

Expanding Voting Options in the United States

A. Problem: the risk of low voter turnout amidst a pandemic and rising structural barriers

As the coronavirus continues to spread throughout the country, there are growing concerns about whether in-person voting can be conducted safely in the months ahead, especially for the November 2020 election. At the same time, certain states have made voting more difficult by reducing the number of polling places, raising obstacles to registration, altering voter ID laws, suppressing early voting, and purging voter rolls. All these factors put the long-term health of our democracy at risk.

Underlying the current impediments to voting are systemic reasons for persistent nonparticipation by the American public. The United States, once an international beacon of democratic ideals, currently ranks 26th in voter turnout among 32 members of the Organization for Economic Cooperation and Development (OECD). Most of the OECD members are highly developed, democratic states. According to Pew Research the U.S. had a 55.7% turnout among the voting age population in 2016. This was well behind Belgium (87.2%), Sweden (82.6%), Denmark (80.3%), Australia (79%), and South Korea (77.9%). One key difference cited in the research is voter registration. The U.S. has one of the lowest rates of voter registration among OECD countries, many of which automatically register voters or seek them out. Another factor is compulsory voting (e.g., Belgium), which consistently increases voter turnout. Chile went from compulsory voting to voluntary voting in 2012. Turnout for Chile's 2013 presidential elections plunged to 42%, compared to 87% in 2010 when the compulsory-voting law was still in place.

This does not excuse citizens from their responsibility to participate in democracy and cast informed votes. But large segments of American society feel powerless to make a difference, a self-fulfilling anxiety. This sense of futility or inevitability is partially justified by the electoral college system in the context of unprecedented political polarization. Most states are now dominated by a single political party. Somewhat related to citizen paralysis due to hopelessness or complacency, is the problem of refusing to vote as a form of protest. Negative campaigning has eroded public confidence in politicians of all kinds. Nevertheless, as Keith Ellison wrote, "Not voting is not a protest. It is a surrender."

B. Solution: combination of automatic voter registration, on-line portals to request ballots, robust vote-by-mail systems, and early voting at polls

The ability for people to choose their leaders is the foundation of our democracy. In November, elections will be held across the country that determine not only who the president will be but also the outcome of 11 gubernatorial elections, 35 of 100 U.S. Senate seats and all 435 seats in the House of Representatives. While states can shift primary dates, the November 3rd federal election date is set by federal law. One way to ensure timely elections without undermining public health is to expand mail voting. Another is to allow early in-person voting to diminish the risk of long lines and large crowds.

If we are to have safe, healthy, and fair elections this year in the face of one of the worst pandemics in a century, Americans must make widespread use of mail ballots. Millions of Americans want to protect their health and that of others by voting by mail. Election administrators and other leaders from across the political spectrum have urged support to make the necessary adjustments to their election infrastructure. In the last two federal elections, roughly one out of every four Americans cast a mail ballot. In five states — Colorado, Hawaii, Oregon, Utah, and Washington — mail balloting has been the primary method of voting. Three other states — California, Nevada, and North Dakota — allow counties to

opt in to mail balloting. Another twenty-eight states and the District of Columbia offer no-excuse absentee voting.

With precedent so well established, states need only the guidance and funding to implement full-scale mail balloting. The proposed solution would require an overhaul of our voting system so that it can process tens of millions of additional mail ballots. States also need to maintain safe and sanitized in-person voting. While most Americans would likely choose to vote by mail, it is crucial to provide early, in-person voting options. These would include curbside or drive-through voting, accommodations for the disabled, and accessible voting places in rural and tribal areas. The 39 states that already offer online registration would need to bolster their systems to accommodate a surge and make sure that everyone can access them. States without online registration capabilities would need to set up systems immediately or otherwise ensure their registration process is convenient and robust.

The proposed solution would build on present realities. Since 1992, according to the M.I.T. Election Data Science Lab, election day voting has declined from over 90% of the total votes cast to just over 60%. During that time, mail/absentee voting has steadily increased from 7% to 22% and early, in-person voting has increased from 0% to 15%. According to a recent Gallup poll, 64% of Americans support their state allowing all voters to vote by mail or absentee ballots. This includes 83% of Democrats, 40% of Republicans, and 68% of independents. When conditioned on the current pandemic, public sentiment leans even more toward voting by mail. An April 2020 Reuters/Ipsos poll found that 72% of all U.S. adults, including 65% of Republicans, supported a requirement for mail-in ballots in November as a way to protect voters if the coronavirus continues to pose a threat later this year.

