his role in its design and enactment was profiled in the February 2004 issue of *Washington Lawyer*. He also co-directed the multiyear Transition to Governing Project to create a better climate for governing in the era of the permanent campaign.

He is a member of the boards of directors of the Public Broadcasting Service and the Campaign Legal Center, and a member of the board of trustees of the U.S. Capitol Historical Society. He was elected as a fellow of the American Academy of Arts and Sciences in 2004. In 2006, the American Political Science Association gave him the Goodnow Award, for distinguished service to the profession. His many books include *The Permanent Campaign and Its Future; Intensive Care: How Congress Shapes Health Policy,* both with Thomas E. Mann; *Debt and Taxes: How America Got Into Its Budget Mess and What to Do About It,* with John H. Makin; and *The Broken Branch: How Congress Is Failing America* (Oxford University Press, 2006) co-authored by Thomas E. Mann. Along with AEI research fellow John C. Fortier, he is a co-editor of the recently-released *Second Term Blues* (Brookings Institution Press, 2007).

Ms. LOFGREN. Will the witnesses please come forward.

I would like to first introduce Ruth Goldway who was appointed Commissioner of the United States Postal Regulatory Commission by President George W. Bush in November 2002 to serve a second term ending in 2008. She was first appointed by President Clinton in April of 1998. The PRC oversees the rates and classification system of the U.S. Postal Service. Ms. Goldway has written on postal matters for national newspapers and submitted congressional testimony.

She represents the Commission on the State Department Delegation to the Universal Postal Union. Born in New York City, Ms. Goldway attended the Bronx High School of Science, earned a bachelor's degree from the University of Michigan and received a master's in English literature from Wayne State University.

Next, Deborah Markowitz, the Secretary of State of Vermont, is joining us. She was elected Vermont's Secretary of State in 1998 and is currently serving her fifth term in office. During her tenure Secretary Markowitz has made it a priority to improve Vermont's democracy and promote good citizenship. She has created resources to help Vermonters participate more fully in their annual town meetings and develop civics education curriculum materials, and implemented an ambitious election reform agenda.

Secretary Markowitz is widely respected as one of the most knowledgeable resources in the State on legal and ethical issues for local officials and she has presented locally and nationally on effective leadership skills.

Secretary Markowitz received degrees from the University of Vermont and Georgetown University Law Center. She was a founding director of the Vermont League of Cities and Towns Municipal Law Center and the founder of the Vermont Women's Leadership Initiative. She is the immediate past President of the National Association of Secretaries of State and serves on the board of advisors for the U.S. Election Assistance Commission.

Joseph Holland is the Clerk of Santa Barbara County. He was first elected to the Office of the Clerk, Recorder and Assessor on March 5, 2002 and reelected to a second term on June 6, 2006. He currently manages an $18 million budget and 120 staff employees encompassing three functional divisions: Assessor, Elections and Recorder.

Mr. Holland earned his bachelor's and master's degree in economics from UC Santa Barbara and graduated from the UCLA Anderson School of Business in 2001.

And finally Jonathan Bechtle, the Director of Citizenship and Governance Center at the Evergreen Freedom Foundation, the minority's witness. Mr. Bechtle serves as Director of Evergreen's Freedom Foundation, Citizenship, and Governance Center, a think tank advocating for liberty, free enterprise and responsible government. Prior to joining EFF, he served as the senior legal assistant for a nonprofit legal advocacy firm in the Washington, D.C. area. He also worked as an aide to State senators in both Georgia and the State of Indiana. Jonathan earned a juris doctorate from the Oakbrook College of Law in Fresno, California.

And we welcome all of you.

STATEMENTS OF RUTH GOLDWAY, COMMISSIONER, POSTAL REGULATORY COMMISSION; DEBORAH L. MARKOWITZ, SECRETARY OF STATE, VERMONT; JOSEPH HOLLAND, CLERK, SANTA BARBARA COUNTY; AND JONATHAN BECHTLE, DIRECTOR AND LEGAL ANALYST, CITIZENSHIP AND GOVERNANCE CENTER, EVERGREEN FREEDOM FOUNDATION (EFF)

Ms. LOFGREN. And if we could begin with you, Ms. Goldway.

I would note you have seen the little machine there. We are operating under the 5-minute rule. We would ask that your testimony be about 5 minutes. You will notice I am not too heavy on the gavel. When the yellow light goes on, it means you have a minute, and when the red light goes on it means you have used the whole 5 minutes. Your full statements will be made a part of the written record.

So we would ask, Ms. Goldway, if you could begin with your 5 minute statement.

STATEMENT OF RUTH GOLDWAY

Ms. GOLDWAY. I will do my best to be brief.

Chairwoman Lofgren, Ranking Member McCarthy and members of the subcommittee, I appreciate the opportunity to present my views at today's hearings. I have served as Commissioner at the Postal Regulatory Commission for 9 years. I would say that I am familiar with how the mail stream works, how 700 million pieces of mail are delivered each day, and how reliable our Postal Service is.

My comments reflect my personal views, not those of the Commission as a whole.

Like this subcommittee's Chair and Ranking Member, I am also from California. And since the introduction of voter choice permanent absentee registration there in 2002, I have witnessed, myself, that absentee ballots have become ever more popular; and in California, they were over 40 percent of the vote in 2006. We found that it works.

And I applaud the efforts of Representative Susan Davis, another Californian, for putting forward legislation to expand the opportunities for absentee ballots and vote-by-mail throughout the Nation.

In 2000 and 2002, absentee ballots accounted for about 16 percent of the votes cast nationally. However, there was a great disparity between those States that allow no-excuse absentee ballots and those restricting them. And while about 29 States currently allow for no-excuse absentee ballot, even many of those require requests for absentee ballots at each election, a requirement that may limit a citizen's use.

Offering citizens the option of voting by mail provides significant advantages, including the potential to increase voter turnout for national, State, and local elections. Voters would not need to take time off from work, find transportation, locate the right polling place, get baby-sitters or rush through critical yet sometimes complicated ballot initiatives.

As the former Mayor of Santa Monica, I know how important these initiatives are. Voters appreciate the opportunity to read a ballot slowly in the privacy of their homes, and to drop it in the mail, exercising their voting franchise thoughtfully and carefully.

We all know that public confidence in the accuracy of vote counting is at an all-time low. Yet in the national polls, the Postal Service is rated as the most trustworthy of Federal Government institutions. I advocate voting by mail because the U.S. mail provides a secure way for citizens to cast their ballots. In fact, it is against the law, a Federal crime to tamper with the mail, and the U.S. Postal Service employs the U.S. Postal Inspection Service to ensure the security of the mail throughout.

I am an advocate of the advantages of a verifiable and transparent paper trail offered by mail voting. The Postal Service can provide a system of hardcopy distribution and collection that many voters believe is the best way to protect their votes.

After seeing the decline in first class mail due to the Internet, the Postal Service began working with State and local officials to promote its election mail program and to make that process simpler and more accountable. The Service has designated election mail representatives in field offices throughout the country to work with election officials, and has created a section on its Web site entitled "Election Officials' Mail Resources." It has developed an election mail logo for the exclusive use of election officials' mailings that makes election mail easily identifiable as it moves through the mail processing system and alerts mail handlers to promptly move the mail to the voter or back to the appropriate local election official.

The intelligent-mail bar code technology currently being implemented by the Postal Service for bulk mailers could be adapted for use with ballots, thereby allowing voters to check on the location and status of their vote by entering a tracking number by phone or over the Internet.

After the 2000 elections, at the urging of Congress, the Postal Service developed an expedited national standard to handle overseas ballots for military and U.S. Government personnel called the APO-FPO Ballot Express. Similar procedures can and should be developed for local and State mail-in ballots. National standards regarding the counting of ballots, based on postmark rather than the arrival in the election office, should be evaluated by Congress in consultation with the Postal Service, as should the idea of establishing a first class stamp as the uniform ballot rate regardless of the ballot's weight or size, or instead offering prepaid postage for mail ballots.

The U.S. Postal Service is the only Federal agency that provides truly universal and reliable service to every resident 6 days a week. It should be called upon to meet the latest challenge to the integrity of our democracy resulting from the electorate's distrust of electronic voting and their skepticism about the truthfulness of electronic election outcomes.

As a regulator of the Postal Service I will do what I can to ensure that the election mail process becomes an important part of the mail stream and that service standards for the various classes of mail are consistent with the unique needs of election mail.

As a citizen, I am here to support mail-in ballots as a secure and efficient alternative to in-person voting, I think it is a win-win proposal.

Thank you, Chairwoman Lofgren, Ranking Member McCarthy and members of the subcommittee. I respectfully request that my written statement be included in the record and I will be happy to answer any questions you may have.

Ms. LOFGREN. It will be entered in the record.

[The statement of Ms. Goldway follows:]

Commissioner Ruth Y. Goldway
Postal Regulatory Commission

Statement before the House Administration Elections Subcommittee
October 16, 2007

Chairwoman Lofgren, Ranking Member McCarthy, and members of the Subcommittee, I very much appreciate the opportunity to present my views at today's hearing. I commend your interest in advancing the voting rights of all U.S. citizens and for exploring options to encourage greater voter participation. The expanded use of "no excuse" absentee ballots and voting by mail promise to do both.

I have served as a Commissioner at the Postal Regulatory Commission for nine years. Although the Commission has no direct authority over voting by mail at this time, I am very familiar with how the mail stream works, how 700 million pieces of mail are delivered each day and how reliable our Postal Service is. I see enormous benefits to the public, to state and local election officials as they make greater use of the mail. And I see benefits for the Postal Service as it works to maintain its vital role in the nation's economy and social life. I wish to state that my comments reflect my personal views, not those of the Commission.

Like the Subcommittee's Chair and Ranking Member, I too am from California where over 40 percent of the votes were cast by mail in the last election. Since the introduction of voter-choice permanent absentee registration in 2002, the absentee ballot has been used by ever greater numbers of voters in our state. The percentage of absentee ballots within the total vote has increased from 27 in 2002 to over 41 in 2006. The Western states had the highest reported use of absentee ballots and voting by mail. According to the federal Election Assistance Commission's 2004 Election Day Survey Report, this is due to "the popularity of absentee voting within states in the region and laws that promote absentee voting." In states that are growing quickly, have wide open spaces, multiple languages and complex initiatives on the ballots, the opportunity to read a ballot slowly in the privacy of one's home and drop it in the mail is appreciated and encouraged. I note with pride that California's Secretary of State Debra Bowen and my own State Assembly Representative Ted Lui have been supporting additional legislation to encourage paper ballots and voting by mail.

Among the issues discussed today will be legislative initiatives authored by Representative Susan Davis, another Californian and a member of your Subcommittee. I applaud her efforts, which would expand the availability and use of absentee ballots in the United States and encourage expanded vote by mail. During the 2000 and 2002 presidential elections, absentee ballots

accounted for an estimated 16 percent of the votes counted nationwide, however, there was a great disparity between those states allowing "no excuse" absentee voting and those limiting such an opportunity. Only 23 states currently allow for "no excuse" absentee ballots and many of those require requests for absentee ballots at each election that may limit citizens' use of them.

Offering citizens the option of voting by mail provides significant advantages, including the potential to increase voter turnout for national, state, and local elections. Voters would not need to take time off from work, find transportation, locate the right polling station, get babysitters, or rush through critical, yet sometimes complicated ballot initiatives. As the former mayor of Santa Monica, California, I know the importance of these initiatives and the desirability of having an informed electorate. I believe voting by mail will encourage greater voter participation at the federal, state and local level and promote more thoughtful review of these ballot initiatives that often require closer examination than is possible in a voting booth.

I advocate voting by mail because the mail provides a secure way for citizens to cast their ballots. Given the widespread, continuing concern over voting machine security, it is good to know that mail ballots are tamper resistant. In fact, tampering or interfering with the U.S. Mail is a federal crime, and one of the nation's oldest law enforcement agencies – the Postal Inspection Service – works closely with its counterparts at all levels of government to enforce the law. I am an advocate for the advantages of a verifiable and transparent paper trail. The Postal Service can provide a system of hard copy distribution and collection that many voters believe is the best way to protect their votes.

Public confidence in the accuracy of vote counting is at an all-time low. The Election Assistance Commission estimated that as many as 850,000 votes were not counted in the 2004 elections, and a recent report warned that electronic voting machines cannot be made secure. Fortunately, a remarkably sophisticated and effective technology exists for solving these problems, and it is "old-fashioned" mail.

In national polls, the Postal Service is rated the most trustworthy federal government institution. When I receive and send my ballot by mail, I am far more confident in the security and integrity of the process then were I to use electronic touch screen machines, particularly those without a paper trail. Further, the process reinforces for those citizens who vote by mail the importance and value of the nation's mail system.

I'm pleased to report that the Postal Service is working increasingly with state and local election officials to promote its Official Election Mail program and to make that process simpler and more accountable. For the first time, at this

year's National Postal Forum, an important educational and trade show, the Postal Service held a workshop on preparing mail for elections. The Postal Service has recently designated Election Mail Representatives in field offices throughout the country to work with election officials. The Postal Service website now offers detailed information on mail design, rates, address correction and service standards under the heading "Elections Officials' Mailing Resources." It has developed an election mail logo for the exclusive use of election officials' mailings that makes election mail easily identifiable as it moves through the mail processing system and alerts mail-handlers to more promptly move the mail to the voter or back to the appropriate local elections offices.

Mailed-in paper ballots can and should be made even more secure and reliable. The Postal Service already uses barcode scanning to inexpensively track huge volumes of mail and packages from origin to destination. With minor, but careful modifications, this existing Intelligent Mail technology could be adapted for use with ballots, thereby allowing voters to check on the location and status of their vote by entering a tracking number by phone or over the Internet. This would also assist states and localities which may or may not be tracking absentee ballots now. The Postal Service has announced that by 2009 mailers seeking automation discounts will be required to use an Intelligent Mail barcode. The IM barcode will enable the tracking of virtually every piece that such mailers put into the mail stream everyday. Already in states that rely on vote by mail, trained and supervised election workers compare the signature on the envelope and on the registration card using a computer screen. Several private companies are offering ballot barcodes that compliment the Postal Service's IM barcode for seamless tracking from printing to counting.

After the 2000 elections, the Postal Service developed an expedited national standard to handle oversees ballots for military and other U.S. government personnel called the APO/FPO Ballot Express. Similar procedures can and should be developed for local and state mail-in ballots as well. National standards regarding the counting of ballots based on postmark rather than arrival in the election office might be evaluated by Congress in consultation with the Postal Service, as might the idea of establishing the first-class stamp as the uniform ballot rate regardless of a ballot's weight or size, or offering prepaid postage for mail ballots. The design of some ballots requires additional postage and, if voters have not put the extra postage on, some local post offices have been returning the ballots to the voters while some have agreed to send it on to election officials. The election officials may or may not be accepting the ballots and may or may not be paying the additional postage to the Postal Service.

The founders of our country conceived of a national postal service as a force to "bind our nation together." Newer technologies may now be available to spread the news and help families stay in touch, but the U.S. Postal Service is

the only federal agency that provides truly universal and reliable service to every residence six days a week. It should be called upon to meet the latest challenge to the integrity of our democracy resulting from the electorates' distrust of electronic voting and their skepticism about the truthfulness of election outcomes. As a regulator of the Postal Service, I will do what I can to ensure that election mail becomes an important part of the mail stream and that service standards for the various classes of mail are consistent with the unique needs of election mail. As a citizen, I am here to support mail-in balloting as a secure and efficient alternative to in-person voting.

Thank you, Chairwoman Lofgren, Ranking Member McCarthy, and members of the Subcommittee, for this opportunity to address you today. I will be happy to answer any questions you may have.

The Postal Regulatory Commission is an independent agency that has exercised regulatory oversight of the U.S. Postal Service since its creation by the Postal Reorganization Act of 1970.

Ms. LOFGREN. Secretary of State Markowitz, welcome.

STATEMENT OF DEBORAH L. MARKOWITZ

Ms. MARKOWITZ. Well, thank you so much. Thank you, Congressman Lofgren. I want to begin by thanking you for inviting me to come speak to you here today, and thank the committee members for taking this testimony. You do have a copy of my written testimony and I thought I would sort of make some highlights—highlight certain parts of it.

First of all, I was first elected in 1998. In that election there were about 10 percent of our voters voting by no-excuse absentee voting. And indeed it was 1991 that Vermont first dropped the requirements for an excuse in order to get an absentee ballot. And I would like to note that it was a couple secretaries—a couple before me who really promoted this effort. He is currently our Governor, Jim Douglas, a Republican. So in Vermont it was not seen as a partisan issue at all.

Since 1998, my office has made a great effort in educating our public about their rights under the law generally. And as a result of some great collaborations we had with particularly our business community, the chambers of commerce, our largest employers, and with the organizations that work with our low-income Vermonters and also Vermonters who are not confidently literate, we have increased participation from 10 percent in 1998 to 20 percent. This is participation using the absentee ballot. And so in this last election, we had over 20 percent of our voters choose to vote using the absentee ballot.

What we have learned in Vermont essentially is that voters really like having this option. We could not turn away from it. Our voters really like having the convenience of voting by mail or stopping off at the town clerk's office to pick up a ballot to mail it in later. We find actually that it is the bigger elections where more voters are interested in using an absentee ballot. It is the Presidential elections, because people are worried about lines at the polls. And people feel more interested and compelled to make sure their vote is cast.

What we have also found is our elections administrators really like this option. They were afraid in the beginning as the numbers grew that it was going to be too much work for them. But what they found instead is that it spreads the work over a period of time. You can begin voting by absentee ballot 30 days in advance of the election. And what they found is that it spreads the workload so that on Election Day there is less pressure, there are fewer lines, and things run for smoothly.

That being said, I would suggest that there are a couple of safeguards—important safeguards that you take into account as you look at possible legislation and as you evaluate this for the country. First of all, in our elections systems we want to have transparency and accountability at every step of the way. And one of the ways with our absentee ballots that we do this in Vermont is, it is public record who has requested an absentee ballot; it is public record when that ballot is mailed; and it is public record when it is returned. And that allows the campaigns, the candidates, it allows the public to let us know if they think there is any funny business,

because it is transparent. People know who is voting early and who is voting by mail.

