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EARLY VOTING REFORMS AND AMERICAN ELECTIONS

Paul Gronke*

INTRODUCTION

The United States is in the midst of a reform era. After the controversy surrounding the 2000 election results, Congress passed the Help America Vote Act (HAVA) of 2002.¹ As a result of HAVA, every state in the nation was required to establish a statewide voter registration system by 2006.² Disabled citizens are guaranteed access to the polls.³ America's men and women in the armed forces have their ballots counted in a timely fashion.⁴ And Native Americans, Latinos, and other disadvantaged groups that have traditionally faced barriers to participation have had these barriers reduced or eliminated altogether.⁵ Since 2000, non-partisan groups, political parties, and candidate organizations have paid far closer attention to the mechanics of ballot counting.⁶ Legal challenges have forced some states to abandon mechanical vote-counting systems in favor of presumably more reliable technologies, such as optical character scanning and touchscreen.⁷

These are the reforms that were mandated by Congress, endorsed by the President, and are being implemented nationwide. There is, however, a quieter set of reforms that have been advancing across the nation for more than a decade, a set of reforms that have a far greater potential to change the way that elections are being conducted, not only in the United States but worldwide. Some states and localities have been

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¹ See Mark Niquette, *Provisional Balloting Broadened by Judge*, THE COLUMBUS DISPATCH, Oct. 15, 2004, at 1A.

² Help America Vote Act of 2002, 42 U.S.C. §§ 15301–15545 (Supp. V 2005).

³ *Id.* §§ 15421–15425.

⁴ *Id.* § 15382.

⁵ *Id.* § 15481 (providing for “alternative language accessibility”).

⁶ See, e.g., Jennifer Griffin, *Senate Bill Aimed at Making Absentee Ballots from Overseas Count*, FOX NEWS, Aug. 1, 2008, <http://www.foxnews.com/story/0,2933,396345,00.html> (noting a bipartisan effort to improve ballot counting); Helping Americans Vote, <http://helpingamericansvote.org> (last visited Oct. 30, 2008) (referring to a non-partisan organization intending to make voting easier for American citizens).

⁷ See generally Michael A. Carrier, *Vote Counting, Technology, and Unintended Consequences*, 79 ST. JOHN'S L. REV. 645 (2005) (discussing traditional and modern voting technologies and errors associated with each type).

systematically relaxing the requirements for absentee balloting;⁸ others provide for a period of in-person early voting in which citizens can cast their ballots as early as a month before election day;⁹ and finally, the State of Oregon mandated 100% voting by mail since 1998.¹⁰

For an increasing number of Americans, then, “election day” is a historical relic. Instead, ballots are cast at the individual’s convenience, up to three weeks before the scheduled date of the election.¹¹ Why has this change taken place? What consequences might this change have for the behavior of candidates, non-partisan political groups, and the voters themselves? Does early voting augur well for the quality of democratic decision making in the United States?

This Article looks at these important political questions. In the first section, I describe the advancement of early voting systems, a process that started slowly in the 1980s but has accelerated rapidly in the past few years, followed by a review of the scholarly literature on the subject. Next, I propose a research agenda for scholars and policy reformers who are interested in early voting. I argue that, for *campaigners*, early voting alters their strategic calculus. It increases the uncertainty about turnout and as a result increases campaign costs. For *voters*, early voting provides an opportunity to express their preferences quickly and conveniently, but we are likely to observe this behavior only among the most well-informed and politically aware. Much less clear is how early voting impacts less well-informed voters. Finally, I provide a first set of insights to this research agenda, using a unique set of data on individual level ballot returns from the State of Oregon. The empirical results show that early voters, as expected, are those citizens who are more partisan, who live in areas with longer commute times, and have higher than average incomes and education levels. I close by suggesting avenues for future research, focusing particularly on how the rules of the game, the state of the campaign, and the makeup of the electorate interact in complex and sometimes unpredictable ways, thus making it difficult to predict the impact of early voting reforms on elections and electoral outcomes.

I. WHAT IS EARLY VOTING?

For the purposes of this Article, early voting is a blanket term used to describe any system where voters can cast their ballots before the official election day. This

⁸ See, e.g., Terry Christensen, *Absentee Balloting has Changed Voting—and That’s Good*, MERCURY NEWS (San Jose, Cal.), Oct. 10, 2006, at A1.

⁹ See Jessica E. Vascellaro, *More Voters Seen Opting for Early Decision: State Laws Ease Advance Balloting*, BOSTON GLOBE, Aug. 14, 2004, at A4.

¹⁰ See Gillian Flaccus, *Oregon’s Mail-in Ballot Forces Campaigners to Learn New Tricks*, ASSOCIATED PRESS, Oct. 14, 2000.

¹¹ See, e.g., Associated Press, *Oregon First to Use Mail-in Ballot*, Oct. 16, 2000, available at <http://lists.electorama/pipermail/election-methods-electorama.com/2000-October/004465.html> (describing the Oregon mail-in ballot process).

covers a bewildering array of different electoral systems in the United States and, increasingly, abroad. I primarily use the term to mean in-person early voting, no-excuse absentee balloting, and vote-by-mail (see Table 1 for a summary).

In-person early voting is when a voter can cast a ballot, most commonly at the local elections office, but increasingly at satellite locations such as community centers, churches, or even grocery stores.¹² The important distinction between in-person early voting and other early voting systems is the requirement that individuals show up in person to cast a ballot. If we believe that getting to the polls imposes a significant barrier to participation, then in-person systems only partially relieve this burden.

No-excuse absentee balloting is where voters do not have to provide a reasonable excuse for voting absentee. In some states, notably California, a voter can also request “permanent absentee” status, essentially becoming a vote-by-mail voter.¹³ Thus, I do not discuss absentee balloting as we have traditionally understood it: casting your ballot before election day because you are infirm, out of the country (in the military or living overseas), away at college, or otherwise unable to make it to the polls. This form of absentee balloting has historically been quite restrictive,¹⁴ and the proportion of ballots cast via this method very low.¹⁵ No-excuse absentee balloting, in contrast, has exploded in many states and localities.¹⁶

¹² Examples were drawn from the early voting sites provided in the most recent election in Harris County, Texas, Johnson County, Iowa, and Shelby County, Tennessee. *See, e.g.*, Harris County Clerk’s Office, Important Information About the Electoral Process in Texas, <http://www.harrisvotes.org> (last visited Sept. 14, 2008); HARRIS COUNTY CLERK’S OFFICE, DAILY RECORD OF EARLY VOTING (2008), <http://www.harrisvotes.org/docs/EVPA.pdf>; Johnson County Auditor, How to Vote Early, <http://www.johnson-county.com/auditor/voter/reasons.htm> (last visited Sept. 14, 2008); Shelby County, Tennessee Election Commission, Election Information, http://www.shelbyvote.com/election_info/early_voting_locations/evl_mil_080930.htm (last visited Sept. 14, 2008) (showing examples of early voting sites).

¹³ Christensen, *supra* note 8 (describing permanent absentee voting); *see also* Jeffery C. Mays, *Parties Want to Increase Early Voting*, STAR LEDGER (Newark, N.J.), Nov. 18, 2007, at 31 (describing no-excuse voting).

¹⁴ *See* ALBERT NICOSLA, THE ELECTION PROCESS IN THE UNITED STATES 83 (2003) (stating that most states required a specific reason why the voter could not make it to the polls on election day).

¹⁵ *See, e.g.*, California Secretary of State, Historical Absentee Ballots Use in California, http://www.sos.ca.gov/elections/hist_absentee.htm (last visited Oct. 3, 2008) (detailing the percentages of voters who used absentee ballots from 1962 to present).

¹⁶ *See* Vascellaro, *supra* note 9 (noting that “27 states now allow unrestricted absentee voting”).

Table 1: Types of Early Voting

Early Voting System	AKA	Mechanics
Vote-by-Mail	“Postal Voting”	Voters receive a ballot in the mail, approximately two weeks before the election. Ballots can be returned via mail or dropped off at satellite locations.
In-Person Early Voting		Voters have the option of casting a vote early at a satellite location or at the county elections office. In most localities, the voter simply shows up; no prior notification is required.
No-Excuse Absentee	“Vote-by-mail”	Voters have to apply for an absentee ballot, but no excuse is required. Voters receive the ballot as early as 45 days before the election and must return by the date of the election. In some localities, only a ballot postmarked on or before the election counts as valid.

