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

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

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

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

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

Does voting by mail and early voting increase turnout?

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

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

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

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

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

Concerns about vote-by-mail

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

Privacy of the vote and coercion

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

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

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

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

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

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

Transmission of the ballot

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

Lost votes because of a lack of error checking mechanisms

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

Concerns about early voting

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

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

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

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

Recommendations for Early In-Person Voting

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

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

Conclusion

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

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

Thank you and I look forward to your questions.

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

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

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

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

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

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