In Vermont, we investigate all reports of violations. We take that very seriously. I think that is important. But we found that the best way to prevent problems is with good training and public education. We train the election workers, we train the campaign workers, because campaigns like absentee ballots because it is a way to reach hard-to-reach voters and to make sure they actually vote. It is easy to get them to say, yes, I support the candidate. But it is harder to get them to take that second step which is to actually cast the ballot.

We also have a very strict bipartisan process of handling the ballots and I think that is critical. There needs to be, at every step of the way, systems in place to prevent collusion, to prevent fraud. And as the ballots are received and processed, it is with pairs of election workers who are a check and a balance against each other.

We have procedures in place to preserve voter privacy. If I get one concern from the public it is: Will people know how I vote or not? And so it is important to have very transparent measures for protecting that privacy.

And, finally, it is important to have public education so that folks know if they are going to vote 28 days in advance, things might happen that might lead them to change their mind and they don't get that ballot back. Once it is submitted, it is as if it is in the ballot box. You can't get it back. It is important for the public to understand how the process works.

I am very happy to take your questions and I want to thank you again for inviting me.

Ms. LOFGREN. Thank you.

[The statement of Ms. Markowitz follows:]

U.S. House Committee on House Administration, Elections Subcommittee

Tuesday, October 16, 2007 (2:00 PM)

Testimony of Hon. Deb Markowitz, Vermont Secretary of State
Past President, National Association of Secretaries of State (NASS)

Good afternoon Chairwoman Lofgren and committee members. Thank you for the opportunity to speak to you this afternoon about Vermont's experience with no excuse early and absentee voting.

I am Vermont Secretary of State Deb Markowitz. I have served as Vermont's Secretary of State for nearly a decade, and during that time we have seen a significant increase in the use of early and absentee voting. When I was first elected in 1998, approximately 10% of Vermont voters chose to vote by absentee ballot. In contrast, during this past mid-term election over 20% of our voters voted without going to the polls.

Vermont is a small and rural state with fewer than 450,000 registered voters. We run our elections in our towns, using paper and pen; and in 154 out of 246 towns we count ballots by hand. The remaining 92 towns use optical scan tabulators. We have a vote-by-phone ballot marking system available in every polling place to ensure that our elections are accessible to people with disabilities.

The principal points I would like to make in this testimony is that our experience shows that Vermont voters like the convenience of voting early in person or by mail; our election administrators like no excuse absentee voting because it reduces lines on election day; we have had few issues with voter fraud; and there are steps states can take to help reduce voter error and to deter fraud.

History of absentee ballot voting in Vermont:

Like many states, Vermont first adopted a law to permit absentee voting in 1863 to enable Vermonters serving in the Civil War to vote. Part of the law was struck down by the Vermont courts, but the use of absentee ballots for federal elections was upheld. In 1919, the law was expanded to allow soldiers, students attending schools in other states, and those out of state on work related jobs, the right to vote in Vermont elections, though absent from Vermont.

By the 1950s the right to vote by absentee ballot had been extended to all voters who: "by reason of illness, injury, physical disability, religious principle, or necessary absence from his town of residence during the hours the polls are open, expects to be unable to attend in person at the polling place." And in 1986 the Vermont General Assembly authorized the use of absentee ballots for residents of state institutions, such as the Vermont State Hospital and correctional facilities.

By the 1990s approximately five percent of Vermont voters voted by absentee ballot. It was not until 1993 that a Vermont voter could simply request an absentee ballot for convenience. After this change was implemented the rate of absentee voting rose to approximately 10%.

In 2000 my office began a public education campaign to ensure that Vermont's voters knew about their right to vote by absentee ballot. The "Vote Early – Vote by Mail: Just Vote!" campaign was conducted in partnership with our cities and towns, our public libraries, Vermont's business community, labor unions, the Vermont Commission on Women and our community action agencies. Using posters, flyers, public service announcements, and cable access programs, we worked to educate voters about their right to choose to vote early or by mail using the absentee ballot. As a result of these efforts, 19% of Vermont voters voted by absentee ballot in the 2000 election. In response to the success of this campaign, the Vermont legislature decided to change the name of the ballot to "Early or Absentee Ballot" in order to emphasize that any voter may choose to vote early or by mail.

In the 2006 election over 20% of Vermont voters chose to vote by early or absentee ballot.

How it works in Vermont:

Vermont voters may begin to vote 30 days before the election. Requests for an early voter absentee ballot can be made at any time until 5:00 p.m. or the closing of the town clerk's office on the day before the election. The request can be made at the same time the person registers to vote, so long as the voter registration application and absentee ballot request are submitted by 5:00 p.m. on the Wednesday before election day.

Any voter or a voter's health care worker or family member may make a request for an early voter absentee ballot by telephone, in person or in writing, for the ballot to be mailed to the voter. Another person who is authorized by the voter to act on his or her behalf may also request an absentee ballot to be mailed to the voter, but this request must be made in writing, signed by the person who is making the request. A voter may make one request for a primary and general election, but will need to make a new request for each new election cycle.

A voter may pick up a ballot for him or herself from the town clerk to return by mail, or in person; or the voter may vote early at the town clerk's office by filling out an absentee ballot and leaving it at the clerk's office for counting on election day.

On election day, absentee ballots are delivered to sick or disabled voters by a bipartisan pair of justices of the peace who will wait while the voter fills out the ballot, and who will assist the voter on request, and who will then return the ballot to the polls for counting.

All absentee ballots may be returned by mail or by hand by the voter or by a person authorized by the voter. The ballots must be returned to the town clerk's office prior to election day, or to the polls on election day. All absentee ballots that are returned by the close of the polls on election day are counted, unless the outer envelope is not properly signed, or unless the ballot is otherwise spoiled.

Our municipal clerks keep a record of voters who have requested an absentee ballot. This record includes information about who made the request, the date that the absentee ballot is mailed to the voter and the date the ballot is returned. This list is a part of the public record, and is checked by the political parties on a daily basis leading up to the election. Once a ballot is received by the town it is considered voted and the voter may not take it back to vote a new ballot.

Vermont's election administrators encourage the use of early and absentee voting because it reduces lines on election day and helps ease administrative pressures by spreading the work over the 30 day early voting period. On election day the voter's name is checked off the voter registration rolls, the absentee ballots are opened by bi-partisan pairs of election workers and are commingled to preserve the privacy of the voter. Before the polls open for voters, during the slower times during the day, and after the close of polls at 7:00 p.m., the election workers place the ballot in the ballot box or feed the ballots into the optical scan machine until they are all counted. All absentee ballots returned by the close of the polls on election day are counted.

Preventing Problems

In Vermont we have procedures in place that are designed to prevent problems that could arise from the use of early and absentee voting.

- Voters who change their mind. Sometimes early voters change their mind in the waning days before an election and wish to take back their returned absentee ballot. Once a ballot is received back it is considered voted and cannot be returned to the voter or spoiled so that a voter can vote a new ballot. Any state that permits early voting must educate the voters about the voter's responsibility to be sure about their vote before returning their ballot.
- Lost ballots. Every election we have voters who have lost or misplaced an absentee ballot. Because our local election workers keep complete records of both the sending and the return of a ballot, a voter who has lost a ballot may sign a sworn affidavit to that effect, and he or she will be given a new ballot to vote. In the event that both ballots are returned, the second ballot received will be considered spoiled. States must have a clear rule about how it will handle lost ballots.
- Over-enthusiastic campaign workers. Campaign workers often encourage voters to request absentee ballots. We require that when a request is make through a third party (other than a family member or health care worker) the request must be in writing signed by the third party, and include contact information for the person who has made the request.

This ensures that we can identify and hold responsible individuals who might be abusing the absentee voting system. In the last election we were able to quickly identify campaigns that were making requests on behalf of voters without the voter's permission.

- Fraud. Public education is a critical component of fraud prevention. People must be told that voting on behalf of another person, even a family member, violates the law. In addition, to prevent fraud, states should ensure that ballots are mailed directly to the voter. Only the voter should be allowed to pick up his or her own ballot in advance of the election. When election workers deliver ballots to people who are sick or have a disability they should do so in bipartisan pairs. The record of who has requested an absentee ballot, when a ballot was mailed and when it was returned to the town for counting should be made public to encourage the identification and reporting of possible fraud. Finally, every report of possible fraud must be investigated and, if fraud is found, there must be enforcement of the applicable laws.
- Privacy. To preserve the privacy of the absentee voter the ballots are separated from the identifying envelope and commingled with other absentee ballots before they are placed into the ballot box or fed into the optical scan machines. This is done by bipartisan pairs of election workers to ensure privacy and to prevent election workers from changing or destroying ballots.
- Election worker training and public education is important! We have found that the best way to prevent problems with early and absentee voting is through voter education and election worker training.

It is important to remember that every state faces different challenges as it seeks to improve the administration of elections and meet the mandates of existing federal and state laws. That being said, I believe our experience with no excuse absentee voting could be instructive as this Congress considers whether no excuse early and absentee voting is appropriate for the rest of the country.

Ms. LOFGREN. Mr. Holland.

STATEMENT OF JOSEPH HOLLAND

Mr. HOLLAND. Chairwoman Lofgren, members of the subcommittee, thank you for having me here. I am County Clerk for Santa Barbara County, and as the registrar of voters it is my duty to run the elections for Santa Barbara County. I am also a member of the board of directors for the California Association of Clerks and Election Officials, and as a member of this board, I am also heading up an ad hoc vote-by-mail committee that is focused on identifying relevant issues and best practices for California counties in providing vote-by-mail voter services for California voters.

California has had no-excuse absentee voting since 1978. With the advent of no-excuse absentee voting, Californians have increasingly chosen to vote by absentee ballot in each election. In the most recent November general election, over 40 percent of the votes cast in California were ballots cast through the mail.

If you will look at your first attachment in the handout that I provided you, there is the history of voting in general elections in vote-by-mail in California dating back to 1976—or 1978. And you can see that with the advent of no-excuse absentee voting, it really did not start off all that quick. It was a gradual increase to get to where we are right now, but with this increase we do expect it to continue to grow at this rate.

Beginning in January 2002, new legislation took effect that allowed California voters to sign up to become permanent absentee voters. By registering with permanent absentee status, California voters are assured of being mailed an absentee ballot to their residence 29 days before each and every election. This permanent absentee status remains in effect until the voter fails to cast a vote in two consecutive statewide elections.

Permanent absentee voting has proven to be very popular in California. For those counties that have chosen to promote this voting choice, we are seeing as much as 50 percent of the registers voters signing up for this. In Santa Barbara County, 85,000 voters are signed up as permanent absentee voters. This represents 48 percent of the 183,000 registered voters in the county.

If you turn to the second chart in your handout, there is the Santa Barbara County absentee voting as a percent of registration or total ballots cast. And you can see it was very low back in the 1970s. But today, as a total of ballots cast, over half of the ballots cast in Santa Barbara County are cast absentee. In the June primary it was 60 percent.

Many people ask, Does the increase in absentee voting lead to higher turnout? In my opinion it does. Let's look at the statistics for Santa Barbara County. On average, going back to 1998 and through 12 general primary and special countywide elections, we find that absentee voters return their ballots at a 74 percent rate. That is on average. This compares to an average polling place turnout of 52 percent for the same period.

Now if you turn to the next chart in my handout, you will see down at the right there in the yellow, I have highlighted it, and those are the return rates. There is a 52 percent return rate for

the polling place over those 12 elections; 74 percent return rate for absentee ballots.

Now if you turn to the next chart in the handout, what I did was I just put together a quick little scenario here. If you look at the top box, that is the current situation in Santa Barbara County with 48 percent absentee voters; 48 percent of 183,000 is 88,191 voters. If they return their ballots at a 74 percent rate, that is 65,000 ballots returned.

For the polling place voters there are 49.6 percent; that is 91,000 times 52 percent, 47,000. So what you get is 115,000 returned ballots using those statistics. That is almost a 63 percent turnout rate.

If we go back to the 1990s in scenario two when Santa Barbara County only had 25 percent absentee, you apply those same statistics and you can see that we are only going to get 106,000 voters actually voting, for 58 percent.

So just with this little—these are just pure statistics, we are showing that by increasing your absentee voting, here was a 5 percent increase. And if you went from no absentee voters to more, then you could increase it even more.

There are a lot of issues involved with absentee voting. I have a list there going from cost, security, to voter file maintenance. I am happy to answer questions on any of those, and thank you very much for having me.

Ms. LOFGREN. Thank you very much.

[The statement of Joseph Holland follows:]

Congress of the United States
House of Representatives
Committee on House Administration
October 16, 2007, 2:00 p.m.

My name is Joe Holland and I am the elected County Clerk, Recorder and Assessor for Santa Barbara County in California. As the County Clerk I am also the Registrar of Voters and it is my duty to run the Elections for the County.

I am also a member of the Board of Directors for the California Association of Clerks and Elections Officials (CACEO). As a member of this board I am also heading up a CACEO ad hoc Vote By Mail committee that is focused on identifying relevant issues and best practices for providing vote by mail / absentee balloting voter services for California voters.

Santa Barbara County currently has a total population of 421,000. The County has eight incorporated cities and 140,000 people living in rural and unincorporated areas.

There are currently 183,000 registered voters in the County. In 2002 Santa Barbara County was deemed to be a bilingual County and now provides all election material in Spanish and English.

California has had no-excuse absentee voting since 1978. With the advent of no excuse absentee voting Californians have increasingly chosen to vote by absentee ballot in each election. In the most recent November 2006 General Election over 40% of the votes cast in California were ballots cast through the mail.

Beginning in January 2002 new legislation took effect that allowed California voters to sign up to become permanent absentee voters. By registering with permanent absentee status, California voters are assured of being mailed an "absentee ballot" to their residence, 29 days before each and every election. This permanent absentee status remains in effect until the voter fails to cast a vote in two consecutive statewide elections.

Permanent absentee voting has proven to be very popular in California. For those counties that have chosen to promote this voting choice we are seeing as much as 50% of the registered voters signing up for permanent absentee status. In the 2006 November General Election 31 of California's 58 counties issued absentee ballots to more than 40% of their registered voters.

In Santa Barbra County 85,000 voters are signed up as permanent absentee voters. This represents 48% of the 183,000 registered voters in the County. In the November 2006 General Election, 55% of the ballots cast in Santa Barbara County were cast through the

mail. In the June 2006 Primary Election more than 60% of the ballots were cast through the mail.

Does the increase in absentee voting lead to higher turnout? Let's look at the statistics for Santa Barbara County. On average going back to 1998, and through 12 General, Primary and Special County-wide elections, we find that absentee voters return their ballots at a 74% rate. This compares to an average polling place turnout of 52% for the same period. So it makes sense that increasing the percentage of voters who vote absentee will lead to a higher overall level of voter participation.

There are a number of topics and issues relevant to absentee and mail ballot voting that each could warrant its own dissertation. Some of these topics include:

The cost of absentee voting
Security issues of absentee voting
Transparency of absentee voting
Mail ballot processing methodology
Mail ballot processing existing and emerging technology
Convenience of mail ballot voting versus traveling to the polls
Necessity of continued voter services for disabled voters pursuant to HAVA
Voter file maintenance

I have chosen in this brief presentation to focus solely on the benefits of increased voter turnout with respect to absentee voting. However, I am of course available to answer questions on any topic related to absentee voting.

In closing, in my opinion, providing no excuse absentee voting, is really about expanding voter choices, in choosing the method by which they exercise their right to participate in democracy. With thirty years of no excuse absentee voting history in California, evidence shows that voters are very appreciative of the option to vote from the privacy of their own home, and that the popularity of voting through the mail continues to increase.

Thank you

Ms. LOFGREN. Mr. Bechtle, we are pleased to hear from you now.

STATEMENT OF JONATHAN BECHTLE

Mr. BECHTLE. Thank you, Madam Chairwoman and members of the committee. My name is Jonathan Bechtle and I am an attorney and director of the Voter Integrity Project at the Evergreen Freedom Foundation, which is a nonprofit nonpartisan group in Olympia, Washington.

My purpose today is to share my concerns about the proposal to expand the use of mail ballots. Washington's elections are almost entirely vote-by-mail, and based on the State's experience I believe that vote-by-mail is an inherently insecure system because election officials cannot verify who received the ballot, who actually votes it, and who actually returns it.

There was an incident recently in Washington that I thought illustrated this well. There was a woman named Jane Balogh from a suburb of Seattle who was disturbed about the insecurity she saw in Washington's election system. So she decided to call attention to the problem by registering her dog, Duncan, to vote. She sent a registration form in for Duncan and subsequently received a ballot for him in the mail. She did not actually want to cast an illegal ballot, so she wrote void across the ballot and stamped it with a paw print on the signature line.

Of course, she quickly got a phone call from election officials asking about the odd signature, and she explained what she was doing. They said dogs actually cannot vote in our elections. But the dog received ballots in two more elections before he was finally removed from the registration rolls.

Under our vote-by-mail system, if Jane had actually used a signature on that ballot instead of a paw print, she could have cast those ballots, they would have been counted, and no questions would have been asked.

While Jane did not exploit the weakness of vote-by-mail by casting illegal ballots for her dog Duncan, our 3-year investigation of Washington elections has shown that is not always the case. Due to the inherent insecurity of vote-by-mail and mail ballots, compounded by voter roll errors and misplaced trust in signature verification, hundreds of mail ballots have been cast unlawfully by ineligible voters.

Washington State had a historically close Governor's race in 2004. By our research over 1,600 absentee ballots were miscounted or cast unlawfully in that election. That was 12½ times the 133 vote margin of victory in the Governor's race. It wasn't a grand conspiracy by anyone; it was individual acts by voters made possible by an insecure vote-by-mail system.

The 2004 election wasn't just a fluke. We have continued to find mail ballots unlawfully cast and counted. Last year we filed 30 complaints of double voting using mail ballots, and nearly all of them have been verified by law enforcement to be illegal double votes. We also have found that the insecurity of vote-by-mail is compounded by errors in the voter roll. Every flaw in the State's voter roll becomes a potential vote, because if the person is active on the roll, they get a ballot under vote-by-mail.