Possible sources of confusion: In an increasing number of localities, absentee balloting can be done in person—often referred to as early voting—or via mail—sometimes referred to as “vote-by-mail.” Many localities are not distinguishing between the two when reporting absentee ballot figures. In Sweden, “postal voting” is used to describe in-person voting at the post office.¹⁷

Finally, vote-by-mail (VBM) is a system that has been used by the State of Oregon for all elections since 1998 (the first election conducted in this manner was a 1996 special election).¹⁸ Under VBM, the voter receives a voter’s pamphlet approximately three weeks before election day, followed by the ballot, generally mailed eighteen days before the election.¹⁹ The voter may return the ballot any time after it is received, usually fifteen days or closer to election day.²⁰

¹⁷ See MARIA GRATSCHW, SWEDEN: CASE STUDY 98–99 (2004).

¹⁸ See PRISCILLA L. SOUTHWELL, VOTE BY MAIL: VOTER PREFERENCES AND SELF-REPORTED VOTING BEHAVIOR 2 (2004) [hereinafter SOUTHWELL, VOTER PREFERENCES].

¹⁹ Voting in Oregon Guide: Vote By Mail, <http://www.sos.state.or.us/elections/HAVA/votingguide/votbymail.html> (last visited Oct. 3, 2008).

²⁰ As noted in Table 1, an increasing number of counties use the term “Vote-by-Mail” to designate their newly liberalized absentee balloting systems. They also may use “in-person early voting” to describe voters who decide to vote absentee, but would rather show up at the

Citizens have voted with their feet (or stamps), increasingly choosing early voting over precinct voting on election day.²¹ This has led to a rapid growth in early voting among those states that have relaxed their requirements.²² In Oregon, survey data shows that Oregonians love vote-by-mail. They express a very high level of satisfaction with the system and claim that it makes them more likely to turn out to vote.²³ Almost three-quarters of Oregonians say they like it for the convenience; saving them time and giving them “more time to read [the] ballot” are also commonly cited benefits to vote-by-mail.²⁴

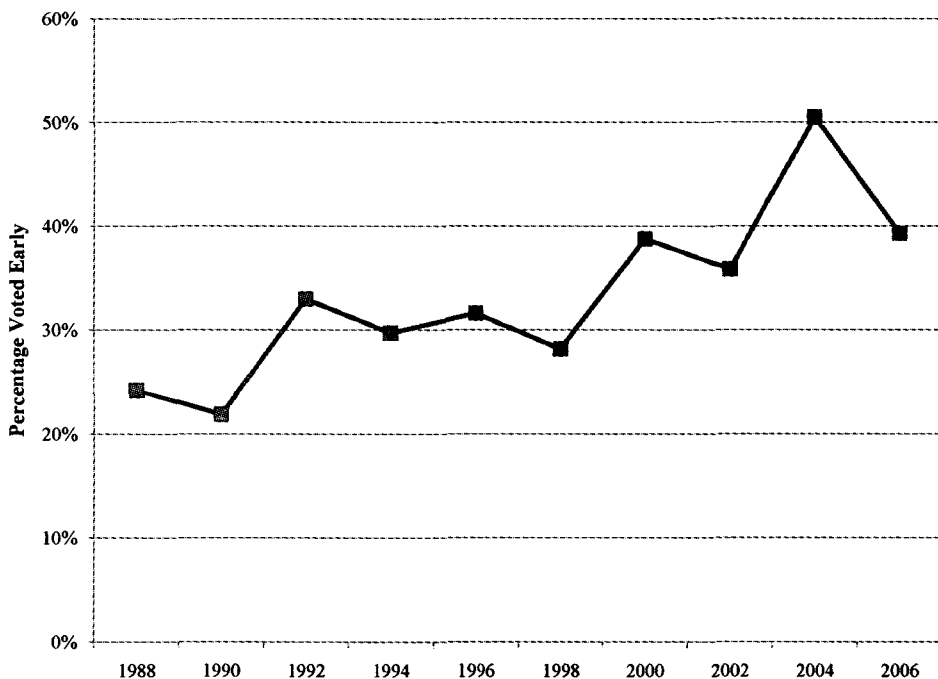


Figure 1: Statewide Early Voting Rates in Texas

county office rather than get a ballot by mail. In terms of analyzing early voting, these are distinctions without a difference, but the different labels can be confusing. In this Article, the system referred to as “Vote-by-Mail” is Oregon’s.

²¹ See Vascellaro, *supra* note 9 (noting a 15% increase in mail-in ballot voting between the years 2000 and 2004).

²² See *id.*

²³ See PRISCILLA L. SOUTHWELL, SURVEY OF VOTE-BY-MAIL SENATE ELECTION 1–3 (1996) [hereinafter SOUTHWELL, SENATE ELECTION]; SOUTHWELL, VOTER PREFERENCES, *supra* note 18, at 6.

²⁴ See SOUTHWELL, SENATE ELECTION, *supra* note 23.

Texas is the best-known example of in-person early voting. Since 1988, Texas has allowed voters to cast a ballot up to three weeks before the election.²⁵ As shown in Figure 1, statewide rates of early voting have increased from 24% in 1988 to 38% in 2000. As in Oregon, Texans express a great deal of satisfaction with early voting and took to the system rapidly.²⁶ In 1992, the Harris County elections supervisor wondered “if there’s going to be anyone left to vote on election day.”²⁷ A party official believes that Texans like to vote early because it is convenient: “It is the convenience of voting while you are shopping.”²⁸

Tennessee’s rate of early voting over a comparable period is displayed in Figure 2. Since relaxing absentee requirements in 1994,²⁹ Tennessee has seen early voting rates increase much more dramatically than in Texas, from 5% in 1994 to over 35% in the 2000 general election. One Tennessean says she loves to “beat the crowd,” while another said, “I waited for 2 ½ hours [to vote] . . . This is silly. Why not just vote early?”³⁰ Interestingly, as is evident in the figure, the proportion of residents who choose to vote “absentee by mail” has held steady (dropping after the 1994 primary). This is because Tennessee state law continues to restrict “by-mail” absentee balloting while “in-person” early voting is far less restricted.³¹ Most likely, many “by-mail” absentee balloters in the 1994 primary were not being completely honest about their reasons for needing to vote absentee. Once in-person early voting became available, they switched to that method.

²⁵ Robert M. Stein, *Early Voting*, 62 PUB. OPINION Q. 57, 57 (1998).

²⁶ Alan Bernstein & Jo Ann Zuniga, *Early Voting Is Big Winner in Popularity*, HOUSTON CHRON., Oct. 27, 1992, at A9.

²⁷ *Id.*

²⁸ Guy H. Lawrence, *Final Early Voting Days Expected to Set a Record*, CORPUS CHRISTI CALLER TIMES (Tex.), Mar. 7, 2000, available at http://corpuschristionline.com/2000/march/07/today/local_ne/1785.html.

²⁹ See *The 1994 Campaign: The Voters; States Innovate to Battle Low Turnout*, N.Y. TIMES, Oct. 24, 1994.

³⁰ Sherri Drake, *Early Voting Ends: 35,000 Cast Votes*, COM. APPEAL (Memphis, Tenn.), Oct. 5, 2003, at B1.

³¹ Compare TENN. CODE ANN. § 2-6-102 (2008), with TENN. CODE ANN. § 2-6-202 (2008) (detailing the respective requirements of early voting and absentee voting).

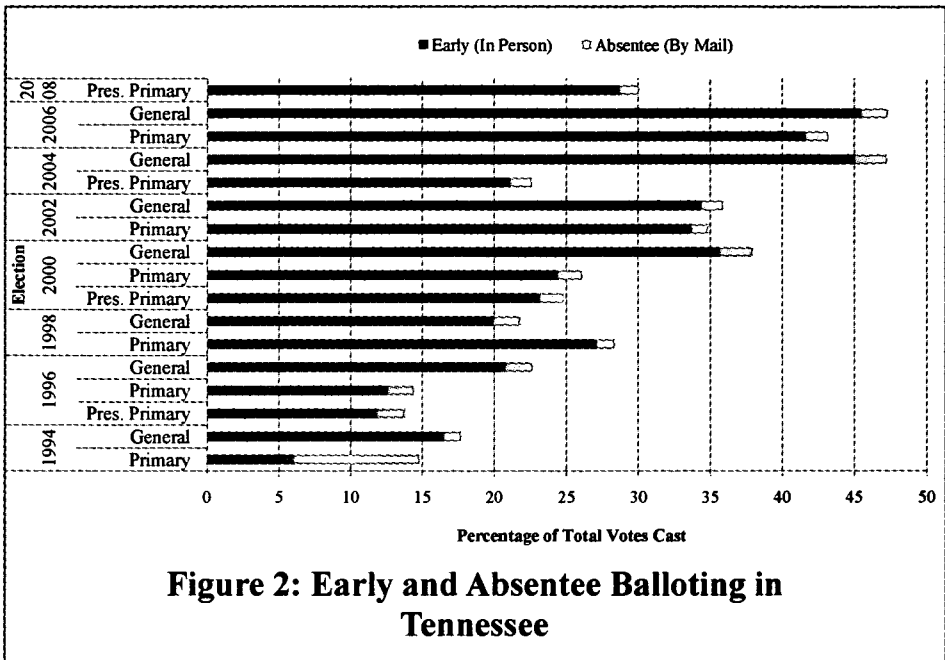


Figure 2: Early and Absentee Balloting in Tennessee

Other states show similarly dramatic growth in early voting. In 1978 in California, 4.41% of votes were cast absentee.³² By 2004, over 32% cast absentee ballots.³³ In Washington state, absentee ballots have grown 40% in just four years (2000, 54%; 2001, 67%; 2002, 66%; 2003, 76%) and rising to 100% in five counties (essentially, “stealth” vote-by-mail) in the 2008 election all but two counties will be fully vote-by-mail.³⁴ Nationwide, the Early Voting Information Center estimates that the number of non-precinct place voters has doubled since 2000, from 14% in that election to a forecast total of 30% in 2008.³⁵

³² California Secretary of State, *supra* note 15.