Absentee or mail-in voting should be universally available but not mandatory. Some will continue to vote in person, either out of preference or necessity. In the 1980s, California became the first state to allow eligible voters to request absentee ballots for any reason at all, including their own convenience. By 2018, 27 states had adopted similar no-excuse absentee laws. In 2018, 26% of voters in no-excuse states cast their ballots by mail, compared to 9% in states that still required an excuse. Among states offering universal mail ballot voting, 73% of the voters in Colorado, 59% in Oregon and 65% in Washington returned their ballots to some physical location.

Federal legislation has been drafted to implement and pay for universally available vote-by-mail. The Brennan Center for Justice estimates the pandemic-associated costs of properly running the 2020 elections (including the primaries as well as the general) at \$4 billion. So far, Congress has promised \$400 million, with Democrats pushing for more and Republicans blocking their bills. The next legislation to pass Congress must ensure all eligible Americans can vote safely by fully funding vote-by-mail and requiring states to provide this option to all registered voters.

Senators Amy Klobuchar and Ron Wyden have jointly sponsored such a bill, known as the Natural Disaster and Emergency Ballot Act. They maintain, "The best way to ensure that this virus doesn't keep people from the ballot box is to bring the ballot box to them. Our bill ensures [states] have the resources and guidance necessary to protect the constitutional rights of every American voter and keep democracy functioning as we weather this disaster." A House version of this bill, titled the Resilient Elections During Quarantines and Natural Disasters Act of 2020, asks for \$500 million for states to implement these changes (less than the \$4 billion House Democrats had requested). With either bill, states would have to enact no-excuse absentee vote-by-mail, make contingency plans public, honor online requests for absentee ballots, offer downloadable and printable absentee ballots, and guarantee

the counting of absentee ballots postmarked or signed before the close of the polls on Election Day. In addition, polls would be kept open 20 days to avoid long lines and large crowds.

The concept has broad support. “It’s actually the same process that we already have in place for military and overseas voters,” said Amber McReynolds, president of the National Vote at Home Institute. Senator Klobuchar noted that “Republican governors across the country, including just recently in Maryland and New Hampshire, have actually ordered it. Republican secretaries of state, like in Washington state, are solidly behind this.” Former first lady Michelle Obama’s organization, “When We All Vote” formally announced support for Klobuchar’s vote-by-mail bill.

C. Common Objections to Vote-by-Mail

Opponents of full-scale voting by mail generally cite one or more of the reasons listed below. These reasons could be used to contest absentee voting of any kind, although opponents stop short of making that argument. This suggests what they really oppose is making vote-by-mail accessible to everyone. Indeed, President Trump habitually uses absentee ballots despite being their most prominent critic.

1. Potential for Voter Fraud

This claim is not supported by evidence. States that have adopted universal vote-by-mail have shown it can be done securely. It is true that absentee-ballot fraud, while rare, has been the most prevalent type of election fraud, comprising about 24% of reported prosecutions between 2000 and 2012. But the total number of cases was just 491 — during a period in which literally billions of votes were cast. Oregon has sent out more than 100 million ballots since 2000, with just a dozen or so cases of proven fraud. The last absentee-fraud case in Washington was in 2010, before that state shifted to a 100-percent vote-by-mail system. Colorado had one absentee-voting prosecution before and one after adopting the all-mail system. “The claim of fraud is a distraction,” said Jena Griswold, the secretary of state in Colorado, where 95 percent of people voted by mail in 2018. “We have a history of clean elections. When we think there is the possibility of double voting, we send every case to the attorney general. Our number for 2018 was 0.0027 percent.” Even the Heritage Foundation’s voter-fraud database contains only 13 instances of absentee voter fraud across the five states with universal vote-by-mail.