So every dead voter, every noncitizen, and every felon on the rolls will get a ballot. Every duplicate registration will get two ballots and some of these will be unlawfully voted.

For example, a county in Washington mistakenly sent out 3,500 ballots to voters twice, so the voters received two ballots. 230 of the voters returned both of those ballots, and 35 percent of those were counted despite security measures designed to prevent that type of double voting.

Vote-by-mail insecurities are often obscured by a misplaced trust in signature verification. The reality of signature checking in Washington's election system is that it was done by a crew of temp workers who, after a few hours of training by the State patrol, are expected to sift through thousands of mail ballots trying to subjectively determine if the signatures match. We found dozens of situations where two ballots were cast by one voter with completely different signatures, yet they were both counted, and I included some of those in my packet that I turned in today.

Unlike a polling place where trained workers can monitor who is voting and who is signing the poll book, mail ballots cannot be properly monitored. This has been demonstrated not just in Washington State but across America. I have submitted also a list of the many instances of absentee ballot fraud nationwide, as well as quotes from election and law enforcement experts of all political stripes who believe mail ballots are a primary source of voter fraud.

Now, the desire to make voting more convenient or easy is an admirable one, but it shouldn't be done at the cost of security. Our investigation of Washington's vote-by-mail system demonstrates it is an inherently insecure system that has harmed public confidence in elections. A 2006 poll of Washington voters found that 53 percent of the voters in our State believe that voting fraud is a serious issue facing us.

So in the interest of ensuring security and confidence in our elections, I would recommend against requiring or encouraging the unfettered spread of mail balloting. Thank you for your time.

[The statement of Mr. Bechtle follows:]

Testimony of Jonathan Bechtle, J.D.

At the October 16, 2007 hearing of the Subcommittee on Elections on "Expanding and Improving Opportunities to Vote by Mail or Absentee"

Madame Chair and members of the committee, thank you for inviting me to testify today. My name is Jonathan Bechtle, and I'm an attorney and director of the Voting Integrity Project at the Evergreen Freedom Foundation, a non-profit, non-partisan research organization based in Olympia, Washington.

My purpose today is to share my concerns about the proposal to expand the use of mail ballots. Washington's elections are almost entirely vote-by-mail, and based on the state's experience, I believe vote-by-mail is an inherently insecure system, because election officials cannot accurately verify who receives a ballot, who votes it, and who returns it. An incident recently occurred in Washington that illustrates this.

A woman named Jane Balogh, from a suburb of Seattle, grew disturbed about the insecurities in Washington's election system. She decided to call attention to the problem by registering her dog, Duncan to vote. Jane proceeded to send in a registration form for him, and at the next election, Duncan received a ballot. Not wanting to actually cast an illegal ballot, Jane wrote "void" across it and signed it with a paw print. She shortly received a phone call from an election worker inquiring about the odd signature, and she explained what she was doing. The worker told her that dogs can't vote, yet the county proceeded to send ballots to Duncan for two more elections before finally removing his registration. Under our vote-by-mail system, if Jane had actually used a signature, rather than a paw print, on her dog's ballot, the elections office would have counted his ballot with no questions asked.

While Jane didn't exploit the weakness of vote-by-mail by actually casting illegal ballots for her dog, our three-year investigation of Washington's elections reveals that's not

always the case. Due to the inherent insecurity of mail ballots, compounded by voter roll errors and a misplaced trust in signature verification, hundreds of mail ballots have been cast unlawfully by ineligible voters.

Washington state experienced a historically close governor's race in 2004. Based on our research, over 1,600 absentee ballots were miscounted or cast unlawfully in this election, nearly 12.5 times the 133-vote margin of victory in the governor's race. This wasn't a grand conspiracy; it was individual acts by voters made possibly by an insecure vote-by-mail system.

The 2004 election wasn't just a fluke. We have continued to find mail ballots unlawfully cast and counted. Last year we filed over thirty complaints of double voting using mail ballots, nearly all of which have been verified by law enforcement to be illegal double votes.

We found that the insecurity of vote-by-mail is compounded by errors in the voter roll. Every flaw in a state's voter roll becomes a potential vote, because if a person is an active voter on the roll, a ballot is mailed to them. Every dead voter, every non-citizen, and every felon on the roll will get a ballot. Duplicate voters will get two.

Some of these ballots will be unlawfully voted. For example, a county in Washington mistakenly sent mail ballots to 3,500 voters twice. At least 230 voters returned both ballots and 35 percent of the double ballots were counted, despite security measures designed to prevent double voting.

Vote-by-mail's insecurities are often obscured by a misplaced trust in signature verification. The reality of signature checking in Washington's vote-by-mail environment is that it's done by a crew of temp workers, who— after a few hours of training by the state patrol—are expected to sift through thousands of ballot envelopes in a very short timeframe, making subjective decisions about whether a signature matches. We've found dozens of situations where two ballots were cast for one voter with completely different

signatures, yet they were both counted. I've submitted several examples of these for your review.

Unlike a polling place where trained workers can monitor who is voting and who is signing the poll book, mail ballots cannot be properly monitored. This has been demonstrated not just in Washington, but across America. I've submitted to the committee a list of the many instances of absentee ballot fraud nationwide, as well as quotes from election and law enforcement experts of all political stripes who believe mail ballots are a primary source of voter fraud.

The desire to make voting more convenient is admirable, but it shouldn't be done at the cost of security. Our investigation of Washington's vote-by-mail system demonstrates it is an inherently insecure system that has harmed public confidence in elections. A 2006 poll of Washington voters found that 53 percent believe voting fraud is a serious issue facing our state.

In the interest of ensuring security and confidence in our elections, I would recommend against requiring or encouraging the unfettered spread of mail balloting.

Thank you for the opportunity to share my concerns.

V.I.P.
VOTER INTEGRITY PROJECT

Exhibit 3: Allegations of absentee ballot fraud

*This list, drawn from newspaper accounts, should not be considered exhaustive. The search encompassed news accounts from 2000 to the present.

Description of Alleged Absentee Ballot Fraud	State
2004 Greensboro mayoral race overturned after a local judge threw out 162 absentee ballots for forgery, lack of voter identification, and/or the absence of postmarks.[i]	Alabama 2004 primary
A local newspaper reported finding multiple voting irregularities in Marion, including absentee ballots cast from empty homes, and allegations of intimidation and bribery to secure votes and voters "who may be long dead".[ii] [iii]	Alabama 2004 primary
A jury convicted the former sheriff of Jefferson County and his attorney of conspiracy to defraud the United States and theft of government property in connection with their use of records of the National Crime Information Center to conduct criminal history searches of absentee voters to support an election contest.[iv]	Alabama
Prosecutors charged a former candidate for the Alabama House of Representatives and a nursing home director with 53 counts of illegal absentee voting. The two allegedly obtained absentee ballots for comatose or uncommunicative patients, and cast them on their behalf.[v]	Alabama 2006 run-off election
Jon Carlson, a convicted felon on parole, cast by absentee ballot the deciding vote in his father's race for mayor in Dacono, Colorado.[vi]	Colorado 2006 general election
In 2005 incumbent Mayor Mark Schaffer defeated challenger Gene Mullen by a 2-vote margin out of 1,354 votes cast. Schaeffer aggressively courted the absentee vote, obtaining at least 69 absentee ballots and handing them to voters, despite a requirement that ballots be mailed by the town manager.[vii]	Delaware 2005 primary
LaPorte County Judge Steven E. King invalidated 155 absentee ballets in his 104-page written judgment because the court found that in effect, East Chicago Mayor Robert A. Pastrick was paying people under the guise of GOTV campaigns to vote for him by absentee ballot. So far 34 people have been charged with felonies in relation to this incident.[viii]	Indiana 2004 primary
Five people are accused of tampering with absentee ballots in the 2004 Ferriday mayoral election. Their charges included criminal conspiracy, filing or maintaining false public records and principal to forgery.[ix]	Louisiana 2004 primary
In Michigan on Election Day 2005 FBI agents swooped in to ensure absentee ballots and other documents were preserved as they launched an investigation into voting fraud in Detroit. About 1500 absentee ballots brought in by the former City Clerk's embattled election ambassadors have been challenged as improperly submitted.[x]	Michigan 2005 general

A Democratic city ward leader is accused of intentionally altering absentee ballots for the county legislative primary. At issue are about 160 absentee ballots applied for by poor, sick and minority tenants of the Albany Housing Authority, where the accused worked. Eight individuals had judgments entered against them.[xi]	New York 2004 primary
Two prominent Democrats in Swain County have been accused of helping more than 120 low-income and elderly people vote with absentee ballots, possibly violating state law through intimidation, marking ballots on behalf of voters, and retaining possession of others' voted ballots.[xii]	North Carolina 2007 primary
A lawmaker confronted college students walking out of a prison in Northeast Philadelphia with absentee ballots collected from inmates. It is illegal in Pennsylvania for a third party to distribute or collect absentee ballots. Additionally, no one was checking to see if these inmates were serving time for felonies.[xiii] [xiv]	Pennsylvania 2004 general
The Tennessee state senate nearly voided a disputed special election that was narrowly won last fall (2005) by the sister of an indicted former senator, due to 146 questionable ballots and at least six votes that should not have counted—two of them cast in the name of deceased voters. Only the ruling of a federal judge halted the senate's action.[xv]	Tennessee 2005 special election
Charles Dougherty, Mayor of Gate City, Tennessee, was convicted of 13 counts of vote fraud for "helping" friends and relatives vote their absentee ballots, and by making false entries on absentee ballots.[xvi]	Tennessee 2004 general election
In Benton County, 14 people have been arrested in connection to an investigation into a vote-buying scheme using absentee ballots.[xvii]	Tennessee 2007 primary
State and local investigators determined that more than 30% of 301 absentee ballots cast in Tunica County were faked, and sent from the same post office box.[xviii]	Tennessee 2007 primary
A Hardeman County commissioner pleaded guilty to illegally collecting mail-in ballots during the 2004 elections that put him in office. In Bee County, a resident pleaded guilty to mailing an absentee ballot in the name of her deceased mother during the November elections. Also in Hidalgo County the district attorney obtained indictments against nine people in connection with the McAllen city election in May.[xix]	Texas 2004 primary & general
Three women are accused of illegally handling the mail-in ballots for seniors and other voters. A Bowie County grand jury indicted a Texarkana City Councilwoman and two others. They were charged with seven counts of illegally possessing and transporting ballots.[xx]	Texas 2004 general
Four people were indicted by the Nueces County grand jury on charges of illegally handling ballots. The defendants were accused of personally handling or mailing ballots for a voter who was unrelated to them. The four individuals indicted targeted elderly voters and are accused of violating the law by collecting their mail-in ballots and transporting them to the post office for mailing.[xxi]	Texas 2005 primary
The Secretary of State's general counsel said it was suspicious that 2,800 of 5,445 ballots cast in the 2006 elections were mail-in. Additionally, Duval County reported astronomical voter turnout--more than five times the state average. The secretary of state's office commented that it was highly unlikely that that proportion of the population actually voted.[xxii]	Texas 2006 primary
Allegations have been made that 12 elderly voters in East Fort Worth received illegal assistance in filling out their absentee ballots.[xxiii]	Texas 2007 primary
A grand jury indicted Charles Dougherty, former mayor of Gate City, on 37 counts of voter fraud for allegedly manipulating absentee ballots to win his reelection campaign in May 2004. Dougherty was indicted on 18 counts of aiding and abetting in violating the absentee ballot process and 17 counts of providing false information on voter forms.[xxiv]	Virginia 2004 primary

State police have indicted the mayor and 13 residents of a small town in the southwestern corner of the state. Among the charges: votes were bought with promises of cigarettes and six-packs of beer and absentee ballots were stolen from voters' mailboxes and fraudulently cast.[xxv]	Virginia 2006 primary
Former state senate candidate Donovan Riley was convicted of vote fraud for voting twice by absentee ballot in the 2000 election.[xxvi]	Wisconsin 2000 general election

[i] David Goodwin, "Judge Overturns Greensboro Mayor's Elections," *The Demopolis Times*, January 23, 2006.
[ii] Johnny Kampis, "Absentee Ballots Raise Questions in Greensboro," *Tuscaloosa News*, September 5, 2004.
[iii] Johnny Kampis, "Fraud Grips Black Belt," *Tuscaloosa News*, September 12, 2004.
[iv] "Fact Sheet: Department of Justice Ballot Access and Voting Integrity Initiative," Department of Justice Press Release, July 26, 2006, <http://www.usdoj.gov/opa/pr/2006/July/06_crt_468.html>, accessed August 25, 2006.
[v] "Former candidate faces charges of voter fraud," *The Press-Register*, July 13, 2007.
[vi] "Illegal vote casts pall on race," *The Daily Times-Call*, December 20, 2006
[vii] "Jeffrey Wallace, "The Contested 2005 Smyrna Mayoral Election/Legitimacy at Risk," *Delaware Watch*, May 31, 2005.
[viii] Michael Moss, "Mayor Ousted in East Chicago," *The New York Times*, October 28, 2004.
[ix] "Voter Fraud Case Continues," AP, February 12, 2006.
[x] David Josar, "Ousted Currie asks for recount," *Detroit News*, November 29, 2005.
[xi] "Ballot Forgery Charged," *North Country Gazette*, December 20, 2005, <http://www.northcountrygazette.org/articles/122005BallotForgery.html>, accessed July 10, 2006.
[xii] "Swain voter fraud investigation sent to feds," *Smoky Mountain News*, September 19, 2007.
[xiii] Lawmaker Threatens Political Lawsuit, KYW CBS 3, http://kyw.com, October 29, 2004, Vote Fraud, Intimidation & Suppression in the 2004 Presidential Election, August 2, 2005, <http://www.ac4vr.com/reports/072005/footnotes.html>, accessed on August 25, 2006.
[xiv] Whose Vote Fraud?, Editorial, *The New York Post*, February 27, 2005, Vote Fraud, Intimidation & Suppression in the 2004 Presidential Election, August 2, 2005, <http://www.ac4vr.com/reports/072005/footnotes.html>, accessed on August 25, 2006.
[xv] "Committee Votes to Void Ophelia Ford Election," AP, January 17, 2006.
[xvi] "Former Gate City mayor convicted of fraud," *Kingsport Times-News*, December 12, 2006, by Clifford Jeffery
[xvii] "Investigation into vote fraud in Benton County nets 14th arrest," *Clarion Ledger*, August 31, 2007.
[xviii] "Tunica County ballot investigation targets circuit clerk's office," *News Channel 3*, August 15, 2007.
[xix] Greg Abbott, "In Texas, we are fighting at the polls," *Austin American Statesman*, February 20, 2006.
[xx] "Three Indicted in Voter Fraud Case including Texarkana Councilwoman," AP, February 17, 2006.
[xxi] "Voter fraud indictments evidence of big problem"*San Antonio Express News*, December 21, 2005, cited by Greg Abbott, < http://www.gregabbott.com/sub_media_news_display.html?article_id=1330>, accessed on August 25, 2006.
[xxii] Jaime Powell, "Voting Fraud alleged in Duval," *Corpus Christi Caller-Times*, April 24, 2006.
[xxiii] "Some voting by mail got help," *Star Telegram*, May 27, 2007
[xxiv] Michael D. Shear, "Former Mayor is Indicted in Kilgore's Hometown," *Washington Post*, August 3, 2005.
[xxv] "Indicted Appalachia Mayor Resigns," AP, June 7, 2006.
[xxvi] "Former state Senate candidate convicted of election fraud," *The Freeman*, December 22, 2006.

V.I.P.
VOTER INTEGRITY PROJECT

Exhibit 1: Examples of the insecurity of vote-by-mail from Washington state

Example 1: Duplicate Registrations in the State Voter Registration Database. Each of these voters would get two ballots sent to them, and if they returned them, both ballots would be counted.