³³ R. Michael Alvarez, Thad E. Hall & Betsy Sinclair, *Whose Absentee Votes are Returned and Counted: The Variety and Use of Absentee Ballots in California*, 27 ELECTORAL STUD. 673, 673 (2008).

³⁴ WASHINGTON SECRETARY OF STATE, WASHINGTON STATE’S VOTE-BY-MAIL EXPERIENCE (2007), http://www.secstate.wa.gov/view_documents.aspx?f=2066.

³⁵ See *infra* p. 430 fig.3.

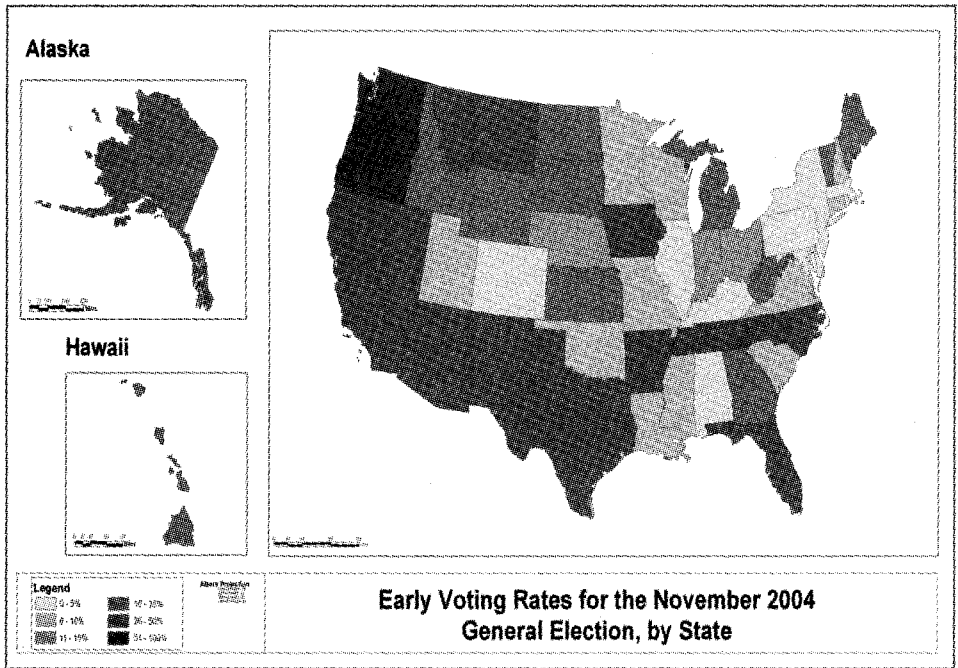


Figure 3: Early Voting Across the Nation

Early voting is not confined to the United States. Worldwide, 46% of the democratic nations listed in the ACE Project database allow electors to cast ballots before the designated national election day.³⁶ Of these nations, 34% allow early voting for everyone, while the remaining 66% limit early voting to electors who are, for a variety of reasons (e.g., in hospitals, living abroad, serving in the military), unable to cast a ballot at the local polling place.³⁷

In the United Kingdom, the option to vote by mail is open to anyone, but as of 2001, only 4% took advantage of it.³⁸ In response to concerns over declining voter turnout in local elections, the United Kingdom has begun to test new ways of voting. Starting in 2002, 30% of local electoral authorities experimented with new balloting methods, primarily using by-mail voting.³⁹ New Zealand also allows vote-by-mail for local, but not national elections.⁴⁰ Sweden has allowed early voting at the post

³⁶ ACE Project: The Electoral Knowledge Network, Comparative Data, Voting Operations, <http://aceproject.org/epic-en/vo#VO06> [hereinafter ACE].

³⁷ *Id.*

³⁸ *Id.*

³⁹ THE ELECTORAL COMM'N, MODERNISING ELECTIONS: A STRATEGIC EVALUATION OF THE 2002 ELECTORAL PILOT SCHEMES (2002), http://www.electoralcommission.org.uk/__data/assets/electoral_commission_pdf_file/0016/13156/Modernising_elections_6574-6170_E_N_S_W_.pdf.

⁴⁰ ACE, *supra* note 36.

office (rather confusingly called “postal voting”) since the Second World War, but has recently stepped up its efforts to encourage early voting, and has announced plans to adopt Internet voting within the next decade.⁴¹ In all three cases, early voting reforms have been adopted as a way to increase turnout, particularly in low turnout, low interest contests.

It should come as no surprise that candidates, parties, and other political organizations have adapted to this shifting electoral climate. Terry Holt, spokesperson for the Bush/Cheney 2004 campaign, described early voting as an expanded “strike zone Election Day is more than just one day now and state and national parties have had to adjust.”⁴² Prior to the 2004 election, Bush’s campaign director, Ken Mehlman, said that early voting mobilization efforts should have a “huge impact.”⁴³ The Kerry campaign planned to make an “aggressive and robust effort to help voters make their voices heard early.”⁴⁴ *Washington Post* columnist David Broder cited an effort by the Republican-leaning Business and Industry Political Action Committee (BIPAC) to mobilize early voters among their member companies,⁴⁵ while *Wall Street Journal* columnist John Harwood quoted a liberal activist from *America Coming Together*: “‘You think of an election as a one-day sale,’ but Iowa has ‘five whole weeks of Election Day.’”⁴⁶

Citizens like early voting because it is convenient. Candidates like early voting because it allows them to focus their mobilization efforts on people who vote early and vote often, thus saving time and money for the final push at the close of the campaign. Election officials like early voting because it is cheaper—they do not have to hire extra workers to count ballots on election day—and more accurate.⁴⁷

Election officials—and some political commentators—also claim that early voting is superior on normative grounds. In democratic elections, Broder writes, “the more participants, the better.”⁴⁸ The United Kingdom Electoral Commission describes the 59.1% turnout in the 2001 British general as “shocking” and argues that

⁴¹ *Id.*; see also GRATSCHER, *supra* note 17.

⁴² Vascellaro, *supra* note 9.

⁴³ John Harwood, *Early Ballots Could Weigh Heavily in Fall Election—As More Voters Make Choice Before Election Day, Parties Aggressively Woo Prospects*, WALL ST. J., Aug. 18, 2004, at A1.

⁴⁴ Vascellaro, *supra* note 9.

⁴⁵ David S. Broder, *Election Extension*, WASH. POST, Aug. 19, 2004, at A25. BIPAC’s Program Summary, a description of the voting service offered to employers is available at <http://helpingamericansvote.org>.

⁴⁶ Harwood, *supra* note 43.

⁴⁷ According to the CalTech/MIT Voting Technology project, absentee ballots are among the most accurately counted. CALTECH/MIT VOTING TECH. PROJECT, VOTING: WHAT IS, WHAT COULD BE (2001), http://vote.caltech.edu/drupal/files/report/voting_what_is_what_could_be.pdf.

⁴⁸ Broder, *supra* note 45.

new voting technology will re-engage the electorate.⁴⁹ Early voting not only leads to *more* participation, it may promote *higher quality* participation. The Oregon Secretary of State says that vote-by-mail “results in more thoughtful voting,” thus “enhancing the democratic process.”⁵⁰

Nonetheless, the claims about the benefits of early voting far exceed the evidence assembled to support those claims. It is seldom the case that a major institutional change has unalloyed benefits. The harsh reality is that early voting helps in some ways and hurts in others, but most importantly, these reforms are too recent to render definitive judgment. Scholars and policy makers need to continue to pay close attention to the impact of these reforms as they grow in popularity and availability.