When ballot fraud does occur, automated systems generally detect it. A political campaign manager within North Carolina’s ninth Congressional district defrauded voters by collecting unfilled ballots and then filling them in to favor the campaign’s candidate. The fraud was detected, and the Board of Elections refused to certify the result. The candidate Mark Harris, though not indicted, was warned by his son (an assistant U.S. attorney) of the potentially fraudulent practices of his Republican political operative. Harris declined to run again in a special election.

Charles Stewart, a professor of political science at M.I.T. who studies voting systems, identified several documented voting fraud cases of recent decades involving mail or absentee ballots. “They’re stories, they’re dramatic, they are rare,” he said. “The North Carolina case illustrates the fact that frauds big enough to sway the outcome of an election — those involving campaigns rather than individual voters — will likely be detected,” said Michael McDonald, a University of Florida political scientist and elections scholar. Because mail voting leaves behind a paper trail — which

election officials can audit to verify that votes were counted as cast — it may be even more secure than in-person voting. And paper ballots can't be hacked.

Provisions for securing mail-in ballots include identity verification, bar codes, ballot tracking through the U.S. Postal Service, secure drop-off locations with multiple ballot return options, post-election audits, and physical polling sites as a backup for people who lack access to mail or simply prefer to vote in person. Oregon's safeguards provide a robust model. All registered voters are sent a ballot approximately three weeks before Election Day. If a voter no longer lives at the address on record, the ballot is not forwarded. After marking the ballot, the voter puts the ballot in a secrecy envelope, which contains no identifying information. The secrecy envelope is then placed into a second mailing envelope. Voters are required to sign the outside of this mailing envelope, which they then mail or take to one of the numerous drop-off sites in the area. As a further convenience for voters, Oregon recently moved to prepaid postage for these mailing envelopes. When the ballots arrive at the local county-elections division, the outside signature is compared with the original registration signature on record at the office, to protect against fraud.

Colorado also mails ballots to all registered voters, who can then choose to mail back their completed ballot or drop it in one of many secure collection boxes. Or voters take it to a county vote center, staffed with personnel, to cast their ballot in person during the early voting period or on Election Day. Same-day registration ensures that people who miss the state's registration deadline for mail voting can still register and vote in person (Colorado also provides automatic voter registration throughout the state).

Some critics have voiced concern about the possibility of undue influence on the voter, as there is no guarantee of a secret ballot. A spouse or partner could theoretically attempt to coerce a voter into voting a certain way. In Oregon, doing so risks a criminal penalty. Any attempt to influence one vote at the risk of criminal liability would be irrational. Regardless, the already common absentee ballot system is open to the same criticism.

2. Potential for Political Bias

Though misplaced, this concern seems more genuine than voter fraud. In opposing a \$2 billion allocation by Congress to implement mail balloting at the state level, President Trump remarked that the Democrats want "levels of voting that, if you ever agreed to it, you'd never have a Republican elected in this country again." In Georgia, where the secretary of state was mailing all voters absentee ballot requests for the May primary, State House speaker David Ralston said, "This will be extremely devastating to Republicans and conservatives in Georgia." He added, "This will certainly drive up turnout." Not only does fear of increased voter participation reflect a cynical view of American democracy, but the suggestion that such an increase will favor one party is unfounded.

Nationwide, about the same share of Republicans and Democrats voted by mail in 2016, according to M.I.T. professor Charles Stewart. In partisan terms, "it is remarkably neutral," wrote Andrew Hall, a political-science professor at Stanford University. Colorado first used a vote-at-home system for the 2014 election, in which Democrat Mark Udall lost his Senate seat. People pegged as near-certain Republican voters beat turnout predictions by 2.3 points, while near-certain Democrats outperformed predictions by 1.8 points. A more recent study found that Democrats and Republicans in Colorado benefitted about the same amount in 2018. Voter participation went up around 8

percentage points for each party. The turnout of independents increased by 12%. For most voters, mail voting is not a partisan issue. Support is even stronger among Democrats and Republicans living in states that already have all-mail voting, as reflected in the overwhelmingly Republican state of Utah. It is a rare democratic reform that attracts support across parties (if only at the grass-roots level), helps everyone get more involved, and reduces inequities.