Pierce County Duplicates - Type 1

Name	Birthdate	Address	Precinct	Reg Date	Last Voted	Status
ANGELO, NATHANIEL J	06-Sep-79	1134 N L ST TACOMA	27314	11-Feb-98		A
ANGELO, NATHANIEL J	06-Sep-79	1134 N L ST TACOMA	27314	11-Feb-98	11/2/2004	A
BLACK, COURTNEY L	06-Nov-78	8102 GARNET LN SW LAKEWOOD	28433	06-May-06	11/2/2004	A
BLACK, COURTNEY L	06-Nov-78	8102 GARNET LN SW LAKEWOOD	28433	06-May-06		A
BRACKETT, JOHN M	15-Jan-87	2807 N NARROWS PL TACOMA	29401	17-Apr-06		A
BRACKETT, JOHN M	15-Jan-87	2807 N NARROWS PL TACOMA	29401	01-Feb-05		A
CANONICA, JOHN EVERETT	06-Mar-39	7239 E D ST TACOMA	29518	13-Oct-36	11/8/2005	A
CANONICA, JOHN W	06-Mar-39	7239 E D ST TACOMA	29518	03-Feb-95	11/8/2005	A
DAVIS, HOPE	10-Apr-75	1406 ALAMEDA AVE FIRCREST	28412	26-Apr-06		A
DAVIS, HOPE D	10-Apr-75	1406 ALAMEDA AVE FIRCREST	28412	22-May-01	11/2/2004	A
FITZPATRICK, PATRICIA G	29-Apr-39	5015 FAIRWOOD BLVD NE APT 58 TACOMA	27335	13-Apr-06		A
FITZPATRICK, PATRICIA G	29-Apr-39	5015 FAIRWOOD BLVD NE APT 58 TACOMA	27335	13-Apr-06	11/2/2004	A
HOLCOMBE, TRESSA A	20-Apr-82	7630 S YAKIMA AVE TACOMA	29517	13-Sep-04		A
HOLCOMBE, TRESSA A	20-Apr-82	7630 S YAKIMA AVE TACOMA	29517	15-Sep-04	11/2/2004	A
JONES, DONNA L	01-Nov-61	6814 S PROSPECT ST TACOMA	29516	06-Nov-98	11/8/2005	A
JONES, DONNA L	01-Nov-61	6814 S PROSPECT ST TACOMA	29516	06-Nov-98		A
KLINEBRIEL, RHONDA J	21-Jun-68	10911 192ND ST CT E GRAHAM	2045	05-Dec-05	11/8/2005	A
KLINEBRIEL, RHONDA J	21-Jun-68	10911 192ND ST CT E GRAHAM	2045	05-Dec-05		A
LANIER, NEIL H	24-Jun-37	21522 146TH ST E BONNEY LAKE	31664	11-May-06	11/8/2005	A
LANIER, NEIL H	24-Jun-37	21522 146TH ST E BONNEY LAKE	31664	11-May-06		A
LITTLE, ELISABETH	12-Apr-64	5618 S M ST TACOMA	29511	23-Mar-06		A
LITTLE, ELISABETH K	12-Apr-64	5618 S M ST TACOMA	29511	18-Sep-04		A
LUTERU-WARD, KATHERINE A	29-May-70	13005 8TH AVE E TACOMA	29560	24-Sep-04	11/2/2004	A
LUTERU-WARD, KATHERINE A	29-May-70	13005 8TH AVE E TACOMA	29560	29-Apr-06		A
MARTINIELLO, JENNIFER	09-Oct-80	17306 10TH AVE S APT B4 SPANAWAY	2012	26-Apr-06		A
MARTINIELLO, JENNIFER LYNN	09-Oct-80	17306 10TH AVE S APT B4 SPANAWAY	2012	03-Nov-05		A
MORSE, ROBERT	13-Nov-28	12901 118TH AVE NW GIG HARBOR	28212	07-Oct-98	9/20/2005	A
MORSE, ROBERT D	13-Nov-28	12901 118TH AVE NW GIG HARBOR	28212	31-Dec-73	11/8/2005	A
MURILLO, CANDACE L	15-May-81	1001 N YAKIMA AVE APT 402 TACOMA	27315	29-Sep-04		A
MURILLO, CANDACE L	15-May-81	1001 N YAKIMA AVE APT 402 TACOMA	27315	29-Sep-04		A
NELSON, JOHN P	28-Apr-58	2213 S 47TH ST TACOMA	29507	26-Jan-06		A
NELSON, JOHN P	28-Apr-58	2213 S 47TH ST TACOMA	29507	27-Jun-79	11/2/2004	A
ONUIGBO, ROBINSON A	15-Apr-72	9916 140TH ST CT E PUYALLUP	25163	13-Jan-06	11/8/2005	A
ONUIGBO, ROBINSON A	15-Apr-72	9916 140TH ST CT E PUYALLUP	25163	13-Jan-06		A

"Expanding and Improving Opportunities to Vote by Mail or Absentee"
Prepared by Jonathan Bechtle of the Evergreen Freedom Foundation • www.effwa.org"

Example 2: Double vote - Both of these ballots were submitted by the same person, both were counted. Note the similarities in handwriting. This is a type of illegal ballot that would not be caught by signature verification.

OATH OF VOTER

I do solemnly swear or affirm, under penalty of perjury that
- I am a legal resident of the state of Washington
- I am entitled to vote in this election
- I have not already voted in this election
- It is illegal to vote if I am not a United States citizen;
- It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored
- It is illegal to cast a ballot or sign an absentee envelope on behalf of another voter, except as otherwise provided by law; and
- Attempting to vote when not entitled, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of $10,000, or both

If you are unable to sign your name, you may mark an "X" and have it witnessed and signed by two (2) people:

Witness 1 | Witness 2 | Date

SIGN HERE X Trudy Garman 9/3/05
Signature of Voter | Date Signed

707/539/0242
Phone Number

A Power of Attorney signature is not valid in Washington State for the purpose of voting

Call King County Elections at 206-296-VOTE or TTY 206-296-0109 to update your voter registration.

Box 71
Batch 2511

MIL2383 5 / 6

RED 48-3147 58 1587638
TRUDY GARMAN
597 WILD OAK DR
SANTA ROSA, CA 95409-6118

9/20/2005 RED 48-3147

[redacted] 1587638 0048

OATH OF VOTER

I do solemnly swear or affirm, under penalty of perjury that
- I am a legal resident of the state of Washington
- I am entitled to vote in this election
- I have not already voted in this election
- It is illegal to vote if I am not a United States citizen;
- It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored
- It is illegal to cast a ballot or sign an absentee envelope on behalf of another voter, except as otherwise provided by law; and
- Attempting to vote when not entitled, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of $10,000, or both

If you are unable to sign your name, you may mark an "X" and have it witnessed and signed by two (2) people:

Witness 1 | Witness 2 | Date

SIGN HERE X Trudy Wiseblood 9/6/05
Signature of Voter | Date Signed

707-538-1287
Phone Number

A Power of Attorney signature is not valid in Washington State for the purpose of voting

Call King County Elections at 206-296-VOTE or TTY 206-296-0109 to update your voter registration.

Box 71
Batch # 2511

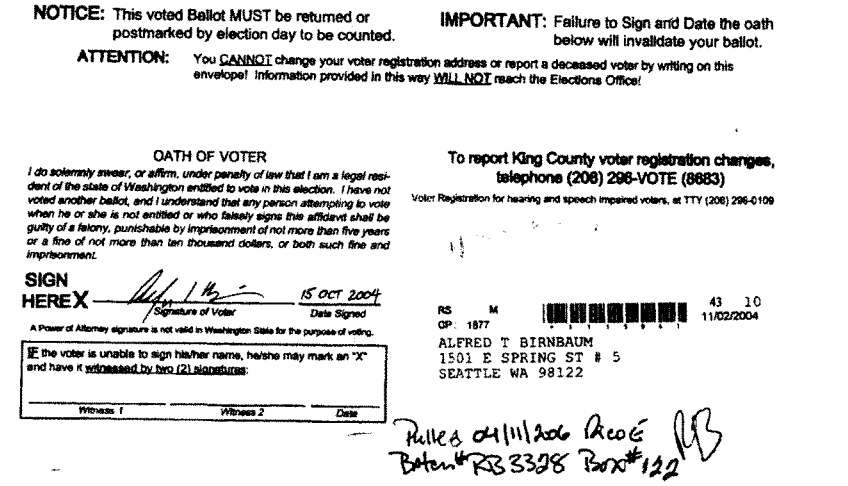
MIL2383 6 / 6

RED 48-3147 58 1587639
TRUDY WISEBLOOD
122 CALISTOGA RD # 184
SANTA ROSA, CA 95409-3702

9/20/2005 RED 48-3147

[redacted] 1587639 0048

Example 3: Double votes – These are two ballot envelopes generated for the same voter. Despite obviously mismatched signatures, these envelopes passed the signature verification process and the ballots inside were counted. One is from the actual voter, the other is a forgery.



NOTICE: This voted Ballot MUST be returned or postmarked by election day to be counted.

IMPORTANT: Failure to Sign and Date the oath below will invalidate your ballot.

ATTENTION: You CANNOT change your voter registration address or report a deceased voter by writing on this envelope! Information provided in this way WILL NOT reach the Elections Office!

OATH OF VOTER

I do solemnly swear, or affirm, under penalty of law that I am a legal resident of the state of Washington entitled to vote in this election. I have not voted another ballot, and I understand that any person attempting to vote when he or she is not entitled or who falsely signs this affidavit shall be guilty of a felony, punishable by imprisonment of not more than five years or a fine of not more than ten thousand dollars, or both such fine and imprisonment.

SIGN HEREX [signature] 15 OCT 2004

Signature of Voter — Date Signed

A Power of Attorney signature is not valid in Washington State for the purpose of voting.

IF the voter is unable to sign his/her name, he/she may mark an "X" and have it witnessed by two (2) signatures:

Witness 1 — Witness 2 — Date

To report King County voter registration changes, telephone (206) 296-VOTE (8683)

Voter Registration for hearing and speech impaired voters, at TTY (206) 296-0109

RS M 43 10
GP: 1877 11/02/2004

ALFRED T BIRNBAUM
1501 E SPRING ST # 5
SEATTLE WA 98122

Pulled 04/11/2006 Recd
Batch# RB 3328 Box# 122

NOTICE: This voted Ballot MUST be returned or postmarked by election day to be counted.

IMPORTANT: Failure to Sign and Date the oath below will invalidate your ballot.

ATTENTION: You CANNOT change your voter registration address or report a deceased voter by writing on this envelope! Information provided in this way WILL NOT reach the Elections Office!

OATH OF VOTER

I do solemnly swear, or affirm, under penalty of law that I am a legal resident of the state of Washington entitled to vote in this election. I have not voted another ballot, and I understand that any person attempting to vote when he or she is not entitled or who falsely signs this affidavit shall be guilty of a felony, punishable by imprisonment of not more than five years or a fine of not more than ten thousand dollars, or both such fine and imprisonment.

SIGN HEREX [signature] 11/1/04

Signature of Voter — Date Signed

A Power of Attorney signature is not valid in Washington State for the purpose of voting.

IF the voter is unable to sign his/her name, he/she may mark an "X" and have it witnessed by two (2) signatures:

Witness 1 — Witness 2 — Date

To report King County voter registration changes, telephone (206) 296-VOTE (8683)

Voter Registration for hearing and speech impaired voters, at TTY (206) 296-0109

Pulled 4/13/[illegible]

Batch 1726 [illegible]

A1755 2 / 186

SEA 43-1877 003 667533
ALFRED T BIRNGAUM
5-11-28ROPPONGI.
CENTRAL TORIIZAKA#401
MINATO.TOKYO JAPAN 106-0032

11/2/2004 SEA 43-1877

667533 0043

Example 4: Another set of two ballot envelopes for the same voter. The signatures are obviously different, but again both ballots were counted. One is from the actual voter, the other is a forgery.

NOTICE: This voted Ballot MUST be returned or postmarked by election day to be counted.

IMPORTANT: Failure to Sign and Date the oath below will invalidate your ballot.

ATTENTION: You CANNOT change your voter registration address or report a deceased voter by writing on this envelope! Information provided in this way WILL NOT reach the Elections Office!

OATH OF VOTER

I do solemnly swear, or affirm, under penalty of law that I am a legal resident of the state of Washington entitled to vote in this election. I have not voted another ballot, and I understand that any person attempting to vote when he or she is not entitled or who falsely signs this affidavit shall be guilty of a felony, punishable by imprisonment of not more than five years or a fine of not more than ten thousand dollars, or both such fine and imprisonment.

SIGN HERE X _____ 11/26/04
Signature of Voter — Date Signed

A Power of Attorney signature is not valid in Washington State for the purpose of voting.

IF the voter is unable to sign his/her name, he/she may mark an "X" and have it witnessed by two (2) signatures:

_____ _____ _____
Witness 1 — Witness 2 — Date

11/2/2004 SEA 11-1624

To report King County voter registration changes, telephone (206) 296-VOTE (8683)

Voter Registration for hearing and speech impaired voters, at TTY (206) 296-0109

Pulled 4-11-06 Sal
Batch 860
Box 171

A0291 49 / 270

SEA 11-1624 014 722422
JOSELITO C CATALAN
2025 S ORCAS ST
SEATTLE WA 98108

722422 0011

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IMPORTANT: Failure to Sign and Date the oath below will invalidate your ballot.

ATTENTION: You CANNOT change your voter registration address or report a deceased voter by writing on this envelope! Information provided in this way WILL NOT reach the Elections Office!

OATH OF VOTER

I do solemnly swear, or affirm, under penalty of law that I am a legal resident of the state of Washington entitled to vote in this election. I have not voted another ballot, and I understand that any person attempting to vote when he or she is not entitled or who falsely signs this affidavit shall be guilty of a felony, punishable by imprisonment of not more than five years or a fine of not more than ten thousand dollars, or both such fine and imprisonment.

SIGN HERE X Joe Catalan 11/26/04
Signature of Voter — Date Signed

A Power of Attorney signature is not valid in Washington State for the purpose of voting.

IF the voter is unable to sign his/her name, he/she may mark an "X" and have it witnessed by two (2) signatures:

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JOE C CATALAN
2025 S ORCAS ST
SEATTLE WA 98108

700767 0011

Ms. LOFGREN. Thank you all for your testimony.

Those bells that were ringing tell us that we have votes on the floor. We have one 15-minute vote and two 5-minute votes. So I think that given that there are questions, I am sure, for all of you, I wonder if we could agree to come back. Usually it takes us longer than 15 minutes, but to be back here at 3:30 and we will get to our questions. And, again, thank you very much for your testimony, and we are in recess until 3:30.

[Recess.]

Ms. LOFGREN. Well, we said 3:30, and it is not too bad for Congress time. It is 3:37. So we will now begin the time in our proceedings when we can engage in questions under the 5-minute rule.

And I would like to recognize first Mr. Gonzalez for his 5 minutes of questioning.

Mr. GONZALEZ. And I thank the Chairwoman.

The reason she is deferring to me is that I am going to have to absent myself in a minute, so I apologize to the Chair and my colleagues here, but there is a markup in Energy and Commerce, and I have to discuss some parts of the bill with some individuals. I will be brief.

Mr. Bechtle, like any system, there is cost-benefit analysis and such, and so there are always different concerns and factors. One that we seek, of course, is increase in participation. You do that by making it more convenient for people to vote. I know there are many people out there who really don't understand that, even with early voting in Texas and such, it is still difficult for individuals to vote. And so that is why I find the no-excuse mail ballot such an attractive proposition.

But you pointed out what was an obvious abuse; that was by Jane—I guess it is Balogh? In Texas, you register to vote, right? And then you get a voter registration. So I take it that this dog had a voter registration? Or how did it work in that State?

Mr. BECHTLE. Right. She filed a voter registration form for the dog.

Mr. GONZALEZ. And did the voter registration also bear a paw print.

Mr. BECHTLE. No. She must have put a signature on the——

Mr. GONZALEZ. Oh, exactly. That is what I am getting at, you see.

Mr. BECHTLE. Right.

Mr. GONZALEZ. And I know that that is a—it is kind of a cute example but so misrepresentative of what really is going on out there. What really happened there—I don't know the facts of that case, but it tells me that there was a voter registration card obtained invalidly and fraudulently, and she should have been prosecuted for that. It was a cute trick, then, to cast the ballot when, in fact, she was already party to obtaining the voter registration fraudulently. So I think we have to be real careful with that.

But don't you think that, given what we already have experienced in other States where fraud has not been demonstrated but an increase in voter participation has been experienced, isn't this a worthwhile endeavor in what we are seeking, some of us here in Congress, especially Congresswoman Davis?

Mr. BECHTLE. Thank you for the question.

I talked to a lot of different audiences in Washington State about this issue, and I agree that this is a convenient system; it is convenient for the voters.

But when I have talked to voters about, "Do you want a convenient system," and then also talk to them about, "Here are the problems we have seen in Washington State," I have never had someone come to me and say, "I wouldn't mind doing a little extra to make sure that my ballot is secure." They don't want to give up security just for the sake of convenience; they want that to be balanced.

And that is what we are going for here. Convenience is not the end goal here. It must be convenient and secure. And we don't see that in this system, from our experience.

Mr. GONZALEZ. There is no absolute guarantee that any system is not subject to some sort of fraud. It is just a question of degree. And, I mean, people would love to say, why would we have any system that would allow any kind of fraud? Well, that is the reality. And I am just saying I think we have to really look at the big picture.

I will share some of your concerns; I just don't think to the degree that you do. And I just think that we really need to have a really good-faith debate on the issue.

And so, with that, I will yield back. Thank you very much.

Ms. LOFGREN. The gentleman yields back.

The gentleman from California is recognized for 5 minutes.

Mr. MCCARTHY. Well, thank you, Madam Chair.

If I could ask the Secretary of State Markowitz—is that correct?

Ms. MARKOWITZ. Yes.

Mr. MCCARTHY. In your comments, you had stated that you weren't the Secretary of State at the time that thought of the idea of going to absentee ballots, no excuse.

Ms. MARKOWITZ. That is right. It was before my time.

Mr. MCCARTHY. So how long did it take to implement?

Ms. MARKOWITZ. Oh, it was implemented immediately. Well, you know, because there was already——

Mr. MCCARTHY. Well, no, the person that started it is Governor now. How long did it take from when he requested it to it being implemented to the voters? How long did it take to do it in the State?

Ms. MARKOWITZ. You mean how long was it debated in the State, or how long did it take to implement it once it was passed?

Mr. MCCARTHY. Once it was passed.

Ms. MARKOWITZ. Oh, it was inconsequential; it was immediately implemented. And that is because we had a system already in place for absentee ballots for people with excuses. All it took was changing the forms.

Mr. MCCARTHY. Just changing the forms.

Ms. MARKOWITZ. Just changing the forms, yes.

Mr. MCCARTHY. So you already had the absentee balloting. How much would a State take that doesn't have any absentee balloting to go into absentee balloting?

Ms. MARKOWITZ. Well, every State has some kind of excuse absentee ballots. So I believe that every State would have the same

experience. It would mean, you know, printing up new forms that have taken out the excuse provisions.

Mr. MCCARTHY. And do you use the computer, like they do in L.A., to check the signatures?

Ms. MARKOWITZ. We don't. And, in fact, in Vermont, we don't have signatures; we don't require a signature. We don't require signatures for voters coming in either.

Instead—understand, Vermont is a small, rural place, so I am not sure that I would recommend this system for L.A. County, you know, for larger, urban areas. But, in Vermont, the accountability comes from the fact that we all know each other, in our smaller communities especially, and we have this transparency and accountability.

Mr. MCCARTHY. So if I mail it to you, it is just because I wrote on the front my return address?

Ms. MARKOWITZ. No, no, you still have to sign. You are signing a sworn affidavit, and it is on the envelope. We don't do a signature match, though. We don't keep a signature for voters, and we never have. We haven't had any problems——

Mr. MCCARTHY. But if I showed up at the poll, you would know me because you had seen me. If I voted by mail——

Ms. MARKOWITZ. No, we also trust you. So we might know you, or we might not know you. But you come in and you state your name. There are poll watchers, who are observing. It is a public process, and if they know that you are not you, they can say, "Hey, I am challenging. I don't believe he is him." And, in fact, in the last election, we had a person coming in to vote for his father——

Mr. MCCARTHY. But if I mail one in, and I didn't give it to the post person and I gave it to the mailbox, how do you know I did it?