II. PREVIOUS RESEARCH ON EARLY VOTING

According to the scholars at CalTech/MIT Voting Technology Project, there are at least two ways to evaluate electoral reforms: first, by asking whether the reform increases the *level* of participation, and second, by asking whether the reform improves the *quality* of participation.⁵¹ Enough research has accumulated on the first question to state a scholarly consensus: *early voting does not increase turnout* by bringing new voters into the system.⁵² It does encourage regular voters to participate in lower intensity contests that they might otherwise skip.⁵³ Research on the second question—on the quality of democratic decision making—is only just beginning to emerge. The empirical data are too sparse to make any conclusions about how candidate behavior or voter decision making may change under early voting.⁵⁴

Relaxed voting systems are more commonly taken advantage of by politically activated segments of the population. VBM increases turnout more by *retaining* likely voters in less intense campaigns (e.g. midterm and local elections) than by *recruiting* new voters into the system.⁵⁵ Two studies of absentee balloting indicate that rates of

⁴⁹ See THE ELECTORAL COMM’N, ONLINE ELECTION CAMPAIGNS REPORT AND RECOMMENDATIONS (2003), http://www.electoralcommission.org.uk/__data/assets/electoral_commission_pdf_file/0012/16050/Onlineelectioncampaignsfinalversion_8485-7286__E__N__S__W__.pdf.

⁵⁰ OR. SEC’Y OF STATE, VOTE BY MAIL (2000), http://www.sos.state.or.us/executive/votebymail/pdf_files_vbm_guide.pdf.

⁵¹ CALTECH/MIT VOTING TECHNOLOGY PROJECT, *supra* note 47.

⁵² See, e.g., Jeffrey A. Karp & Susan A. Banducci, *Going Postal: How All-Mail Elections Influence Turnout*, 22 POL. BEHAV. 223, 229 (2000).

⁵³ *Id.* at 223 (concluding that all-mail elections produce the most significant increase in turn out for local elections or primaries).

⁵⁴ Stein, *supra* note 25.

⁵⁵ Adam J. Berinsky, Nancy Burns & Michael W. Traugott, *Who Votes By Mail? A Dynamic Model of the Individual-Level Consequences of Voting-By-Mail Systems*, 65 PUB. OPINION Q. 178, 178 (2001); Paul Gronke & Daniel Krantz Toffey, *The Psychological and Institutional Determinants of Early Voting*, 64 J. OF SOC. ISSUES 503, 503, 521 (2008); Priscilla Southwell & Justin Burchett, *Vote-By-Mail in the State of Oregon*, 34 WILLAMETTE

absentee voting vary positively with levels of partisan mobilization: candidates harvest absentee voters in localities where party organizations are strong, and Republican candidates are more likely to harvest absentee voters.⁵⁶ Robert Stein's study of in-person early voting in Harris County, Texas, showed that there were significantly larger numbers of strong partisans among the "early voters."⁵⁷

In a recent review of this literature, Adam Berinsky wrote: "What has not been widely recognized . . . is that this wave of reforms has exacerbated the socioeconomic biases of the electorate."⁵⁸ Berinsky's claim is sustained in compositional studies of all three systems: in-person early voting,⁵⁹ liberalized absentee balloting,⁶⁰ and VBM.⁶¹ Thus, we know that early voting reforms have compositional effects. We also have good evidence that early voting systems do not benefit one party or another.⁶²

While we know *who votes early*, we know very little about *when they vote*. All of the studies of voting by mail, for instance, compare the demographic (and to a limited degree political) characteristics of those who voted to either the general population or the voting-eligible population.⁶³ Similarly, the two studies of absentee balloting fail to examine whether liberalized absentee requirements encourage voters to return their ballots well before the date of election.⁶⁴ Only Stein's work in Texas, which

L. REV. 345, 352 (1998); Priscilla Southwell & Justin Burchett, *Does Changing the Rules Change the Players? The Effect of All-Mail Elections on the Composition of the Electorate*, 81 SOC. SCI. Q. 837, 844 (2000). Curtis Gans believes that early voting actually decreases turnout. Press Release, Ctr. for the Study of Am. Electorate, *Two Pro-Participation Reforms Actually Harm Turnout; Other Reforms Suggested* (Jan. 9, 2001) (on file with author). However, Gans's studies are hampered by a lack of multivariate controls. The CSAE staff compares turnout increases in states with early voting provisions to those without early voting provisions. A more complete analysis is needed in order to test this claim.

⁵⁶ J. Eric Oliver, *The Effects of Eligibility Restrictions and Party Activity on Absentee Voting and Overall Turnout*, 40 AM. J. OF POL. SCI. 498, 498, 507–08 (1996); Samuel C. Patterson & Gregory A. Caldeira, *Mailing in the Vote: Correlates and Consequences of Absentee Voting*, 29 AM. J. OF POL. SCI. 766, 766 (1985).

⁵⁷ Stein, *supra* note 25, at 62, 67.

⁵⁸ Adam J. Berinsky, Abstract, *The Perverse Consequences of Electoral Reform in the United States*, 33 AM. POL. RESEARCH 471 (2005), available at <http://web.mit.edu/berinsky/www/reprints.html>.

⁵⁹ Stein, *supra* note 25, at 67.

⁶⁰ Oliver, *supra* note 56, at 511; Patterson & Caldeira, *supra* note 56, at 785.

⁶¹ Berinsky et al., *supra* note 55; Karp & Banducci, *supra* note 52, at 223; Southwell & Burchett, *Does Changing the Rules Change the Players?*, *supra* note 55.

⁶² Michael J. Hanmer & Michael W. Traugott, *The Impact of Voting By Mail on Voter Behavior*, 32 AM. POL. RES. 375, 395 (2004); Robert Stein, Chris Owens & Jan Leighley, *Electoral Reform, Party Mobilization and Voter Turnout* (Paper presented at April 3–6, 2003, Midwest Political Science Association 61st Annual National Conference in Chicago, IL), available at <http://politics.as.nyu.edu/docs/IO/4744/leighley.pdf>.

⁶³ See, e.g., Stein, *supra* note 25, at 61, 67 (comparing turnout of early electorate to turnout for general electorate).

⁶⁴ *Id.*; Robert M. Stein & Patricia A. García-Monet, *Voting Early but Not Often*, 78 SOC. SCI. Q. 657 (1997).

explicitly studied the in-person early voting system, can be used to make inferences about *who votes early*.⁶⁵ And the problem with these studies is that, due to data limitations, neither considered the *date* of the vote, only whether an individual voted early or not.⁶⁶

Up until now, most of the studies of early voting have concentrated on its effect on turnout.⁶⁷ This is understandable, given the importance of political participation in the democratic process. However, as the CalTech/MIT researchers point out, we also should attend to the quality of participation.⁶⁸ On this question, extant research has been mostly silent. Addressing the impact of voting reforms on how individuals make up their minds is a challenging assignment. Finally, we might want to know how voting reforms affect the strategic decision making of candidates for office. In this area, academic research has been mostly silent. In the next section, I offer some initial thoughts on how candidates and voters will respond to early voting reforms.

III. CAMPAIGNS AND EARLY VOTING

Political candidates avoid uncertainty. Whether candidates are “running scared,”⁶⁹ engaged in “superstitious learning,”⁷⁰ or are discouraging their opposition,⁷¹ in all cases candidates are attempting to reduce the uncertainty inherent in democratic elections. Campaign efforts to mobilize their supporters, a key part of any electoral effort, are also a way to reduce uncertainty.

How do early voting systems alter this electoral calculus? The campaign calendar runs on a regular cycle. In American presidential elections, for example, the general election effort traditionally swings into action after Labor Day, followed since 1976 by a series of candidate debates in September and October, with a final election push toward November.⁷² Other federal, state, and local elections follow similar routines.⁷³ Early voting disrupts this cycle. Candidates cannot be certain that their mobilization and conversion efforts are not being wasted on citizens who have already voted.

⁶⁵ Stein, *supra* note 25.

⁶⁶ See *id.*; Stein & García-Monet, *supra* note 64.

⁶⁷ Hanmer & Traugott, *supra* note 62, at 375.

⁶⁸ CALTECH/MIT VOTING TECH. PROJECT, *supra* note 47.

⁶⁹ See generally THOMAS E. MANN, UNSAFE AT ANY MARGIN: INTERPRETING CONGRESSIONAL ELECTIONS 76–77 (1978) (describing incumbents’ increased campaign efforts).