The current system of predominantly same-day voting has already biased voter participation along lines of education, income, and other demographic factors. In the 2008 election those holding advanced degrees were three times more likely to vote than those with less than a high school education. Persons making over \$150 thousand were twice as likely to vote in the 2016 presidential election as persons making less than \$10 thousand. Mail balloting has been shown to narrow these gaps. Michelle Obama said, “There is nothing partisan about striving to live up to the promise of our country; making the democracy we all cherish more accessible.”

In May of 2020 Republican strategist Mark Stutzman said, “It is time for Republicans to get on the vote-by-mail train.” He pointed to a race in Southern California to argue that voting by mail can help Republicans win. Each of California’s 25th District’s 425,000 voters received a mail-in ballot for the most recent election. While registered Democrats outnumber registered Republicans in the district, by Election Day 10,000 more Republicans than Democrats had returned their ballots by mail.

3. Excessive Cost

Proponents admit that initial costs of running mail ballot elections will be higher for states that have relied primarily on in-person voting. These states will have to move quickly to sign contracts with vendors and order supplies, like specially certified paper for envelopes and ballots, high-speed scanners to count votes, and secure drop-off boxes. If they wait, they’ll risk running into shortages. In Wisconsin, when voting by mail rose suddenly (from 6% in previous elections to more than 70% in April of 2020), many people didn’t get to vote because counties ran out of envelopes and couldn’t fill all the applications for absentee ballots fast enough.

In the long run, voting by mail can be more efficient and less expensive. Counties in Colorado that adopted it and sent ballots by mail to every registered voter, spent less than \$10 per voter in 2014 compared with about \$16 per voter six years earlier. The same efficiencies apply to online voter registration, which follows the trend of conducting government business online. It helps save taxpayer dollars while reducing errors and cleaning up voter registration databases.

4. Delays in Counting Ballots

At worst, this is a temporary inconvenience. The states that have all-mail balloting count their ballots relatively fast and conduct elections that are accurate, accessible, and secure. The remaining states can meet the current standards for safe, secure and accurate elections, but it’s unlikely they’ll be as fast as those already well versed in this system. Switching over to a substantially mail-based voting system in a matter of months will almost certainly bring delays in counting millions of absentee ballots, particularly if administrators are not empowered to start tallying them until the end of Election Day. So, we will have to wait a little longer for results. The contested election of 2000 stretched into mid-December before the Supreme Court, in *Bush v. Gore*, cemented Florida’s vote certification and handed the presidency to George W. Bush.

5. Early or Absentee Voters Deprived of Last-Minute Information

Skeptics of convenience voting methods such as vote-by-mail argue that they encourage voters to cast their ballots before all the information from the campaign is revealed, thus compromising their civic duty. But it could also be argued that campaigns have less incentive to hold onto negative information about their opponents in the hope of gaining an advantage through an October surprise. In Oregon and other universal vote-by-mail states, there are no last-minute media blitzes. Instead, appeals are typically targeted at reaching voters one or two weeks before Election Day. Unlike most democracies, political campaigns in the U.S. – particularly at the national level – last many months and even years. The combination of mail voting and early voting will allow people ample time to do the research, weigh the options, and cast their vote without being unduly influenced by last-minute disclosures.

6. Will not Affect Voter Turnout

Some studies show only a marginal increase in voter turnout when implementing full-scale vote-by-mail. But most research shows a substantial increase. Voter turnout in Rockville, Maryland's municipal elections in 2019 almost doubled compared to the 2015 elections, largely because of the city's shift to a vote-by-mail system in which every registered voter was mailed their ballot ahead of time. Political science researchers from Cal Berkeley, Washington University, and Stanford found that Colorado's switch to vote-by-mail in 2013 increased voter turnout among all groups, especially the historically disenfranchised: young people, voters of color, less-educated or lower-income people and blue-collar workers. The 50% least likely to vote – largely young voters – participated well above predicted rates, while the 50% most likely to vote matched predictions.

In a study of the five states that offer all-mail voting, youth turnout increased by 16 percentage points. Blue-collar workers saw a 10% jump in turnout, and people without a high school diploma were 9.6% more likely to vote. Voters of color benefitted particularly, with a 13% turnout boost for African Americans, a 10% boost for Latino voters and an 11% increase for Asian Americans.