Ms. MARKOWITZ. Because it is on the public record, and so if somebody knows that it could not have been you, they will report that.

In fact, in the last election, we had that happen, where, in the town of Stowe, there was a belief that a father voted a ballot for a daughter. And it was investigated and, indeed, found that the person who believed a certain set of facts was indeed mistaken, and the daughter swore that it was her own ballot. So it was followed up with.

Mr. MCCARTHY. If I could ask Ruth Goldway, in your bio, it says you are postal regulation committee. Is that correct?

Ms. GOLDWAY. Commissioner, yes.

Mr. MCCARTHY. Commissioner, yes. And then you stated—correct me if I am wrong—from the standpoint that you felt absentee balloting was rather safe, one of the safest.

Ms. GOLDWAY. Yes.

Mr. MCCARTHY. Have you had, as the postal regulator, any history or any knowledge of any problems with absentees going through the mail with any postal workers?

Ms. GOLDWAY. No, I have no knowledge of complaints regarding missing absentee ballots. We have received occasional complaints about missing mail of one sort or another, but we have certainly never received anything about absentee ballots. And to the extent

that we receive complaints about missing mail, it is more likely advertising mail.

Mr. MCCARTHY. More that.

Are you familiar with—here is a January 20, 2007—a postal carrier had been sentenced to 18 months in jail and found guilty of conspiracy to prevent others from exercising their right to vote, where they actually took the ballots when they came. There was 13 other people charged in the process.

Ms. GOLDWAY. I am not familiar with the case.

Mr. MCCARTHY. Is there any chance, based upon the job that you have as postal, that you can request from the Postal if they have had any reports in any other place such as this one, of someone going to jail, that is causing any problems?

Ms. GOLDWAY. I would be happy to.

Mr. MCCARTHY. Okay. I appreciate that.

If I could—Santa Barbara. You made the statement—and this was interesting, because, unfortunately, there are some people—and I tried to get to the bottom of it, too. In my household, my wife votes absentee and I go to the ballot box.

And part of your conversation is you think it gives you a greater turnout, because 70-some percent of those who apply for absentee ballots return them, and of those who go to the ballot box it is only 52 percent, correct?

Mr. HOLLAND. On average.

Mr. MCCARTHY. On average. Is there any deadwood on those that are just on the voter file, though? Do you still have deadwood, or have you cleaned all that out?

Mr. HOLLAND. If you look at the statistics on the chart that I have up there, you can see, if you go back to 1998, that——

Mr. MCCARTHY. You had more. You had 200-and-some-odd——

Mr. HOLLAND. We had 244,000——

Mr. MCCARTHY. And now you are down to 190-something——

Mr. HOLLAND. And now we are down to about 183,000. I think you will see the same trend across the State of California, because, with vote by mail, you tend to better maintain your voter file, because you are sending absentee ballots. If they come back, then——

Mr. MCCARTHY. In California, I can also select what I got in the mail this week, permanent absentee ballots. So once I send that back in, you will always send me a absentee ballot, whether I request it or not, correct?

Mr. HOLLAND. That is correct.

Mr. MCCARTHY. How do you check when somebody moves, knowing the mobility of people?

Mr. HOLLAND. Well, what we do is, about 120 days before each and every election, we send a postcard to all permanent absentee voters reminding them that they are an absentee voter, that they will be receiving a ballot, and if they have changed their address, to let us know. If we get those back as undeliverable, then we outreach to them again to try and get their correct address.

And then, if you are not a permanent absentee voter, we are actually sending you an application to ask if you want to be an absentee voter. Again, if we get that back as undeliverable, then we will outreach to those folks too.

So what we are doing is we are better maintaining the voter file that way, in addition to all our regular voter-file-maintenance efforts. But this is really just an outreach effort as part of our ongoing absentee process.

Mr. MCCARTHY. And then, if I could just refer back to the Secretary of State, just since I have you here, because this committee had another debate on H.R. 811. Are you familiar with it, Holt's bill?

Ms. MARKOWITZ. Yes.

Mr. MCCARTHY. Do you support that?

Ms. MARKOWITZ. I support pieces of it. I——

Mr. MCCARTHY. Do you support the bill entirely, as it is written today?

Ms. MARKOWITZ. I have would have to take a look at all the provisions before I could tell you that answer.

Mr. MCCARTHY. Okay.

Madam Chair, I don't know if this is an appropriate time, but I have several articles that I referred to during questioning that I ask unanimous consent to enter into the record.

Ms. LOFGREN. Without objection, they will be entered into the record.

[The information follows:]

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1/20/07 AP Alert - VA 02:27:05

AP Alert - Virginia
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January 20, 2007

Postal carrier sentenced in Appalachia election fraud scandal

WISE, Va._A former postal carrier has been to 18 months in jail for his role in a conspiracy to rig the 2004 mayoral election in the tiny coal town of Appalachia.

Don Estridge was found guilty in October of conspiracy to prevent others from exercising their right to vote and conspiracy to steal absentee mail ballots.

He was also convicted of aiding and abetting violations of Virginia's absentee ballot procedures.

Prosecutors say former Appalachia mayor Ben Cooper was the mastermind behind a plot to gain control of the southwest Virginia town by rigging an election.

Cooper pleaded guilty in November to 243 felonies.

Estridge was one of 13 others charged in the plot.

He continued to maintain his innocence during yesterday's sentencing hearing before Wise County Circuit Judge Tammy McElyea.

The judge also ordered Estridge to pay a 75-hundred dollar fine.

Information from: Kingsport (Tenn.) Times-News

---- INDEX REFERENCES ----

NEWS SUBJECT: (Crime (1CR87); Fraud Report (1FR30); Social Issues (1SO05))

REGION: (USA (1US73); Americas (1AM92); Tennessee (1TE37); North America (1NO39))

Language: EN

OTHER INDEXING: (ESTRIDGE; KINGSPORT (TENN) (Ben Cooper; Cooper; Information; Prosecutors; Tammy McElyea)

KEYWORDS: (n)

Word Count: 181
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10/13/06 Roanoke Times & World News (Pg. Unavail. Online)
2006 WLNR 17779126

Roanoke Times, The (Roanoke, VA) (KRT)
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October 13, 2006

Guilty verdict in Appalachia: Former letter carrier **Don Estridge** is the first to be convicted in the election-fraud scam.

Laurence Hammack
The Roanoke Times, Va.

Oct. 13-- **Don** Houston **Estridge** was convicted Thursday of stealing mail so others could steal votes in a town election that made a debacle of democracy.

A former letter carrier in the town of Appalachia, Estridge diverted blank absentee ballots intended for voters on his mail route to corrupt candidates and their supporters, who forged the documents to vote themselves onto the town council, according to testimony.

After convicting Estridge of three felonies, the Wise County jury recommended a sentence of 18 months in jail and a fine of $7,500.

Estridge was the first of 14 people indicted in March to be convicted in a small-town scam that has been called the state's biggest case of election fraud in recent history. All but one of the remaining defendants have agreed to cooperate with authorities, and several testified against Estridge during his two-week trial.

But no one could say they saw him steal any mail.

To prove **Estridge's** role in the conspiracy, prosecutors relied on circumstantial evidence and some striking coincidences: Many of the voters whose mail was stolen lived on his mail route; the mastermind of the plot was overheard asking **Estridge** when absentee ballots had arrived at the post office; other defendants somehow knew just when to pluck ballots from mailboxes; and the name "**Don**" was written next to some voter names on a list found by police.

Estridge maintained he was led unknowingly into the plot.

Even if that were true, special prosecutor Tim McAfee told the jury, he should have realized something was amiss after attending a pre-election strategy meeting in which one conspirator said: "My fat a-- is going to jail."

Ballot theft was just part of the Election Day graft in Appalachia two years ago. Testimony also showed that some voters were offered beer, cigarettes and snacks in exchange for their votes, then rounded up and taken to the polls by the vanload.

"Is it something that is trivial, or do we think the right to vote is an integral part of democracy?" said McAfee, who asked the jury to send a message about the community's tolerance for such activity.

At the heart of the conspiracy was Ben Cooper, a member of the town council at the time who coveted the job of mayor -- and with it the power to fire Town Manager Vern Haefele, with whom he had clashed repeatedly, the jury was told.

Testimony showed how Cooper pulled others into the conspiracy, capitalizing on their gripes with town government. Owen "Dude" Sharrett, who feared losing his position as a town employee, convinced his son to run for council along with Cooper and then helped get them elected for the sake of job security. A woman upset with Haefele over a sewer leak in her yard agreed to haul voters to the polls.

For Estridge, it was a dispute with the town over a land transaction that drew him into the plot.

While admitting that he campaigned for Cooper and his running mates, Estridge denied any wrongdoing. In testimony Wednesday, the 63-year-old answered questions from defense attorney Walt Rivers briefly, almost curtly.

Rivers: "Did you think anything dirty was going on?"

Estridge: "No sir, I did not."

Rivers: "Were you part of a conspiracy?"

Estridge: "No sir, I was not."

Rivers: "Did you do anything wrong?"

Estridge: "No sir, I did not. ... I was just out campaigning."

On cross-examination by McAfee, Estridge struggled to explain inconsistencies between statements he made to police investigators and what he said from the witness stand.

"You're getting me all twisted up now," he said at one point, turning almost sideways in the chair and eying McAfee apprehensively.

A key point of contention was how many times Cooper -- a regular visitor to a post office where his brother, Sid "Pat" Cooper, served as postmaster -- asked Estridge about absentee ballots.

After admitting that it happened more frequently than he had first let on, Estridge also acknowledged it would be easy for him to determine whether the ballots that Cooper so desperately wanted were in the day's mail.

"I'm the most likely suspect because I'm the mail carrier," he told the jury.

While co-prosecutor Greg Stewart told the jury that Estridge choked on his own words, the 17-year postal employee also fell victim to the words of others.

Dude Sharrett and his son, Andy, told the jury last week that they were sitting on their front porch one day in April 2004 when the letter carrier walked by and waved an absentee ballot in the air, indicating that he was getting ready to deliver it to a neighbor's home.

"Not to my recollection, no," Estridge said when asked if he did that.

Throughout the trial, Estridge attempted to shift the blame to postmaster Pat Cooper. He suggested that even though Ben Cooper agreed to assist prosecutors, he would let him take the fall before implicating his brother.

Several members of the conspiracy were heard to say, "Pat's got us covered at the post office," the jury was told. Although state police did not charge Pat Cooper, a postal inspector testified this week that an investigation by federal authorities is continuing.

One of the goals in rigging the election was to take over not just town hall, but also a police

department that was used to protect Ben Cooper's friends and harass his enemies, prosecutors have said. Estridge was not accused of participating in that part of the plot.

Cooper, who faces more than 200 charges, and the rest of the defendants who agreed to cooperate are expected to reach deals with the prosecution in the coming weeks.

Coalfield Progress staff writer Bonnie Shortt contributed to this report.

---- INDEX REFERENCES ----

NEWS SUBJECT: (Crime (1CR87); Fraud Report (1FR30); Social Issues (1SO05))

Language: EN

OTHER INDEXING: (ESTRIDGE; OWEN) (Andy; Ben Cooper; Bonnie Shortt; Coalfield Progress; Cooper; Dude Sharrett; Greg Stewart; Guilty; Haefele; McAfee; Pat Cooper; Rivers; Tim McAfee; Vern Haefele; Walt Rivers)

Word Count: 1142
10/13/06 RNKETWN (No Page)
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NewsRoom

10/4/07 Akron Beacon J. (Ohio) A14
2007 WLNR 19605587

Akron Beacon Journal (Ohio)
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October 4, 2007

Section: A

VOTE EARLY BUT NOT OFTEN BY ALL MEANS, EASE ABSENTEE BALLOTING - CAREFULLY

STEVE HOFFMAN

In Akron's Ward 4, incumbent City Council member Renee Greene has won another squeaker of a Democratic primary, her victory confirmed in a recount Tuesday. She won the nomination by three votes out of more than 1,500 counted.

As Kenneth Blackwell, Ohio's former secretary of state, might say, that's within the margin of litigation. City leaders did sue. They argued that **absentee ballots** that arrived late at the elections board due to Postal Service error should be counted.

They lost, Common Pleas Judge Tom Teodosio ruling that Mayor Don Plusquellic and Council President Marco Sommerville lacked legal standing. In all, 200 **absentee ballots** were left uncounted. In Ward 4, there were 17 such ballots, more than enough to affect the outcome of the primary.

Next year, Ohio is once again expected to be ground zero in the presidential election. Because the state has adopted ''no-fault'' **absentee voting**, no longer requiring applicants to give a reason for voting early, the number of **absentee ballots** is expected to jump considerably.

In Summit County alone, about 34,000 **voted absentee** in the 2004 presidential election, before ''no fault'' was adopted. Summit County election officials now estimate that between 50,000 and 60,000 will **vote absentee** in the fall of 2008.

With numbers like that in a single county, and a tight race for Ohio's 20 electoral votes forecast, an entire presidential election could be cast into doubt. Resolving issues surrounding **absentee voting** before next year may not be the only concern when it comes to getting an accurate count in November 2008, but it could be the most important.

Stephen Dyer, a Democratic state representative from Green, has moved quickly to craft a bill that would remedy situations like the one that happened on Sept. 11 in Summit County. State law is clear: Except for overseas **ballots**, **absentee ballots** must be received at elections boards before voting has ended. Postmarks are irrelevant.

Dyer's bill would open up a 10-day period after Election Day for **absentee ballots**

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to come in, the same as allowed for overseas ballots. Trouble is, his bill would allow ballots without postmarks to be counted, too, an argument also advanced by Plusquellic and Sommerville in their lawsuit. (In Dyer's bill, **absentee ballots** with postmarks would have to be marked before Election Day or, if sent on Election Day, received the same day.)

Dyer can expect rough sledding in the legislature about counting late **absentee ballots** without postmarks, as well as objections from Jennifer Brunner, Ohio's new secretary of state.

Under current Ohio law, overseas military ballots that arrive within a 10-day window are counted if they lack a postmark, a concession to the harsh conditions of military life. Civilian overseas ballots need a postmark no later than the date of the election to be included in the official tally.

Clearly, the possibility is remote that an organization that can't even deliver 200 **absentee ballots** in time in a low-turnout county primary could conspire to throw an entire statewide election.

Still, the inclusion in the official count of nonpostmarked ballots received during a 10-day period after Election Day from local voters (who easily could make themselves aware of initial results) opens a door to potential fraud through the corruption of individual employees, either at election boards or **post offices**.

Despite hysteria from the right about voter fraud, very few instances have cropped up in Ohio. Sure, phony voter registrations have been turned in by organizers who are paid per new voter. That hasn't translated into phony votes on Election Day.

Is is the low level of fraud reason to expand no-postmark **absentee voting** the way Dyer wants to? Given next year's high-stakes presidential election in Ohio, greater caution will probably prevail.

Brunner, meanwhile, is exploring other options.

Working with the Postal Service to better handle **absentee ballots** is one, and is included in the Dyer bill. Other states use envelopes that indicate high-priority handling. Another possibility is the use of drop-off boxes (no postage required) that would be emptied by elections board workers as soon as the polls close.

A further step wold involve the establishment of electronic voting stations around a county that would open well before Election Day. Such machines could easily be programmed to provide voters from around a county with the proper **ballots**.

Absentee voting starts 35 days before Election Day. The use of voting stations in a similar time frame would cut down the clumsy and time-consuming route for **voting absentee**: Mailing in an application, getting the right ballot sent back, then sending it back to the elections board in time to be counted. That creates plenty of chances for human error to occur.

The expansion of early voting can ease congestion at the polls and make it easier for busy citizens to cast ballots. But it must be done with care. Next year, a whole lot more than the Ward 4 in Akron will be up for grabs.

---- INDEX REFERENCES ----

COMPANY: ACRON JSC

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NEWS SUBJECT: (Local Government (1LO75); Government (1GO80); World Elections (1WO93); Global Politics (1GL73); Public Affairs (1PU31))

REGION: (USA (1US73); Americas (1AM92); Ohio (1OH35); North America (1NO39))

Language: EN

OTHER INDEXING: (AKRON; BEACON JOURNAL; CAREFULLY; DEMOCRATIC; EDITORIAL; HOFFMAN; POSTAL SERVICE) (As; City; Dyer; Kenneth Blackwell; Marco Sommerville; Renee Greene; Sommerville; Stephen Dyer; Tom Teodosio; VOTE EARLY)

KEYWORDS: LEGISLATURE **ABSENTEE BALLOTS** ELECTION PROCEDURE

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10/3/07 Akron Beacon J. (Ohio) B1
2007 WLNR 19524254

Akron Beacon Journal (Ohio)
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October 3, 2007

Section: B

GREENE WINS BY THREE VOTES SUMMIT COUNTY ELECTIONS BOARD CERTIFIES RECOUNT RESULTS IN AKRON COUNCIL PRIMARY

Stephanie Warsmith,. Beacon Journal staff writer

It's official.

Akron Councilwoman Renee Greene won the Sept. 11 primary in Ward 4.

A recount Tuesday by the Summit County Board of Elections showed Greene received 756 votes, topping challenger DeAndre Forney's 753.

''The numbers bear it out,'' said Greene, who waited expectantly at the elections board to hear the results. ''So I will look forward to November. I will make sure people in my community understand what I do. I work for them.''

Initial election results had Forney winning the Democratic race by four votes. The official vote count, adding provisional and **absentee ballots**, gave the race to Greene by three votes.

The closeness of the race triggered an automatic recount.

The elections board certified the recount results Tuesday.

''I'm disappointed I didn't come out the winner,'' said Forney, who is a spokesman for Buckeye Community Health Plan in Akron. ''I'll just have to work harder the next time.''

Forney, who also narrowly lost to Greene in the 2005 primary, said he might consider running again.

Greene will face Republican Cedric Colvin in the Nov. 6 election.

None of the vote counts in the council race included **absentee ballots** that because of a **post office** error didn't make it to the elections board in time. Akron sued to have these ballots counted, but a judge threw out the lawsuit, saying the city lacked the grounds to file it.

Among the 200 **absentee ballots** that weren't counted were 17 cast by Ward 4 voters enough to sway the race either way.