⁷⁰ See JOHN W. KINGDON, CANDIDATES FOR OFFICE: BELIEFS AND STRATEGIES 86–92 (1966).

⁷¹ See GARY C. JACOBSON & SAMUEL KERNELL, STRATEGY AND CHOICE IN CONGRESSIONAL ELECTIONS 32–34 (1981).

⁷² See STEPHEN J. WAYNE, THE ROAD TO THE WHITE HOUSE, 2000, at 234–35 (2000).

⁷³ See, e.g., *Early Voting Redefines the Way Elections Unfold*, GREAT FALLS TRIB. (Mont.), Oct. 5, 2008, available at <http://www.greatfallstribune.com/apps/pbs.dll/article?AID=/20081005/NEWS01/810050303> (noting the “old method of where [political parties] start campaigning the day after Labor day”).

Candidates cannot time campaign appeals or launch last minute attacks to coincide with election day. This implies that early voting will increase costs, as campaigns expend additional resources to reduce this uncertainty.

This prediction holds only if early voting really does increase uncertainty. If campaigns are able to find out who has cast a vote before election day, the opposite effect will obtain. Early voting will actually *reduce* campaign costs, although it should still undermine the ability of campaigns to launch last minute attacks. This leads to the following hypothesis:

H1: Early voting (E) increases the costs of campaigns. If campaigns are able to find out who has voted early, then E will reduce campaign costs.

IV. RESULTS⁷⁴

The evidence I have accumulated thus far is strictly anecdotal, yet the results are very consistent. What campaigners refer to as “mixed systems”—election systems that have large numbers of absentee or early voters and precinct voters—substantially increase uncertainty and raise campaign costs. Contrary to my hypothesis, however, I have found no evidence that early voting combined with full data released by the state or county reduces costs.⁷⁵ Campaigners under these systems complain just as bitterly about the necessity of carrying on an ongoing get-out-the-vote (GOTV) effort as those mired in “mixed” systems.⁷⁶

Newspaper accounts of campaigns of in-person early voting and liberalized absentee systems highlight the importance of lengthy mobilization efforts.⁷⁷ Local campaigners in Texas say they spend resources to recruit “early voters.”⁷⁸ In Washington state, no candidate can afford to ignore the 76% of the electorate who currently mail in their ballots.⁷⁹ During a 2003 conference, campaign consultants expressed frustra-

⁷⁴ These results draw on three sources. First, I collected news stories that discussed the relationship between early voting and campaigns by searching on all three terms in Lexis Nexis since the 2000 election. Second, I conducted a series of interviews with get-out-the-vote activists in Portland, Oregon. Third, I participated in a conference on vote-by-mail in Portland, Oregon, that included political candidates, consultants, academics, and elected officials.

⁷⁵ Leslie Wayne, *Popularity Is Increasing for Balloting Outside the Box*, N.Y. TIMES, Nov. 4, 2000, at A13.

⁷⁶ See Chris Frates, *Tug of War Awaits Those Still on Fence: Tuesday's Election Brings a Chorus of Opinions, but Few Voices Will be as Loud as Those For and Against Referendums C and D*, DENVER POST, Oct. 30, 2005, at A1.

⁷⁷ See Adam Nagourney, *Early Voting Puts Many Candidates in Early Overdrive*, N.Y. TIMES, Oct. 14, 2002, at A1; Wayne, *supra* note 75.

⁷⁸ See Mercedes Olivera, *Students Get Close-Up View of Political Process*, DALLAS MORNING NEWS, Sept. 4, 2004, at B3.

⁷⁹ John Zebrowski, *Absentee Ballots Swamp Tabulators in King County, Slowing Final Tallies*, SEATTLE TIMES, Nov. 7, 2002, at B5.

tion with the increasing costs involved in getting to voters in Washington, many of whom had already voted long before they were contacted.⁸⁰ National parties, state-wide campaigns, and even local candidates are devoting increasing resources to get out the *early* vote.⁸¹

Candidates and activists in Oregon make similar claims about VBM even though ballot return information is available from county officials on a daily basis. At a recent conference, Congressman David Wu (OR-2) was asked to reflect on his experiences as a candidate, first under traditional polling place elections, and then under VBM. Wu, no great advocate of VBM, compared it to “Groundhog Day, the movie. You never know where you are on any day until Election Day.”⁸² Another political consultant, Pat McCormick, described Oregon as not “hav[ing] an Election Day anymore. We have an election fortnight. You have to peak sooner and sustain longer.”⁸³ While not based on systematic data, additional discussions and presentations from elected officials, campaign consultants, and journalists at this conference confirmed Wu’s point: VBM increases the costs of campaigning, primarily because GOTV efforts and campaign communications have to be spread over a longer period of time.⁸⁴

The results are consistent over time and across each type of reform: early voting reforms increase candidate uncertainty and raises candidate costs. The worst case scenario for campaigns is what already exists in many states and localities: a “mixed” system where large portions of the electorate choose to cast an absentee or early vote and the rest vote on election day. Finally, there is no current evidence pro or con that speaks to whether early voting systems undermine the ability of campaigns to time appeals or target negative attacks.

A. Who Votes Early? Aggregate and Individual Patterns

The evidence shows that early voting alters the strategic calculus of candidates, requiring them to spend more time, energy, and money contacting voters. For voters, does an extended election day alter their decision calculus? It may be that early voters, as a group, differ in significant ways from later voters. Yet even if this

⁸⁰ Symposium, *Vote by Mail Portland, Oregon*, CTR. FOR CONG. AND PRESIDENTIAL STUDIES (2003), <http://spa.american.edu/ccps/pages.php?ID=21>.

⁸¹ See Harwood, *supra* note 43; Nagourney, *supra* note 77; Vascellaro, *supra* note 9.

⁸² See *Vote by Mail Portland, Oregon*, *supra* note 80. In the 1993 film *Groundhog Day*, the main character, played by Bill Murray, is stuck in time, endlessly repeating the same day, “groundhog day.” GROUNDHOG DAY (Columbia Pictures 1993). This popular metaphor in Oregon politics was in fact first coined by political consultant David Lavey, quoted in Flaccus, *supra* note 10.

⁸³ Michelle Cole, *Measure 27 Died in Big-Dollar Blitz; Opponents of Labeling Genetically Modified Food Outspent Backers by Millions to Defeat the Proposal in the Weeks Before the Election*, SUNDAY OREGONIAN, Nov. 10, 2002, at B1.

⁸⁴ See *Vote by Mail Portland, Oregon*, *supra* note 80.

aggregate difference exists, it still does not mean that early voting matters. It may be that, other than submitting the ballot earlier, the individual voter behaves no differently than they would have on election day. Suppose, for example, that all early voters are strong partisans. These same partisans may cast a straight ticket vote fourteen days before election day, or on election day. In that case, early voting makes no difference. In the rest of this section, I propose some reasons why we should expect to find aggregate differences between early and late voters. I also suggest ways that early voting may, in fact, change individual level decision making. I end by turning to some data that bear on both of these questions.

It is well known that voters behave differently during hard-fought, intense campaigns than they do during low-intensity contests. During a high-intensity contest, voters are more likely to incorporate new information and rely on policy information, and are less likely to rely on pre-existing beliefs, partisanship, or ideology.⁸⁵ During low-intensity contests, voters rely on ideology, partisanship, and other more stable long term political orientations.⁸⁶

What does this mean for early voting? Voters will hold onto their ballots during high-intensity contests, such as presidential elections, hard-fought senatorial and gubernatorial races, and high profile initiatives and referenda. In contrast, during low-intensity contests (many state and local contests and perhaps U.S. House races), voters will be more likely to vote early. First, there is a compositional effect: in low-intensity contests, a higher proportion of those who turn out are well-informed, habitual voters who have standing commitments to one or the other political party. Second, campaign information flow is low enough during these campaigns that there is little new information to be gained by holding onto the ballot. This leads to the second hypothesis:

H2: In the aggregate, rates of early voting should be negatively correlated with campaign intensity.

The same logic applies at the individual level, but now we can take advantage of both contextual features that make voting more or less convenient, campaign features that increase or decrease information flow, and individual level characteristics that make it more or less likely that a voter will participate.

The fundamental turnout model is well known in the literature: an individual turns out to vote if the perceived benefit from voting (B), multiplied by the probability that a vote will make a difference (p), minus the costs of voting (C), exceeds zero. This formulation, $\text{Vote if } 0 < pB - C$, is foundational for much of voting research in

⁸⁵ See KIM FRIDKIN KAHN & PATRICK J. KENNEY, *THE SPECTACLE OF U.S. SENATE CAMPAIGNS 174-75* (1999); Gronke & Toffey, *supra* note 55, at 503, 507.