Evidence suggest that it takes time to establish new voting habits. For example, voter turnout in Colorado's first election offering universal mail ballots improved by only 3%. But that figure increased to 9% four years later. Colorado also had years to prepare for its expansion of mail voting. Communicating with voters about mandatory vote-by-mail matters a great deal and can eventually overcome the inertia of voting habits. It is equally important to accommodate those who prefer to vote in person.

Finally, many special elections are what political scientists call "low-stimulus elections." In such a situation, even politically aware voters might find it less important to go to the polling place for a single issue, but the vote-by-mail format makes it easier for them to vote on even one ballot measure or race.

D. Uncertainty of Postal Service

The Postal Service normally runs without taxpayer funds, but its leaders have warned it could run out of cash by September without a lifeline from Congress. A functioning Postal Service is a prerequisite for establishing a national vote-by-mail program for the elections in the fall. The Postal Service is a lifeline for rural and tribal communities. Americans consistently rate it their favorite federal agency, and with a

work force of more than half a million scattered across the country, it employs more people than any government entity outside the military. Democrats have been pressing to include \$25 billion in the next round of relief legislation to prop up the Postal Service. A bipartisan plan would provide \$13 billion.

President Trump recently called the Postal Service “a joke,” promising to block any Congressional funding proposal. Whether motivated by personal grudge or fear of losing the 2020 election, Mr. Trump’s attitude runs counter to public opinion. The installment of one of his financial backers and a longtime Republican donor as the postmaster general has raised concerns among Democrats and ethics watchdogs that the Postal Service will be politicized at a time when states are mobilizing their vote-by-mail efforts ahead of the 2020 election.

E. Conclusion

Two-thirds of Americans expect the current pandemic to disrupt voting in November, according to a late-April survey by the Pew Research Center. Many Americans could be prevented from voting because they cannot safely get to a polling station. Voting should not be a matter of life and death. The easiest and safest solution is to extend vote-by-mail and early voting options to everyone. States should take care in adopting these measures, to protect against voter fraud and undue influence. But they need not invent these protections as they go along; they can copy what five states have already done. This can be accomplished in time for the November election, but it is critical to act now and extend adequate funding to the states and the Postal Service. The amount of money needed pales in comparison to the federal appropriations for the Covid-19 outbreak. We must learn from Wisconsin. Neil Albrecht, executive director of the Milwaukee Election Commission said, “If states and the federal government don’t do more to help voters in November — starting now, with urgency — the barriers for some of them may be insurmountable.”

Only one so-called swing state is already set up for most people to vote by mail — Arizona, where 79 percent did so in 2018. The added importance of swing states to presidential election outcomes, and the time needed to fully implement vote by mail, underscore the urgency of starting right away. Election administrators looking to institute mail voting in time for November should carefully communicate the changes — and the reasoning behind them — to all voters.

Some will argue that the current system is ideal because it weeds out uninformed voters. But surveys consistently show that even people who vote faithfully often lack knowledge of how our government functions. In this hyper-partisan age how many voters truly evaluate the candidates and issues at stake objectively? Do most voters weigh the candidates’ knowledge, character, and leadership qualifications, or do they vote along party lines? One could argue that early voting or voting from home might enable people to exercise their franchise more thoughtfully and deliberately. But even if they do not, the constitution establishes no test for the right of citizens to vote. And the risks of nonparticipation may exceed the risks of ignorance. As Barack Obama warned, “Democracy breaks down when the average person feels their voice doesn't matter; that the system is rigged in favor of the rich or the powerful or some narrow interest.”

In our democracy, representative government is every citizen’s right. But only our votes can fulfill and preserve that right. Voting is a civic duty, like obeying traffic laws. The right to drive a motor vehicle is predicated on driving responsibly. To inhibit any citizen from voting is analogous to putting up barriers to safe driving. Just as clear-cut traffic laws make for safer highways, a transparent and convenient

election system will facilitate a more just democracy. It makes little sense that America, with one of the lowest voter participation rates in the industrialized world would make voting burdensome while Belgium, with the highest voter turnout, makes it compulsory. As citizens we must not allow partisanship, demagoguery, or unabashed disdain for democracy to strip us of our constitutional right to vote. Franklin D. Roosevelt said, "The ultimate rulers of our democracy are not a President and senators and congressmen and government officials, but the voters of this country."

Ronn Smith
Wyoming Rising
May 20, 2020