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State Rep. Stephen Dyer, D-Green, held a news conference Tuesday at the elections board to announce the introduction of a bill addressing this ballot issue. The bill would require that all **absentee ballots** postmarked before Election Day be counted if delivered by mail before the official vote count, which is 10 days after the election.

The bill would require **absentee ballots** received after Election Day without postmarks or with illegible postmarks to be counted. It would direct the secretary of state and **post office** to develop a more distinguishable envelope for **absentee ballots**.

Dyer said he has received positive reaction to his bill from election boards and is hoping ''for a bipartisan solution to a nonpartisan problem.'' Reps. Vernon Sykes and Brian Williams, both Democrats from Akron, are among the 18 co-sponsors.

Wayne Jones, chairman and a Democratic member of Summit County's elections board, supports Dyer's bill, though he questioned whether it might create issues of uniformity with other states in next year's presidential election.

Alex Arshinkoff, a Republican board member, is concerned about the proposed changes.

''We want to count votes,'' he said. ''But we have to make sure we are not creating a window for fraud.''

---- INDEX REFERENCES ----

COMPANY: ACRON JSC

NEWS SUBJECT: (Government (1GO80); World Elections (1WO93); Global Politics (1GL73); Public Affairs (1PU31))

REGION: (USA (1US73); Americas (1AM92); Ohio (1OH35); North America (1NO39))

Language: EN

OTHER INDEXING: (AKRON; AKRON COUNCILWOMAN RENEE GREENE; BUCKEYE COMMUNITY HEALTH; DEMOCRATIC; ELECTIONS BOARD; GREENE; STATE REP; SUMMIT COUNTY; SUMMIT COUNTY BOARD OF ELECTIONS; WINS) (Alex Arshinkoff; Brian Williams; DeAndre Forney; Dyer; Forney; Initial; RECOUNT RESULTS; Republican Cedric Colvin; Stephanie Warsmith; Stephen Dyer; Vernon Sykes; VOTES SUMMIT; Wayne Jones)

KEYWORDS: AUTOMATIC RECOUNT ELECTION RESULT BIOGRAPHY, RENEE GREENE

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2007 WLNR 19079923

Akron Beacon Journal (Ohio)
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September 28, 2007

Section: A

THE BALLOT IS IN THE MAIL THE REQUIRED LEEWAY FOR COUNTING ALL THE VOTES

In his ruling this week on Akron's **absentee ballot** fiasco, Judge Tom Teodosio of the Summit County Common Pleas Court argued a narrow point. He found that city leaders lacked standing to sue in seeking to have **absentee ballots** delivered after the primary election included in the final tally.

Fortunately, other paths remain open for making sure every legally cast vote counts. Because of a Postal Service error, 200 **absentee ballots** mailed before the Sept. 11 primary didn't arrive at the county Board of Elections until after the polls closed, too late, under state law, to be included in the official results.

Judge Teodosio specifically left open the possibility of an affected voter filing suit. That good idea would most likely come from Ward 4 in Akron, where 17 uncounted **absentee ballots** could change the outcome of a very close Democratic primary race for City Council. Still, even a case decided in a matter of days would squeeze the time remaining to campaign in the general election.

A better path has been proposed by state Rep. Stephen Dyer. The Green Democrat wants to create a 10-day post-election window for **absentee ballots** mailed before Election Day to be counted. That is the same time allowed for overseas ballots.

Meanwhile, the Postal Service and the secretary of state's office must find a way for the **post office** to expedite the handling of the oversized, optical-scan ballot envelopes. The county elections board expects 50,000 **absentee ballots** in November 2008. The guarantee to voters should be: Mail your ballot in time, and your votes will be counted.

---- INDEX REFERENCES ----

NEWS SUBJECT: (Legal (1LE33); Government (1GO80); World Elections (1WO93); Global Politics (1GL73); Public Affairs (1PU31))

REGION: (USA (1US73); Americas (1AM92); Ohio (1OH35); North America (1NO39))

Language: EN

OTHER INDEXING: (BALLOT; EDITORIAL; GREEN DEMOCRAT; POSTAL SERVICE; SUMMIT COUNTY COMMON PLEAS COURT; VOTES) (Stephen Dyer; Teodosio; Tom Teodosio)

KEYWORDS: UNCOUNTED BALLOTS ELECTION RESULT

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2007 WLNR 18737691

Akron Beacon Journal (Ohio)
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September 24, 2007

Judge dismisses **absentee ballots** case

Sep. 24--Summit County Common Pleas Judge Thomas Teodosio this afternoon dismissed a lawsuit in which the city of Akron had sought to have **absentee ballots** counted, saying the city lacked standing to file the case.

State attorneys argued at a hearing last week that the city could not bring constitutional claims on behalf of voters whose ballots are at issue.

While waiting for a court ruling on whether **absentee ballots** delivered late by postal workers should be counted, Summit County Board of Elections employees this morning will tally the **absentee** and provisional **ballots** now on hand.

The elections board has about 500 **absentee** and provisional **ballots** for the Sept. 11 primary, including 100 ballots in the two Akron City Council races separated by less than 13 votes, said Bryan Williams, elections board director.

The city argued that 200 other **absentee ballots** delivered late by the **post office** should count. The state claimed they cannot because of Ohio law.

The contested ballots were delivered to the board the day after the primary. Postal workers have apologized for the error and are trying to determine why the ballots weren't delivered on time.

The elections board is expected to certify the election Tuesday. This certification can be changed within 60 days, Williams said.

How the board proceeds with the 200 ballots will depend on Teodosio's ruling and whether the losing side appeals or seeks other court action, Williams said.

---- INDEX REFERENCES ----

NEWS SUBJECT: (Legal (1LE33); Government (1GO80); World Elections (1WO93); Global Politics (1GL73); Public Affairs (1PU31))

REGION: (USA (1US73); Americas (1AM92); Ohio (1OH35); North America (1NO39))

Language: EN

OTHER INDEXING: (SUMMIT COUNTY BOARD; SUMMIT COUNTY COMMON PLEAS) (Bryan Williams; Teodosio; Thomas Teodosio; Williams)

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September 19, 2007

Ballot count still up in air

John Higgins and Katie Byard
The Akron Beacon Journal, Ohio

Sep. 19--The city of Akron asked a Summit County Common Pleas judge Tuesday to halt the certification of last week's primary election until 210 **absentee ballots** mistakenly held up at the **post office** are counted.

The court will have to act fast. The elections board plans to make its official count on Monday and certify the election on Tuesday.

"We have a call in to the court now, and we're waiting for a call back hoping we can get an immediate date," Akron Law Director Max Rothal said.

Akron Mayor Don Plusquellic and council President Marco Sommerville are suing Summit County Board of Elections and the state of Ohio. The case was assigned to Judge Tom Teodosio.

The Ohio secretary of state has instructed local election officials to disregard the ballots, which mostly arrived from the **post office** a day after the primary.

The suit claims that the section of Ohio law the state is re lying on to reject the ballots is unconstitutional, under both state and federal law.

The Ohio Secretary of State, Jennifer Brunner, is simply following the law as it's written, said her director of communications, Patrick Gallaway.

"It is unfortunate when someone offers their ballot and it's not accepted," Gallaway said. "It's a shame that something like this can happen."

He said Brunner has been touring all of the state's boards of elections and scheduled a visit to Akron on Oct. 2 a few weeks ago, before the primary election.

"It's pretty timely now," Gallaway said. "I'm sure there will be lots to talk about."

He said that for now, the order to disregard the ballots stands.

"We have to follow the law," Gallaway said. "At this point we're just going to have to rely on what the judge has to say."

Those tardy **absentee ballots** arrived at the Summit County Board of Elections in two batches.

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Of the 204 ballots that arrived in the first batch on Sept. 12, 103 were postmarked Sept. 10, one was postmarked Sept. 9 and one on Sept. 8. The remaining 99 had no postmark at all.

Six more ballots were delivered Sept. 13, with various pre-election postmarks, except one that was postmarked the day after the election and one without any postmark.

The U.S. Postal Service is investigating why the ballots didn't make it through and why some were in the system without a postmark, according to a spokesman.

Ohio law generally forbids the counting of **absentee ballots** that arrive at the board of election after the polls close.

However, it also provides that ballots mailed from outside the United States be counted if they're delivered within 10 days after the polls close (20 days after in a presidential primary election), according to the city's lawsuit.

The state law "arbitrarily disenfranchises voters by requiring that certain **absentee** and other **ballots** be counted after the polls close and other **absentee ballots** not be counted after the polls close," according to the suit.

Rothal said the city is arguing that the law is unconstitutional on its face because it does not offer equal protection to all voters, and it deprives citizens of their right to vote and express themselves.

But if the city fails to prove that, it contends the law is at least unconstitutional as applied in this instance, because voters are encouraged by every government agency to use the U.S. Postal Service to cast their ballots.

Akron's challenge might be the first of its kind.

"In the short period of time we've had to research, we haven't found a case that's right on point," Rothal said. "I haven't found a case where the **post office** has delayed sending ballots."

John Higgins can be reached at 330-996-3792, 800-777-7232 or jhiggins@thebeaconjournal.com.

---- INDEX REFERENCES ----

COMPANY: UNITED STATES POSTAL SERVICE

NEWS SUBJECT: (Local Government (1LO75); Legal (1LE33); Government (1GO80); World Elections (1WO93); Global Politics (1GL73); Public Affairs (1PU31))

REGION: (USA (1US73); Americas (1AM92); Ohio (1OH35); North America (1NO39))

Language: EN

OTHER INDEXING: (OHIO; SUMMIT COUNTY BOARD; SUMMIT COUNTY COMMON PLEAS; US POSTAL SERVICE) (Brunner; Gallaway; Jennifer Brunner; John Higgins; Marco Sommerville; Max Rothal; Patrick Gallaway; Rothal; Tom Teodosio)

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September 15, 2007

Section: Metro

210 ballots arrive late in Summit County Postal Service is investigating

Laura Johnston

The Summit County Board of Elections watched 210 **absentee ballots** arrive Wednesday and Thursday, too late to count in the Sept. 11 primary election.

And Director Bryan Williams worries there are more ballots floating around.

While the board normally sees a 90 to 95 percent return rate on **absentee ballots**, it received only 84 percent of the 3,794 ballots this time, Williams said Friday. If this election followed the regular return rate, it would mean another 200 or so ballots are missing.

"That leads us to wonder if there are more ballots out there, somewhere in the **post office** system," he said. "I am concerned."

The 210 ballots, including 173 from Akron, were delivered Wednesday and Thursday, Williams said. Although 103 of them weren't postmarked - and the U.S. Postal Service isn't sure why - others were sent Sept. 5, Sept. 8, Sept. 9 and Sept. 10.

State law requires that to be counted, the elections board must receive domestic **absentee ballots** by the time polls close. The ballots are identifiable; the envelopes are stamped "election materials."

A **post office** investigation is concentrating on one tub of mail not "processed according to our normal procedures," **post office** spokesman David Van Allen said.

Within Akron city limits, the **post office** delivers 96 percent of intra-city mail overnight, Van Allen said. That's slightly higher than the national average.

"These particular pieces just took a little longer," he said. "That's why you don't want to wait to the last minute with something this important."

For the Ward 4 and Ward 6 Akron City Council races, the missing votes could have decided the winners.

In the Democratic Ward 4 primary, just four votes separate winner Deandre Forney from incumbent Renee Greene, according to unofficial results.

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About 77 provisional ballots have yet to be added in, Williams said. But the 26 late **absentee ballots** from Ward 4 could have made a difference.

In Ward 6, where 12 votes separate winner Terry Albanese from challenger Wayne Kartler, 23 **absentee ballots** arrived after the deadline.

Williams said a couple of people have called the Board of Elections to complain.

"People are nervous," he said. "This just goes to fuel the concern and urban legend that **absentee ballots** aren't counted."

Joe Finley, who lost a Democratic bid for Akron mayor to 20-year incumbent Don Plusquellic, said he won't concede his race until all votes, even the late ones, are accepted. "Those voters should not be punished," he said.

Election results will be certified Sept. 25, Williams said.

And unless Ohio law changes by then, the late **absentee votes** will remain void.

To reach this Plain Dealer reporter: ljohnsto@plaind.com, 216-999-4115

---- INDEX REFERENCES ----

COMPANY: UNITED STATES POSTAL SERVICE; ACRON JSC

NEWS SUBJECT: (Government (1GO80); World Elections (1WO93); Global Politics (1GL73); Public Affairs (1PU31))

INDUSTRY: (Postal Services (1PO50))

REGION: (USA (1US73); Americas (1AM92); Ohio (1OH35); North America (1NO39))

Language: EN

OTHER INDEXING: (AKRON; AKRON CITY; ELECTIONS; SUMMIT COUNTY BOARD OF ELECTIONS; US POSTAL SERVICE) (Bryan Williams; David Van Allen; Joe Finley; Renee Greene; Van Allen; Wayne Kartler; Williams)

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September 14, 2007

Absentee ballots arrive late in Summit

Rick Armon
The Akron Beacon Journal, Ohio

Sep. 14--The Postal Service failed to deliver more than 200 **absentee ballots** in time for Tuesday's primary election in Summit County a mistake that could have affected the outcome of some races.

The ballots, which arrived by mail on Wednesday and Thursday, won't be counted, even though some were postmarked before the election day.

Postal spokesman David Van Allen said the **post office** is investigating the mishap, which is likely "human error."

"We would like to apologize for it," he said. "That is not indicative of the service we intend to provide."

Absentee ballots must be received by 7:30 p.m. on the day of the election to be counted, said Marijean Donofrio, deputy director of the Summit Board of Elections. A postmark does not matter, unless the ballot was sent from overseas, she said.

Elections workers visited the main Akron **Post Office** twice on Tuesday once at 10 a.m. and again at 4 p.m. to pick up mail, she said.

Workers were told there was no mail at 4 p.m., she said.

On Wednesday, 204 **absentee ballots** were delivered to the board. One was postmarked Sept. 8, one Sept. 9 and 103 Sept. 10. Ninety-nine had no postmark.

The board also received six **absentee ballots** Thursday, with one postmarked Sept. 5.

Van Allen couldn't say why some of the ballots were delivered without postmarks. He said that is part of the investigation.

The elections board didn't immediately know where the ballots originated and whether they could have affected any races. With provisional ballots yet to be counted, two Akron City Council races are separated by less than 13 votes.

Akron mayoral candidate Joe Finley, who lost to incumbent Don Plusquellic in the Democratic primary, said he had heard that the majority of those ballots were from the city. Even though it likely wouldn't affect the outcome of his race, Finley said he planned to ask the board to count the votes because it was an error

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by the Postal Service and not the voters.

"If they don't, I think we do have the option to take it to court for a judge to order the board to count them," he said.

A spokesman for the Ohio Secretary of State's Office said it was unaware of the issue Thursday and to check back today.

The board had sent out 3,789 **absentee ballots** for the primary. Nearly 415 remain unaccounted for and it's unclear whether some people just chose not to vote, which sometimes occurs, Donofrio said.

Voters can call the board at 330-643-5200 to check if their **absentee ballot** was received, is one of those delivered late or is among the missing, she said.

Rick Armon can be reached at 330-996-3569 or rarmon@thebeaconjournal.com.

---- INDEX REFERENCES ----

COMPANY: ACRON JSC

NEWS SUBJECT: (Government (1GO80); World Elections (1WO93); Global Politics (1GL73); Public Affairs (1PU31))

REGION: (USA (1US73); Americas (1AM92); Ohio (1OH35); North America (1NO39))

Language: EN

OTHER INDEXING: (AKRON; AKRON CITY; AKRON **POST OFFICE**; DEMOCRATIC; OHIO; POSTAL; POSTAL SERVICE; SUMMIT BOARD OF ELECTIONS) (David Van; Donofrio; Finley; Joe Finley; Marijean Donofrio; Rick Armon; Van Allen)

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Ms. LOFGREN. And the gentleman's time has expired.

I now turn to the gentlelady from California, our colleague and the author of the bill, Congresswoman Davis.

Mrs. DAVIS of California. Thank you. Thank you very much.

Thank you to all of you for being here.

Secretary Markowitz and Mr. Holland, I am just wondering, in your communities, if you announce that no longer were people able to vote no-excuse absentee balloting, what do you think the reaction would be?

Ms. MARKOWITZ. Well, I would very shortly lose my office. You know, our voters in Vermont think this is really a terrific asset. And actually, the thinkers, the political scientists, in Vermont who spend time looking at, you know, who isn't voting and how can we encourage them to vote, see voting at home as the way to reach those voters.

In Vermont, we have a problem with literacy, particularly with a number of our adults. And we find that a person who is not confidently literate or a person who has disabilities that wouldn't prevent them from coming to the polling place but make them uncomfortable doing so are much happier taking their time at home with the ballot and sending it back by mail.

Mr. HOLLAND. And in Santa Barbara County, I think there would be a huge uproar about it. People are very comfortable having that choice. And, as I see it, absentee voting, or permanent absentee voting, is about choices. It is about improving services for our voters. And they would be very upset.

Mrs. DAVIS of California. Yes.

Mr. Bechtle, you sounded like you thought that the voters in Washington State were very uncomfortable with the process in their State. What do you think would be the reaction?

Because, actually, as I read the statistics, it looks like it has caught on like wildfire in Washington State. But you are saying that you think people are really uncomfortable there. Is that correct?

Mr. BECHTLE. Not quite, Representative.

Mrs. DAVIS of California. But if they did away with that process, what do you think the reaction would be?

Mr. BECHTLE. Well, I think it depends on whether you told folks and explained to them the reason why there were concerns about it. I think that if all they are hearing is that it is more convenient and that it is going to be easier to do, yes, it is a very popular system. But when you talk to them about, well, here are the problems that there are, then they say maybe, you know, I would like to change back the poll voting. And I know lots of folks who have made a change back to poll voting because of the concerns they have had with vote by mail.

Mrs. DAVIS of California. That is interesting. Because it certainly looks like if it is spreading and people had a level of confidence, I guess I would wonder whether, in fact, they have the questions that they do. But I appreciate your response.