⁸⁶ See R. MICHAEL ALVAREZ, *INFORMATION AND ELECTIONS 51* (1998); Gronke & Toffey, *supra* note 55.

American political science.⁸⁷ For the purposes of this Article, I am only going to note a number of campaign, contextual, and individual level characteristics that I believe make it more likely that an individual will vote early. I am far too limited in the scope of my data collection to go much further.

Convenience: One of the costs of voting is the inconvenience of physically getting to the polling place. “Convenience” can be captured many ways. Gimpel and Schuknecht’s work correlates turnout with ballot box accessibility.⁸⁸ They discover a curvilinear relationship: distance imposes the most burdens in suburban precincts, not rural precincts as we might naively assume.⁸⁹ The reason is that even moderate travel (6–10 miles) in a rural area can be relatively fast and easy to maneuver, while shorter distances in suburban areas may involve difficult driving on congested streets.⁹⁰ This leads to a third hypothesis regarding early voting:

H3: Rates of early voting are negatively related to the ease or convenience of voting at the precinct place.

Individual Predispositions: A substantial body of research in public opinion and electoral behavior indicates that greater amounts of information flow and longer exposure to elite debate (assuming attentiveness) results in more informed decisions.⁹¹ This supports the claims made by advocates of early voting systems that they will lead to more informed, reflective decisions.⁹² However, Zaller’s seminal work shows that only those in the midrange of exposure and interest are likely to be influenced by campaigns, so early voting may encourage reflection only for a subset of the voting population.⁹³

Research that directly targets time-of-voting decisions shows this sort of heterogeneity. Time-of-voting decisions mediate campaign effects. Janet Box-Steffensmeier and David Kimball, for instance, argue that respondents who report making their minds up early are more heavily influenced by long-term forces, such as partisanship and ideology, while voters who make up their minds at the last minute are more likely to respond to short-term campaign effects.⁹⁴ Patrick Fournier and his co-authors

⁸⁷ See William H. Riker & Peter C. Ordeshook, *A Theory of the Calculus of Voting*, 62 AM. POL. SCI. REV. 25, 34–36 (1968).

⁸⁸ See J.G. Gimpel & J.E. Schuknecht, *Political Participation and the Accessibility of the Ballot Box*, 22 POL. GEOGRAPHY 471, 472–73 (2003).

⁸⁹ *Id.* at 484.

⁹⁰ *Id.*

⁹¹ See ALVAREZ, *supra* note 86; MICHAEL X. DELLI CARPINI & SCOTT KEETER, WHAT AMERICANS KNOW ABOUT POLITICS AND WHY IT MATTERS 281 (1996).

⁹² See, e.g., *supra* note 50 and accompanying text.

⁹³ JOHN ZALLER, THE NATURE AND ORIGINS OF MASS OPINION (1992).

⁹⁴ See JANET M. BOX-STEFFENSMEIER & DAVID KIMBALL, MIDWEST POLITICAL SCI. ASS’N, THE TIMING OF VOTING DECISIONS IN PRESIDENTIAL CAMPAIGNS 3–5 (1999), <http://polisci.osu.edu/faculty/jbox/papers/mpsapaper.pdf>.

similarly argue that campaign events, such as debates, are more influential among late deciders.⁹⁵ According to Fournier, electoral scholars, by ignoring the time-of-voting decision, have “grossly underestimate[d] the strength of campaign effects by estimating them across the entire electorate.”⁹⁶

These gross underestimates will only be exacerbated as rates of early voting increase. In this research, I expect that committed partisans will cast their ballots early, thus missing late-breaking campaign information and decreasing the “quality” of their decision. In contrast, the early arrival of the ballot encourages uncommitted voters to attend more to campaign information and to reflect more before casting their ballot. They will return their ballot relatively later. Thus, my fourth and fifth hypotheses:

H4: Early voters will include both the most and the least informed voters, but as a group, early voters will be less informed about campaign events.

H5: Rates of early voting will be conditional on voter partisanship and prior political information.

B. Data and Methods

In order to test the hypotheses presented above, I need data from four sources. First, I need data on rates of early voting across as wide a variety of localities as possible. Second, I need some measure of campaign intensity for those same localities. Third, I need surrogates for “convenience” of the precinct polling places. Fourth, I need individual level data on partisanship and campaign exposure.

Rates of Early Voting: It is not clear how many states keep records on rates of early voting, nor whether those records distinguish between “by-mail” early voting and “in-person” early voting. The HAVA requirement of statewide registration records by 2006 has hopefully improved this situation.⁹⁷ At this stage, a number of states and counties keep limited historical records on early voting, and an even smaller number keep data on ballot returns by date.⁹⁸ Therefore, in order to test campaign

⁹⁵ Patrick Fournier et al., *Time-of-Voting Decision and Susceptibility to Campaign Effects*, 23 ELECTORAL STUD. 661, 675 (2004).

⁹⁶ *Id.*

⁹⁷ Help America Vote Act of 2002, 42 U.S.C. § 15483 (Supp. V 2005) (setting forth “voter registration list requirements” for by-mail voters).

⁹⁸ See Harris County Clerk’s Office, *supra* note 12; see also Johnson County Auditor, Johnson County Election Returns, <http://www.johnson-county.com/auditor/returns/returns.htm> (last visited Sept. 15, 2008) (providing number and percentage of early voters); Marion County Oregon, Ballot Return Rates, <http://www.co.marion.or.us/co/elections/returnrates/default.htm> (providing ballot return rates by date); Tennessee Department of State, Voter Statistics, <http://state.tn.us/sos/election/data/index.htm> (providing number of early voters).

effects, I am strictly limited to aggregate comparisons of rates over time and across campaigns (e.g., presidential, midterm, and off-year elections). This leads to an amended version of H2:

H2a: Rates of early voting will be higher in off-year elections, followed by midterm elections, with the lowest rates of early voting in presidential election years.

Individual Level Ballot Return Data: The Oregon election law is somewhat unique in that the date that the ballot is processed by election officials is a public record, and can be obtained on a nearly real-time basis by campaigners, GOTV groups, and others.⁹⁹ One jurisdiction, Multnomah County, Oregon, made available to me the individual level ballot return data for five elections.¹⁰⁰ Unfortunately, these five elections do not span a presidential and a midterm election year, and they include some very high profile ballot measures that may complicate any test of H2.

Attached to these records are the individuals' partisan affiliations and zip codes. Therefore, I am able to test directly H5, but only in Oregon:

H5a: Rates of early voting by mail will be higher among individuals who are willing to identify a partisan affiliation on their voter registration form.

Finally, note that there are no real "precincts" in Oregon. While "vote-by-mail" makes it sound like you are only able to return the ballot by mail, in fact, in the most recent election in Multnomah County, 16,000 ballots were returned to the local public library, 11,000 were returned to "express" locations (the local grocery stores), 8000 were returned by mail, and 6000 were returned to the county elections office.¹⁰¹ With all those caveats, for the purposes of this study, I will use the average commute time (per zip code) as a surrogate for precinct convenience. As a measure of political information, I employ a very poor surrogate: median income level. As other controls in the model, I add the percentage of the area that is non-white and the percentage that is urban. All data are collected from the 2000 Census. Thus:

⁹⁹ Posting of Paul Gronke to Earlyvoting, http://earlyvote.blogspot.com/2005_08_01_archive.html (Aug. 26, 2005, 10:18 PST). The only limit, as in many states, is that the data not be put to a commercial use. OR. REV. STAT. § 247.955 (2007). Note that the date reported in these data is not necessarily the date that the voter chose, nor the date that the ballot was returned. It is the date that the ballot was processed by county officials. There is an unavoidable gap.

¹⁰⁰ For a list of these elections, see Appendix.

¹⁰¹ See *infra* p. 448 fig.7. This is another often ignored element of the "vote-by-mail" system in Oregon, and one on which I am currently collecting data. As with other examples in this Article, the frequency and quality of mode of ballot return data are highly variable.

H3a: Rates of early voting will be higher for individuals who live in areas with higher average commute times.

H4a: Rates of early voting will be higher for individuals who live in areas with higher median income levels.

Model Estimation for Individual Ballot Returns: The dependent variable in the models that follow is the date that the ballot was returned. This variable runs from the date of the first processed ballot—generally fourteen days before election day—to zero. Data of this format are variously described as event data, event history data, or event counts, where the “event” in our case indicates that a ballot was returned. Alternatively, one may think of the “duration” or “survival” rate as the period running from the first day that a ballot can be returned up to election day.