I wonder, Commissioner Goldway, you mentioned tracking of mail and overnight packages and that using a bar code is a pretty inexpensive system. I actually have an interest in this, as I think you know, for tracking absentee ballots. And I am just wondering

what you think, what is the best way to do that? And are there advantages or even disadvantages to trying to track by bar code, so that people know when the ballot is received by the registrar, when it is actually verified by the registrar and actually goes into the count.

Ms. GOLDWAY. The Postal Service is developing and is currently implementing on a pilot project an intelligent mail bar code for all automated mail, which would mean all bulk mail and all advertising mail. It would not necessarily be needed for an individual letter. But any mail that was provided by an election official could easily have that bar code, as well.

And what they are anticipating is that, by 2009, all the mail that has these bar codes will be tracked within the Postal Service system. The Postal Service will know when it is received and when it gets to the letter carrier, so that if the election officials can work with the Postal Service to develop a supplementary code that tracks when the ballot leaves the printer to go to the voter or when the ballot is received at their office and then is tracked through the system to be counted and verified, et cetera, you could have a seamless system for very little money. Because the technology is already there, and it is bar code technology, which has been used for 20 years. It is a question of just getting the systems to coordinate.

Mrs. DAVIS of California. Yes. I wonder if you, just quickly—I know that my time is up—just the question of whether the fraud and error rate of absentee voting versus poll voting, how that stacks up. Do any of you have, I guess, a figure commenting on that error rate of absentee voting versus poll voting?

Mr. HOLLAND. In my opinion, I think that absentee voting or voting by mail is actually just more secure and less chance of fraud.

In Santa Barbara County, in our mail ballot processing center, we have cameras on everything. Anybody that works there has an ID badge to get into the facility. We have a separate room where we store our ballots that has cameras in there. Our election computers are in a separate room with cameras. It is a very secure environment.

And, again, we check those signatures against the signatures on file in our database. And those signatures that are on file in our database have been checked against the State database to make sure that they have a California driver's license number that matches that shows that they haven't voted anywhere else.

So there are a lot of checks, and, to me, it is very secure. And I think that there are some opportunities for fraud at the polling place and more opportunity for error.

Mrs. DAVIS of California. Mr. Bechtle, I am just going to let you respond. And do you have a rate that you believe is a fraud rate, either for absentee voting or at the polls.

Mr. BECHTLE. I don't, but I would be happy to do some research and get an answer to that back to you, if you would like.

Mrs. DAVIS of California. Great. Thank you very much.

Thank you, Madam Chair.

Ms. LOFGREN. Thank you.

Mr. MCCARTHY. Madam Chair.

Ms. LOFGREN. Yes?

Mr. MCCARTHY. At the end, I just want, pursuant to the House Rule XI clause, hereby request that minority members of the Subcommittee on Elections be granted a minority date of hearing on the matters related to expanding and improving opportunities of the vote by mail.

[The information follows:]

ROBERT A. BRADY, PENNSYLVANIA
CHAIRMAN

VERNON J. EHLERS, MICHIGAN
RANKING MEMBER

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October 16, 2007

The Honorable Zoe Lofgren
Chairwoman
Subcommittee on Elections
1309 Longworth HOB
Washington, D.C. 20515

Dear Chairwoman Lofgren,

Pursuant to House Rule XI clause (2)(j)(1), we hereby request that the minority Members of the Subcommittee on Elections be granted a minority day of hearing on matters relating to "Expanding and Improving Opportunities to Vote by Mail or Absentee."

Although the testimony of the panel members you have assembled will likely be valuable, it is essential that the Committee examine other perspectives. We feel that a minority day is our only option to ensure that we create a balanced record.

Pursuant to House Rules, you will find the signatures of a majority of the Republican Members of this Subcommittee below.

Kevin McCarthy
Ranking Member
Subcommittee on Elections

Vernon J. Ehlers
Ranking Member
Committee on House Administration

Ms. LOFGREN. This will be dealt with according to the rules.

Now I am going to engage in my brief questioning. I know that the Secretary of State has to leave for the airport, so I will be quick.

I just want to say that the idea of one first-class stamp being enough for postage is such a good idea. I hadn't really thought of that before your testimony today. And I remember, I think it was last year—in California, we have these initiatives. And the weight of this thing, and people didn't—in the end, the County of Santa Clara paid the difference, and people didn't know if their vote would count, and in some counties it didn't. So that is really a good idea, and I thank you for sharing that with us.

I would like to ask—Mr. Bechtle has raised a series of concerns in his testimony. And I am wondering, the two witnesses we have here who actually run elections, if you have any comments on those concerns and how they can be dealt with, if at all, or whether you share those concerns.

And maybe we can start with you, Ms. Markowitz, since I know you have to leave.

Ms. MARKOWITZ. Thank you so much.

You know, when you are making decisions and considering voting systems, you are always making a cost-benefit analysis of some sort. And I would suggest that there is no perfectly secure way of voting. You know, in Vermont, we had somebody come in and vote for his father. His belief was that he was voting the way his father told him. You know, he was picking up his prescription, and he was doing chores, and this was just another chore.

And so, I think the challenge for election administrators is public education, so the public knows what is required of them.

You know, we hear statistics a lot about felons improperly voting. And part of the time, in many cases, it is because they don't know they no longer can vote. They are not aware of that rule. Of course, in Vermont, felons can vote from prison. I mean, we have a different rule. In fact, we elected a Congressman, you should know, from prison; he won re-election from prison.

So it is a cost-benefit analysis. And, in my view, the risk of fraud is low. The issue is whether or not there is a risk that a person voting at home will be the subject of undue influence. And we don't have a record of that. We don't have any indication that that is true.

And the way I think we would be able to see it if it were happening is we would be receiving complaints. We would hear rumors, it would come to the surface, and then be prosecuted.

But without real good evidence that there are abuses and fraud, you know, why would you limit something that obviously the public likes quite a bit? It is a big benefit to those of us who run elections on Election Day by reducing the lines, by making it less crazy. And it give us a measure of control over those ballots.

And you heard from Ms. Goldway that, you know, people like voting by mail because it is a paper vote in places where they are not comfortable with the machines. You know, you have heard also that there can be many safeguards in the opening and processing of those votes to prevent problems on Election Day and problems with accounting.

So I would suggest that it has been very successful in Vermont, and I don't see why it wouldn't be successful in other places.

Ms. LOFGREN. Mr. Holland.

Mr. HOLLAND. Thank you.

Mr. Bechtle did mention one thing I jotted down to note. He said that he had an instance where somebody voted twice. That can't happen. When your absentee ballot hits our mail ballot processing center, we immediately know that you voted, and you can't send in another ballot, because we will know that you voted. It would be like, ″Whoa, where did you get this other ballot?″ Well, of course, we have never had that happen. There is a unique ID on that ballot.

We had one case where a woman whose husband had died 2 days before she signed his ballot. Well, our signature-verification machine kicked that out, and we did not allow that ballot to be voted. The lady ended up getting a letter from the District Attorney's office.

But those are just two examples of how we are managing the security of our vote by mail.

Ms. LOFGREN. Thank you very much.

I just, before we close, I just would like to know—we got a call from the Secretary of State's office in the State of Washington, and they wanted to correct the record on the dog-voting incident. I am going to report what that said, which is that Washington only requires residency and that the woman, the dog owner, changed the name on her utility bill to the dog's name, and then sent that bill in with the absentee ballot, and that she was prosecuted.

So I would just note that, although we want to make sure that we have safe and secure elections, we also want to make sure that people have the ability to vote.

And I think—I was walking over to the vote on the House floor with Mr. Gonzalez, and we were talking about primary elections. In California—we are always in Washington on primary elections. I love going—I mean, I am one of those people who just loves Election Day. I mean, I love to go down there. I used to like it as a little kid when I was volunteering. But I can't do that; I wouldn't be able to vote at all on primary election day.

So, really, it is a very popular initiative. I think, really, your testimony has been food for thought.

And I really do appreciate, again, Congresswoman Davis for the leadership that she has shown in bringing this matter forward.

Mr. MCCARTHY. Madam Chair, can I have a point of personal privilege?

Ms. LOFGREN. Certainly.

Mr. MCCARTHY. Just to correct the record. You had stated earlier, from one standpoint, you said something that I had done was a stunt, that you received a letter on Friday. I just wanted to correct that I provided the letter within 24 hours of the notice on Wednesday, that I did talk to you in person Monday night, but I did try to get a hold of you. You called me over the weekend, got my voicemail, unfortunately. I called you back within 2 minutes. Unfortunately you were busy, and your staff would not provide me a cell phone.

So, one is it is not a stunt, asking that we have parity. Two is I talked to you in person. Three, I gave it on Wednesday.

I do believe in the concept that—I understand I am not in the majority. But every 10 years, we take a census and we make these districts equal. I represent Republicans, Democrats, independents, Green Party. And I don't believe that they are any less than constituents of any other district. And I just believe, when we take election law forward, that it is equal to, especially based on what has gone on in this committee in the past, that we maintain the ability to have ideas on both sides, so we are well-informed.

Ms. LOFGREN. Before we recess—I don't want to unduly delay this. I just will say I didn't get the letter until later than you delivered it; I don't know why. I do believe that your behavior here today has been in the stunt category, but hopefully we will be able to move beyond these kinds of antics in the future.

And this hearing is adjourned.

[Whereupon, at 4:04 p.m., the subcommittee was adjourned.]

[The information follows:]

[After Rep. McCarthy's opening remarks]

Thank you, I'll keep my remarks brief, but I did want to share just a few thoughts on vote by mail, particularly because the minority was limited to a single witness for today's proceeding. While I appreciate that witness allocations are the prerogative of the majority, on election reform issues it is beneficial to hear from a number of experts with diverse perspectives and experiences, and for that reason I hope that, in future hearings, the majority is more open to allowing all voices to be heard.

For the witnesses who *were* permitted to testify today, there are several concerns that I have with voting by mail on which I would like to get your perspective.

First, there is the increased chance of voter fraud whenever a vote is cast from an unsecured location, as is the case with vote-by-mail. One of the distinct advantages of visiting a polling place is the controlled environment that provides safeguards against voter coercion. In our nation's recent history, voters were unduly influenced either by the promise of financial reward in exchange for a vote, or by the threat of retribution when voting for an opposing candidate. While absentee voting is intended as a "back-up" method of casting a ballot, making vote-by-mail the standard voting practice

dramatically increases the likelihood of organized voter fraud. Even in cases where voters are not improperly influenced, tampering with votes once they have been cast, even stealing large numbers of votes from a postal facility, is a much greater risk as the number of votes cast by mail increases.

Second, the voter rolls that determine who receives a ballot are often outdated and inaccurate. There will always be those individuals who take advantage of those flaws to cast an illegal vote. When a person must walk into a precinct and provide some type of verbal or physical identification to vote, the chance of that individual casting an illegal vote drops dramatically. The anonymity that vote-by-mail provides serves as a haven for those who are determined to commit voter fraud.

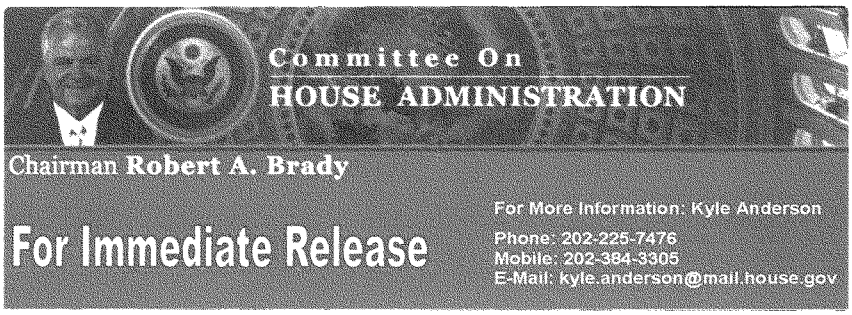
Third, there is the misperception that vote-by-mail will increase voter turnout. In the state of Oregon, statistics have not shown a measurable increase in the number of voters who cast a ballot, instead, they indicate that voters who once cast a ballot in person are now doing so by mail. In this case, the facts simply do not support the assumption that vote-by-mail will encourage new voters.

Finally, there is historic precedent of casting a vote on Election Day with fellow citizens and neighbors after hearing from the

candidates on the issues, and having had adequate time to determine which individual best represents the ideals and values of each voter. Vote-by-mail permits a range of possible "election days," in affect creating a disparity between voters regarding the information available to them when casting their votes. I am concerned about the disadvantage placed on early voters by this practice, and the danger to our nation's established system of selecting a single election date to capture the voice of an informed electorate.

I believe it is important to explore these and other issues before placing further mandates on the states regarding how they run their elections. Once again, we are considering legislation that could render the voting equipment previously purchased by states to be worthless, wasting taxpayer dollars. Before placing an administrative burden and additional cost on state and local officials, we must ensure that the actions we take will achieve their desired effect.

Thank you to our witnesses for their participation, and I look forward to hearing your thoughts on these and other issues related to the legislation before us today.



BRADY ISSUES STATEMENT ON ABSENTEE VOTING HEARING

Washington, DC (October 16, 2007): Committee on House Administration Chairman Robert A. Brady issued a statement on today's Subcommittee Hearing on Absentee Voting.

"I would like to commend Chairwoman Zoe Lofgren as she leads the Committee on House Administration's Election Subcommittee in exploring issues surrounding absentee voting and voting by mail.

Under our system of government, Americans express their views and opinions on the direction and future of our nation through their vote. From electing representatives, to expressing views on important referendums and spending plans, the American voting public depends upon our voting system to ensure that their voices are heard. As elected representatives, we have a duty to ensure that our voting system encourages participation by the widest possible group of eligible voters. Potential barriers to participation must be eliminated and new and innovative strategies must be incorporated to ensure that our system addresses the needs of our constituents.

Additionally, absentee voting systems are currently the only mechanism available to members of our Armed Forces serving across the globe. They risk their lives every day to ensure our nation's safety and security and should be afforded every possible opportunity to participate in the system of government they are defending.

Continued

I support the Subcommittee's exploration of no-excuse absentee voting, early voting programs and vote-by-mail systems. These initiatives have been shown to increase voter turnout and participation, specifically in voter demographics that have been previously under-represented, such as women, the elderly and voters in rural areas. While these solutions are not without "downsides", they are representative of an important movement towards more response, user-friendly voting systems. States and municipalities that currently use these systems have reported impressive positive feedback from their voter populations. They have implemented programs to minimize the potential for system abuse and to ensure that ballots are accurately distributed to constituents and then correctly counted, providing a further safeguard against election fraud.

I join my colleagues in supporting new thinking and strategies that broaden and expand opportunities for our constituents to cast their votes, and to do so with confidence that they will be accurately counted. The ongoing efforts of the Subcommittee in exploring these and other initiatives will continue to ensure that the public maintains the highest possible degree of trust in its elected officials and system of government."

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The Committee on House Administration is the committee of the U.S. House of Representatives charged with the oversight of Federal elections, the Smithsonian Institution, the Library of Congress and the day-to-day functions of the House of Representatives.

COMMON CAUSE
Holding Power Accountable

Common Cause Testimony for the
Subcommittee on Elections of the House Oversight Committee
Hearing on Absentee Voting and Vote by Mail
October 16, 2007

Submitted by Bob Edgar
President and Chief Executive Officer
Common Cause

Common Cause is a national nonpartisan nonprofit advocacy organization founded in 1970 by John Gardner as a vehicle for ordinary citizens to make their voices heard in the political process. On behalf of our 300,000 members and supporters, we appreciate the opportunity to submit this testimony to the House Subcommittee on Elections regarding absentee voting and voting by mail.

Common Cause generally supports making it easier for citizens to cast a ballot and for elections officials to accurately tally the results. Expanding the opportunities to vote absentee and by mail helps advance both of those goals. To this end, Common Cause supports bills introduced by Representative Susan Davis to allow all citizens to cast a ballot by mail if they prefer to in a federal election (H. R. 281), track the processing of their mailed in ballot (H.R. 1646), and establish a grant program for vote by mail pilot projects in the states (H. R. 1667.)

Reasons to encourage voting by mail:

1) Voting by mail facilitates increased turnout.

When the United States' voter turnout is ranked among democratic governments across the world, we come in 140th out of 163.[1] Despite huge get-out-the-vote efforts by both parties in 2004, still only 60.93 percent of the eligible population voted. [2] In midterm election years, the turnout is well below 50 percent. Studies show that voting by mail produces a slight increase in turnout in general elections and a more significant increase in turnout in local, off-year, and special elections. One study in Oregon found a 10% increase in turnout as a Vote By Mail (VBM) program was implemented[3]. But some have suggested that it was caused by other factors such as hotly contested elections and novelty of the idea. Other studies have found an increase of 4.7% in presidential elections and mid-term elections from 1980 to 2006[4] and a 4.5 percent increase in Washington state elections.[5] Rather than sparking participation among citizens who never vote, it appears that the added convenience of voting by mail serves primarily to retain higher participation among those voters who tend to vote in general elections by making it easier for them to vote in traditionally lower-interest local, special, or nonpartisan elections.[6] While not a panacea for the low voter participation rates we see in the United States, anything that can help turn the tide is a welcome and important step.

2) Voting by mail provides time for greater voter consideration of candidates and issues. When casting a ballot in a traditional polling place, voters may feel rushed to complete their ballots. Especially if they have waited in a long line to reach the polling place and perhaps taken time away from work or family responsibilities, voters naturally want to get the process over quickly and may not take as much time as they should to consider their choices or complete the voting process carefully enough to ensure that they made no errors in casting their ballot.

There are strong indications that when given a chance, many voters prefer to fill out their ballot at home, enjoying greater time to deliberate and research their choices. In the 2004 elections, 20% of voters cast ballots by mail nationwide, indicating a strong voter preference.[7] A recent survey found 81% of Oregonians prefer voting by mail now that the state has shifted to all-mail elections.[8] In the 2006 general elections, 85% of voters in Washington cast their ballots by mail (where 33 of 39 counties conducted all mail elections)[9] as did 42% of Californians through a permanent absentee program.[10] Citizens are in-effect voting with their feet by flocking to vote by mail programs when given the opportunity.