The appropriate specification is event history or survival analysis.¹⁰² The Cox Proportional Hazards Model provides the greatest amount of flexibility with regard to the underlying form of the data and is the functional form chosen here. The coefficients in the tables will be converted to hazard rates. These can be interpreted at the “risk” that a case will “fail”—in this case, vote—during any specified period.¹⁰³

C. Results: Campaign Effects

Does early voting vary in response to the campaign? The first examination of early voting over time suggested something quite different. Traugott and Hanmer, in a suggestive graphic, report ballot return rates by number of days before the election.¹⁰⁴ In the first VBM election, a 1996 January special Senate election, nearly 60% of the ballots were returned seven or more days before election day; by the 2000 November general election, that percentage had declined to 20%.¹⁰⁵ I label this the “novelty effect”: once the novelty of a new voting system wears off, voters return to their traditional pattern of holding their ballots close to election day. This result, if it is sustained, ought to assuage any concerns that early voters will also be uninformed voters solely because they miss news that may come out near the end of the campaign.

¹⁰² For reasons why ordinary least squares regression cannot be used, see sources cited *infra* note 103.

¹⁰³ For a fuller description of duration models, see generally JANET M. BOX-STEFFENSMEIER & BRADFORD S. JONES, *EVENT HISTORY MODELLING* (2004) (explaining the utility of duration models in time-to-event data analysis); Janet M. Box-Steffensmeier & Christopher J. W. Zorn, *Duration Models and Proportional Hazards in Political Science*, 45 *AM. J. POL. SCI.* 972 (2001) (discussing various duration models).

¹⁰⁴ MICHAEL W. TRAUGOTT & MICHAEL J. HANMER, *REPORT TO THE LEAGUE OF CONSERVATION VOTERS EDUCATION FUND 16* (2002), http://www.lcvef.org/programs/polling-research/LCVEF_ORVote-By-MailResearch_02.doc.

¹⁰⁵ *Id.*

An alternative explanation of this pattern, however, is that which I have proposed here: campaign variability. What Traugott and Hanmer read as a linear decline in the likelihood of early voting may indicate the difference between a special election and a hard-fought presidential contest. More recent data from Oregon support this hypothesis, or at least call into question the novelty hypothesis. Figure 4 below plots early voting rates for seven recent elections in Multnomah County, Oregon.

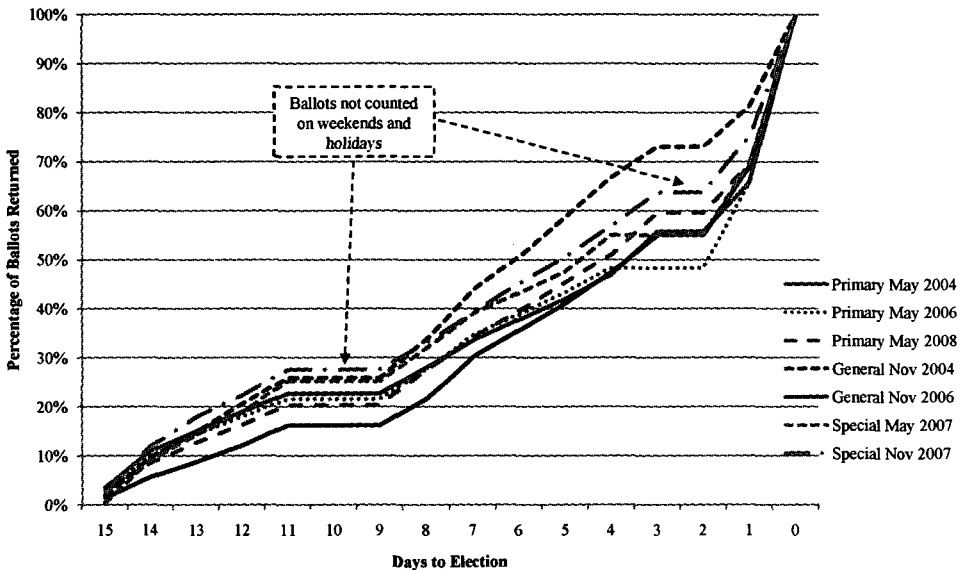


Figure 4: Recent Early Voting Trends in Multnomah County, Oregon

It is quite difficult to make similar inferences in other states. Because of vote-by-mail, Oregon has one of the most accurate voter registration rolls in the country (since one must have a current valid mailing address in order to vote) as well as one of the best systems for tracking ballot returns. I have found few other states that report the actual date of ballot return, whether they use in-person or relaxed absentee voting. I have discovered two counties that do keep track of the return dates, Johnson County, Iowa and Harris County, Texas, and one state, Tennessee. Unfortunately, I was only able to obtain data over a reasonable historical time from Johnson County, Iowa. These are displayed in Figure 5. Due to the preliminary nature of these data, I will not dwell long on them, but will only point out the obvious pattern: early voting ballot requests came earlier, and in larger numbers, than in the two midterm elections. This provides additional evidence in favor of a campaign driven theory of early voting.

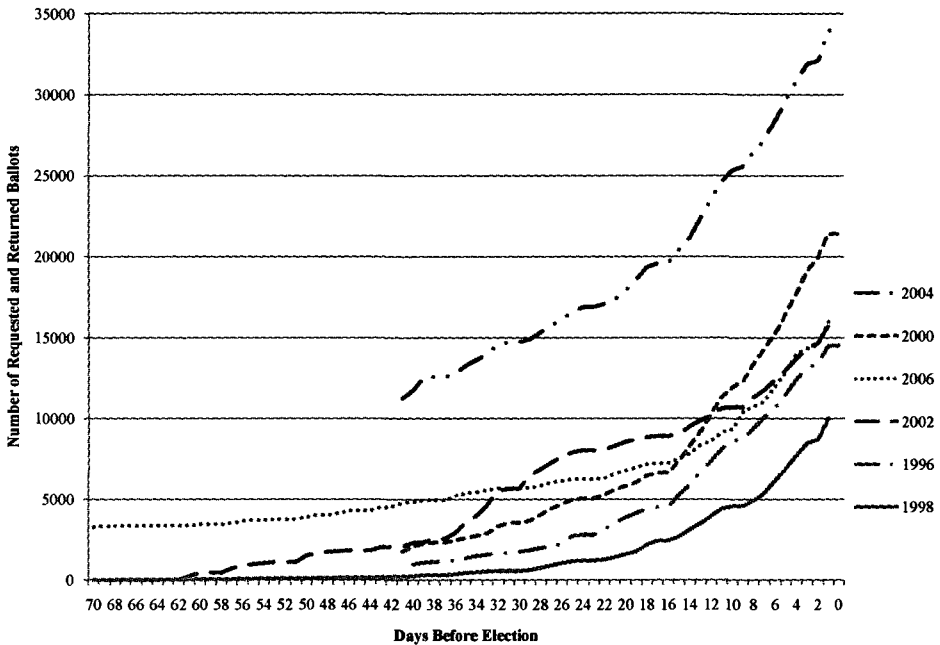


Figure 5: Early Voting Returns by Day, Johnson County, IA

D. Results: Individual Effects

GOVT activists in Washington and Oregon categorize early voters into three groups.¹⁰⁶ First, there are the “committed early voters” (under both absentee and VBM systems). These voters tend to be older, more established, and more partisan. Second, there is a group that always votes late. These folks are younger and less interested in politics. For them, the decision to vote at all precedes the decision of for whom to vote. Finally, there is the third, key group: the “marginal voter,” the voter who turns out some of the time—only when interested or mobilized. This third group is the most difficult to identify, is the most fluid across campaigns, and is the most responsive to campaign environments and mobilization efforts.¹⁰⁷

¹⁰⁶ This information is based on the author’s anonymous interview with a GOTV direct mail consultant from Oregon who works in the region.