3) Voting by mail reduces Election Day logistical problems of equipment shortages/failure, long lines, and poorly trained poll workers. In 2004, Ohio saw long lines at many polling places as a result of not having deployed enough electronic voting machines to each location. In 2006, many Maryland polling places did not open on time because poll workers did not have appropriate plastic cards to activate election machines. Denver also saw long lines in 2006 due to election problems; many people gave up and did not vote as a result. In Sarasota, more than 18,000 votes were not recorded in the last congressional elections, most likely due to errors with touch screen machines. Vote by mail solves these problems because it provides voters with plenty of time to cast ballots and avoid long lines while also providing election officials with ample time to count and process ballots. Because VBM uses paper ballots, it avoids the many concerns about electronic voting machines that lack an audit trail to use in cases of recounts or mishaps. Two academic teams have concluded that VBM programs offer a more accurate vote count than traditional elections.[11]

Using a signature match for mail in ballots is also a superior method for preventing fraud than requiring voters to present photo ID at polls. Unlike photo ID requirements (which can both disenfranchise many legitimate voters who either forgot their ID or do not have a picture ID, and also slow down the voting process causing long lines), vote by mail allows election officials to compare signatures on the outside of a sealed voter envelop with the signature of a voter in their registration process. This signature verification, the same system used to verify signatures on voter petitions to qualify candidates or initiatives for the ballot, allows for greater accuracy and can apply to all voters without discrimination. Oregon has been remarkably free of allegations of fraud in its VBM program. In 2004, one group did claim that six voters had voted twice using VBM, but further investigation revealed that in five cases the claim was false and the sixth case was already being investigated by local elections officials.[12]

An all mail ballot program is less likely to be disrupted by bad weather, natural disaster, or worse. As one example, Tillamook County in Oregon uses an all mail system for elections. In November 2006, 70 percent of registered voters cast their mail-in ballots even though on Election Day some 13 inches of rain fell and the Governor had declared a state of emergency. Had Tillamook relied on a one-day polling place process, its turnout would likely have been dramatically reduced. It is sad but important to remember that September 11, 2001 was a local Election Day for New York City. Election Days are symbolic of our democracy and important to our government functioning so they could

be possible targets for attacks in the future. Spreading Election Days into Election Weeks through voting by mail makes them less vulnerable to any form of disruption.

Real and Potential Concerns

It is important that vote by mail programs are implemented correctly. Common Cause has identified two mistakes to avoid:

1) **The vote by mail program must include all registered voters.** Common Cause research in Denver, Colorado uncovered the fact that many voters did not receive ballots in the mail during a recent all mail municipal election because they had failed to vote in the previous year's November election and had been marked as "inactive." This policy led to a decline in the electorate by 38% citywide and a decline of 50% within heavily Latino precincts.[13]

2) **The vote by mail program must be universal and well publicized.** California has allowed small precincts of fewer than 250 voters to conduct all mail elections at times when neighboring precincts are conducting in-person polling place elections. Depending upon the election, a voter may find herself in one of these all mail elections one cycle but needing to go to an in-person polling place in the next election. A citizen's coworker or friend might be talking about going to vote in person while someone living in one of these small precincts might not know that the election is only by mail for their precinct. This inevitably leads to complaints by voters on Election Day unable to find their polling place because in fact there is none. Research has found that these orphan precincts have slightly lower (2.6% to 2.9%) turnout in general elections as a result of the confusion, although even with this disadvantage they still see higher turnout (7.6%) in off-year local elections.[14]

What about Ethnic Voters?

Valid concerns have been raised about whether vote by mail programs could skew election results by increasing turnout among some demographics but decreasing it among others. Some have argued that ethnic minorities, who may face language barriers or move frequently, may participate in lower numbers in vote by mail elections. Recently released Common Cause research into all mail elections in Denver, Colorado found just the opposite. Voters in heavily Latino districts had relatively higher rates of participation in all mail elections compared to polling place elections. Turnout in the 48 most heavily Latino precincts in Denver trailed citywide turnout by 37 percent in the 2004 general elections conducted at polling places, 14 percent in a May 2005 municipal polling place election, but only 3 percent in a May 2007 municipal election conducted by mail.[15] Denver's first all mail election in 2001 saw a citywide increase in turnout of 17 points compared to its 1999 polling place election, but heavily Latino precincts saw an increase of 55 percent.[16]

A survey in Oregon found similarly high levels of satisfaction among white (81%) and non-white (79%) voters.[17] While this concern warrants further study, we to date have not

uncovered any evidence suggesting that voting by mail decreases turnout among ethnic minorities or any other demographic.

Recommendations:

In order to ensure accurate and fair elections, it makes sense to provide all voters in the United States an equal opportunity to cast their ballot through the mail. Currently, voters in 28 states have the option to vote by mail upon request, but in other states this opportunity is restricted. H.R. 281 would establish a universal right to vote by mail in federal elections and would provide for more uniform voting access across the country.

Common Cause encourages states and localities to experiment with all mail elections, with the following recommendations in mind:

1) Mail ballots to all registered voters. Mailing ballots only to voters deemed "active" by virtue of their recent participation in elections deprives many voters the opportunity to cast a ballot.
2) Heavily publicize the program, especially when ballots are being mailed out so that voters who do not receive ballots due to mail errors have time to request them.
3) Prohibit efforts to influence a persons vote while they are filling out a mail ballot and establish a hotline for voters to report attempts at fraud or coercion. Voter guides should include a warning about voter intimidation by spouses, employers, churches, nursing homes, or any one witnessing a ballot being filled out.
4) Create a thorough process for checking voter signatures on mailed in ballot envelops to their signatures on file with their voter registration, as is currently done in Oregon.
5) Provide official drop-box locations where voters can deposit ballots on and up to Election Day without paying postage costs. Local officials must ensure that there are an adequate number of drop off boxes for people who want to physically cast their ballots on Election Day or ahead of time, and ample opportunities for voters with disabilities or language barriers to cast ballots on accessible machines as required by the Help American Vote Act
6) Provide public data on which voters have had their mailed in ballots received so that voters can confirm their vote has been cast and civic organizations can conduct Get Out The Vote Drives. H.R. 1646 would require a vote tracking system in all federal elections.
7) Federally funded pilot programs to expand absentee voting and voting by mail should require county officials to consult with voter protection groups, ethnic minority groups, disability groups, representatives of the military, and other civic organizations when designing plans to implement an all vote by mail program to ensure that the program will meet the needs of their constituencies.

Because of the potential concerns, it will be important to carefully monitor how vote by mail programs are implemented. The provisions in HR 1667 to carry out a study of vote

by mail programs is a critical component and many states may not do sufficient follow-up research without the federal funding and requirement to do so.

End notes:

[1] According to the International Institute for Democracy and Electoral Assistance, Stockholm, Sweden.
[2] Professor Michael MacDonald, http://elections.gmu.edu/Voter_Turnout_2004.htm
[3] "The Effect of All Mail Elections on Voter Turnout," Priscilla Southwell and Justin Burchett, *American Politics Quarterly*, 28 (1) 72-79.
[4] "Early Voting and Turnout," Paul Gronke, Eva Galanes Rosenbaum, Peter Miller, Early Voting Information Center at Reed College, 2007.
[5] "Voting by Mail and Turnout: A Replication and Extension," Paul Gronke and Peter Miller, Early Voting Information Center at Reed College, draft paper 2007.
[6] "Who Votes by Mail: A Dynamic Model of Individual-Level Consequences of Voting-by-Mail Systems," Adam Berinsky, Nancy Burns, Michael Traugott, Public Opinion Quarterly 2001 Vol. 65, pp. 178-197.
[7] National Annenberg Election Survey, released March 25, 2005.
[8] "Five Years Later, a Reassessment of Oregon's Vote by Mail Electoral Process," Priscilla Southwell, Department of Political Science, University of Oregon, 2003.
[9] "Early Voting and Turnout," Paul Gronke, Eva Galanes Rosenbaum, Peter Miller, Early Voting Information Center at Reed College, 2007.
[10] "Historical Absentee Ballot Use in California," California Secretary of State, available at http://www.sos.ca.gov/elections/hist_absentee.htm
[11] "Ballot Integrity and Voting by Mail: The Oregon Experience," Paul Gronke, Report to the Federal Commission on Election Administration, June 15, 2005.
[12] "Ballot Integrity and Voting by Mail: The Oregon Experience," Paul Gronke, Report to the Federal Commission on Election Administration, June 15, 2005.
[13] "Latino Voters Do Vote by Mail—But only if We Let Them," Common Cause report, October 2007.
[14] "Will Vote by Mail Systems Increase Participation? Evidence from California Counties," Thad Kousser and Megan Mullin, April 2007.
[15] "Latino Voters Do Vote by Mail—But Only if We Let Them," Common Cause report, October 2007.
[16] "Voting Through the Mail and Minority Voters," Bighorn Policy Center report, 2002.
[17] "Five Years Later, a Reassessment of Oregon's Vote by Mail Electoral Process," Priscilla Southwell, Department of Political Science, University of Oregon, 2003.

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Oregon's Vote-By-Mail Fails To Fulfill Its Promise

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Commentary
by Melody Rose

October 20, 2002 — That vote-by-mail ballot headed your way is quite a performer — a cost saver and turnout-enhancer, or so the politicians tell you. The trouble is, that's not true.

It's high time you're told the real story about vote-by-mail. This much-lauded convenient way of voting has failed to deliver on its chief promise: significantly increase voter turnout. The percentages look terrific — 80 percent participation during the 2000 Bush-Gore presidential race or an unofficial 44 percent for the state's September special election.

These numbers, well above national averages, are typically cited as evidence of vote-by-mail's success in delivering higher turn-outs. But the method used to produce those impressive percentages counts only registered voters, not all eligible voters. There's a big difference.

Tested for a decade in primary and special elections, mail-in voting will be used exclusively for only the second time in a general election next month. Has this system really delivered on its promises? Has Oregon's experiment with vote-by-mail truly succeeded?

Here's where the confusion begins. Oregon measures turnout as a percentage of those registered to vote. And those who register, vote. But political scientists measure turnout as a percentage of those eligible to vote. Using this figure, we capture a more accurate picture of voting participation. Turnout in Oregon looks much more like that of states with old-fashioned voting booths. Using U.S. Census estimates about Oregon's voting-eligible population, 62 percent of eligible Oregonians voted in November 2000, while a mere 32 percent bothered to last month.

Sure, these adjusted turnout figures are still above national averages, but they're lackluster. Who can forget the 2000 election for president? Predictions called for a tight race; voters knew the stakes were high. Those dynamics should have prodded more Oregonians to vote, especially with the added convenience of marking their ballot at home.

September's special election also marked an important political moment. With the state in fiscal crisis, and two landmark measures on the ballot, vote-by-mail should have delivered a stellar performance.

Scholars are divided on whether mail-in voting increases turnout. But the most recent research suggests mail-in voting boosts turnout only among those demographic groups likely to vote anyway. Its success hangs largely on how well a state trains its citizens to use the system.

As for the often touted savings, we have no evidence vote-by-mail saves money — that largely depends on how *"costs"* are defined. Expenses have shifted from the state to the voter, who must pay for increasingly expensive stamps to deliver the ballot. What's more, the state pays to mail ballots to all registered voters whether or not they use them. Fraud still a problem The costs of vote-by-mail could go well beyond the pocket book. Despite the best efforts of election officials, vote-by-mail brings a perpetual risk of systemic fraud. Texas officials have begun documenting ballot selling and theft. Although Oregon has not had to battle fraud, I'm convinced that will happen sooner or later. Human nature hasn't changed fundamentally since the 19 th century when we didn't have the secrecy of the voting booth to prevent widespread voter corruption. Here are some likely scenarios:

Ballots will be stolen from mailboxes, as they are in Texas. Third-party ballot collectors, who register with the state and agree to deliver your ballot to an official site, will throw away whole groups of ballots based on voters' sex, perceived political leanings or race.

Ballots mailed to senior citizen's homes will be systematically stolen, destroyed or sold. Spouses will begin throwing away or fraudulently signing each others' ballots. *"Get out the vote"* efforts will take on new meaning in Oregon. Sense of community goes, too. Beyond inviting fraud, there is a symbolic cost to voting from home. Voting the traditional way — at the firehouse, local library or school — reminds us of our commonality, that we live in a community. When we dig our ballot out from the junk-mail and credit-card offers, only to vote while watching the latest rendition of *"Survivor,"* we cheapen the process and deprive ourselves of a simple reminder of our collective responsibility.

It may be sentimental and old-fashioned, but the pancake breakfast model of elections does more to inspire participation than mail-in balloting ever will.

Timing is another big issue. When you turn in your ballot weeks before election day, you make significant decisions prematurely. The most crucial and revealing phase of any election is in the last weeks — even days, research has shown. Mail-in voting forces candidates to inundate us with elections materials for an even longer period, likely resulting in more expensive campaigns. And you'll inevitably see local TV stations conducting *"exit polls"* and reporting on *"results"* weeks before election day. Given all of these problems, vote-by-mail might actually dampen civic participation, not improve it. Voters already had the right If you think all these risks are too apocalyptic and still prefer voting by mail because of its convenience, consider this: Prior to adopting universal vote-by-mail, Oregon had the most lenient absentee voter law in the country.

Anyone who needed or wanted to vote-by-mail could register as a permanent absentee voter. This law upheld the rights and wishes of those who needed to vote away from home. Vote-by-mail wasn't even necessary.

When this method was proposed, it was staged as a bold, innovative and practical idea that would surely add convenience and increase turnout. Without a doubt, we need creative solutions to strengthen the integrity of modern elections and inspire greater civic participation.

Unfortunately, vote-by-mail is a gimmicky, pale imitation of genuine voting reform; it does nothing to address the root causes of low turnout. Despite the hard work and thoughtful implementation of Oregon's election officials, vote-by-mail adds significant risk to electoral integrity.

Low turnout doesn't result from a lack of convenience; it's the result of widespread disengagement with politics and the electoral process, particularly among the young and poor. True reform needs to increase the perceived importance and relevance of voting, not diminish it.

While we wait for more profound electoral reform, there are ways to protect your vote. If you don't have your ballot by Wednesday, call your county elections office. If you are able, vote on election day, after you have all of the information available about candidates and measures.

Don't answer pollsters' questions about your vote. Vote in private. Either take your ballot to your county board of elections or to an official, designated ballot drop-off site. If you mail your ballot, call your county board of elections to verify it was received.

After you vote, think about the need for change. Oregonians deserve a state-of-the-art election system that protects each vote and draws every voter into the system. Finally, don't believe those turnout numbers Nov. 6.

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V.I.P.
VOTER INTEGRITY PROJECT

Views on vote by mail from election and law enforcement experts

In Washington state

- *"I think it is inconceivable that mail-in balloting can possibly be considered more secure than polling place voting."*[i] –Bev Harris, author of *Black Box Voting*

- *"Both the secret ballot and public vote count, as enshrined in our Washington State constitution, are the cornerstones of our democracy. Forced mail voting takes away the secret ballot...Using a voter correctable precinct based optical scanner is currently the best way to vote."*[ii] –Jason Osgood, spokesperson for Washington Citizens for Fair Elections, a progressive citizen's group

- *"Moving to vote by mail undermines the security of the paper ballots, and removes any real ability to audit the system...For the record, if you are trying to avoid [DRE] machines by using absentee ballots, absentee ballots are fed into Diebold counting machines anyway."*[iii] –Gentry Lange, former Green Party candidate for King County Executive

National

- *"Absentee balloting is vulnerable to abuse in several ways: Blank ballots mailed to the wrong address or to large residential buildings might get intercepted. Citizens who vote at home, nursing homes, at the workplace, or in church are more susceptible to pressure, overt and subtle, or to intimidation. Vote buying schemes are far more difficult to detect when citizens vote by mail."*[iv] –Final report from the 2005 Commission on Federal Election Reform, chaired by former President Jimmy Carter and former Secretary of State James Baker

- *"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."*[v] –Report of the 2001 National Commission on Federal Election Reform

- *"The interviewees largely agreed that absentee balloting is subject to the greatest proportion of fraudulent acts..."*[vi] –Report on interviews of 26 election experts in an EAC report on voter fraud

- *"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."*[vii] –Kansas Secretary of State Ron Thornburgh

- *"It seems like whenever there is hanky-panky in elections, it's usually through absentee voting."*[viii] –Gary Bartlett, North Carolina Director of Elections

- *"By allowing any person...to vote an absentee ballot by mail...you would be opening a gaping opportunity for fraud."* –former Georgia Secretary of State Cathy Cox[ix]

- *"[Vote-by-mail] provides the best opportunity for those seeking to undermine the election process and commit fraud on a much larger scale...the anonymity and privacy of the ballot—critical ingredients of the election system's integrity—are most easily compromised when the voters cast absentee ballots."*[x] –Report from an independent panel of election experts sponsored by the Century Foundation

- *"The lack of in-person, at-the-polls accountability makes absentee ballots the tool of choice for those inclined to commit voter fraud."*[xi] –Florida Department of Law Enforcement

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[i] Email from Bev Harris to John Gideon, October 5, 2006
[ii] Posted June 6, 2006 on http://www.soundpolitics.com/archives/006294.html
[iii] Posted by Gentry Lange on http://novbm.wordpress.com/why-not-vbm/
[iv] "Building Confidence in U.S. Elections," Commission on Federal Election Reform, September 2005, pg. 46.
[v] Final Report, National Commission on Federal Election Reform, August 2001.
[vi] "Election Crimes: An Initial Review and Recommendations for Future Study," U.S. Election Assistance Commission, December 2006, pg 9.
[vii] Tim Hrenchir and Liz Montano, "Mail Ballot Mix-Up Illustrates Potential Flaws," *Topeka Capital-Journal,* March 31, 2005.
[viii] Michael Moss, "Absentee Votes Worry Officials as Nov.2 Nears," *New York Times,* September 13, 2004.
[ix] *Common Cause v. Billups,* 439 F.Supp.2d 1294, 1330 (July 14, 2007).
[x] "Balancing Access and Integrity," The Century Foundation, July 2004, pg. 53.
[xi] Florida Voter Fraud Issues: An FDLE Report and Observations, January 5, 1998