¹⁰⁷ See Alan S. Gerber & Donald P. Green, *The Effect of a Nonpartisan Get-Out-the-Vote Drive: An Experimental Study of Leafletting*, 62 J. POL. 846, 853 (2000) (“[A] small experimental stimulus raised turnout among unaffiliated voters by more than 7% The most likely explanation is that partisans received adequate encouragement to vote from either their political parties or fellow partisans, while the unaffiliated do not receive nearly as much attention.”); MICHAEL D. MARTINEZ & JEFF GILL, *HAVE TURNOUT EFFECTS REALLY DECLINED? TESTING THE PARTISAN IMPLICATIONS OF MARGINAL VOTERS 25* (2002) (conference paper prepared for delivery at the Annual Meetings of the American Political Science Association),

Individual ballot return records provide quantitative support to the GOTV activists' observations. As shown in Table 2, H5a receives consistently strong support. Individuals who are willing to check the "Democrat" or "Republican" box on Oregon's voter registration form are between 4.5% and 16% more likely to have voted at any point in time. The November 2003 results stand out; in this election, the Republican hazard rate was almost four times the Democratic rate. This special election includes a ballot measure to establish a public utility district in Multnomah County, taking over for Pacific Gas and Electric, which was part of the Enron bankruptcy (the measure was defeated).¹⁰⁸ Perhaps the rhetoric used by the opponents to the measure—that a government takeover was inevitably costly and wasteful—resonated particularly well among Republicans.¹⁰⁹

Table 2: Ballot Return Analysis, Multnomah County Data, 2002–2004

Variable	May 02		Nov 02		Jan 03	
	Coefficient	Hazard Change	Coefficient	Hazard Change	Coefficient	Hazard Change
Democrat	0.0435 **	0.0445	0.0787 **	0.0818	0.1104 **	0.1167
Republican	0.0482 **	0.0493	0.0924 **	0.0968	0.1225 **	0.1303
Percent Urban	0.0477	0.0115	0.0143	0.0034	0.1586 **	0.0195
Median Income	-0.0010	-0.0189	-0.0006	-0.0105	0.0002	0.0000
Commute Minutes	0.0080 **	0.0412	0.0050 **	0.0255	0.0103 **	0.0996
Percent Non-White	-0.0807 **	-0.0156	-0.0876 **	-0.0171	-0.1967 **	-0.3924
Constant	-2.6820	—	-2.6093	—	-2.5957	—

available at <http://citeseerx.ist.psu.edu/viewdoc/summary?doi=10.1.1.15.2395> (finding only partial support for the conventional SES-based and alternative defection-based models across four elections).

¹⁰⁸ Multnomah County, Oregon, November 2003 Special Election Results, <http://www.mcelections.org/2003-11/results.shtml> (last visited Oct. 31, 2008).

¹⁰⁹ See Multnomah County, Oregon, Online Voters' Pamphlet, November 2003 Special Election: Measure No. 26-52, <http://www.mcelections.org/2003-11/26-52.shtml> (last visited Oct. 31, 2008) (statements of Dan Fitzgerald, Chair, Libertarian Party of Multnomah County; IBEW Local 125; and Mara Woolshin, Small Business Owner).

N of Cases	153004		229547		220591	
LR Chi (d.f.=6)	133.61		313.83		654.19	
	May 03		Nov 03		Nov 04	
Variable	Coefficient	Hazard Change	Coefficient	Hazard Change	Coefficient	Hazard Change
Democrat	0.0687 **	0.0711	0.0460 **	0.0471	0.0712 **	0.0724
Republican	0.0948 **	0.0994	0.1464 **	0.1576	0.1393 **	0.1427
Percent Urban	0.0287	0.0072	0.1052 **	0.0266	0.0561 **	0.0148
Median Income	0.0003 **	0.0058	-0.0014 **	-0.0258	-0.0012 **	-0.0016
Commute Minutes	0.0140 **	0.0739	0.0161 **	0.0838	0.0113 **	0.0999
Percent Non-White	-0.1670 **	-0.0319	-0.0141	-0.0027	-0.0123 *	-0.0016
Constant	-2.7058	—	-2.6558	—	-2.7217	—
N of Cases	192194		150179		263421	
LR Chi (d.f.=6)	477.36		774.11		461.82	
<p>Notes: Data are individual level ballot returns from Multnomah County, OR. Dependent variable is the days before election that a ballot was returned. Urban, income, commute, and non-white are measured at the zip code level from the 2000 Census. Coefficients were obtained from a Cox Proportional Hazards Model run in Stata 8. Coefficients with two asterisks are significant at the .01 level.</p>						

A graphical display of the *actual* (not predicted) ballot return rates from the November 2002 election, shown in Figure 6, provides a visual illustration of hazard rates. At any time-point, the Republican and Democratic lines track approximately 10% above the line for independents—almost exactly what the survival model

estimates.¹¹⁰ In conclusion, these results show that partisans take advantage of early voting systems to return their ballots sooner.

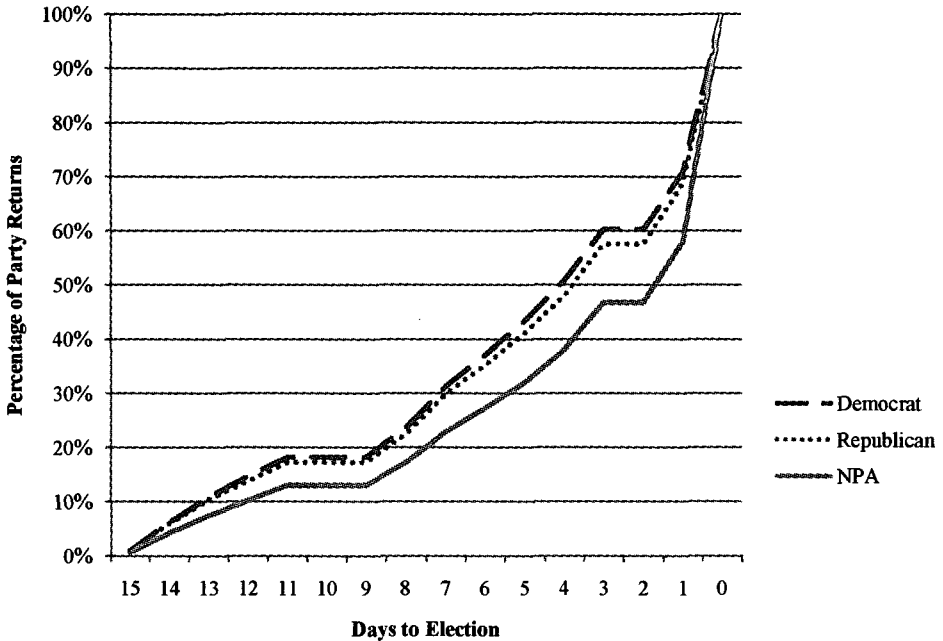


Figure 6: Multnomah County Returns, November 2002 (General)

H3a is also supported. Recall that “commute time” acts as a surrogate for the convenience of balloting. For each of the five elections studied, individuals living in areas with a higher average commute return their ballots earlier at a rate that exceeds the partisan rate in some elections. We are unable to say, given these data, that *individuals* with longer commute times vote earlier—commute times are available at the zip code level. Still, either the length of the commute, or some other area characteristic that is correlated with commuting time, is positively related to early voting.

H4a, however, is not supported. I used the median income of a zip code area as a surrogate for informed voters. The data indicate that, contrary to my expectation, individuals in higher income areas voted *later* in four of the five elections under study

¹¹⁰ For each model, the hazard rate is calculated by multiplying the coefficient by a given change in the independent variable. For party, the value was 1 (party is coded 0-1). For all other variables, the value chosen was a one standard deviation increase.

(although these results are statistically significant in only two elections). Finally, it is interesting to note that the percentage of non-white voters is consistently related to *later* voting (the coefficient is negative, implying that individuals in areas with higher proportions of non-white residents vote later). I have no explanation for this pattern.

In summary, individual level analysis supports two of the three hypotheses. Partisans are significantly more likely to vote early, with intriguing variations across campaigns that bear further examination. Individuals in areas with longer commute times also take advantage of the early voting system, supporting the “convenience” result among absentee balloters found by Gimpel and Schuknecht.¹¹¹ Finally, my hypothesis about income and early voting was not sustained, although income is probably a poor surrogate for political information, the key theoretical variable.

V. FUTURE DIRECTIONS: CAMPAIGN DYNAMICS AND EARLY VOTING

I have suggested some ways that early voting will alter campaign strategies and voter decision making. It is clear that early voting raises campaign costs and complicates what is already a challenging electoral environment. The literature is close to a consensus regarding the impact on turnout (small to none) and composition of the electorate (early voting attracts regular voters).¹¹² Finally, we have individual evidence that early voters tend to be from higher socioeconomic categories and face longer commutes.¹¹³ Voting on election day is a costly proposition for these individuals, and they appreciate the convenience offered by early voting.

Surely, rates of early voting are a consequence of context, campaigns, and individuals.¹¹⁴ A theory that incorporates all three would take us a long way toward understanding the long term direction of early voting. One direction for future research would consider how early voting—or absentee balloting generally, if ballot return dates are not available—varies across space. The next two graphics plot early voting rates in Tennessee and Texas. What is interesting about both of these figures is the dramatic variation in early voting rates across counties. In Figure 7, I plot the daily ballot returns from Tennessee in the 2002 general election. Overall, the rate of ballot return (the middle line) is fairly regular. But notice the dramatic differences between Weakley County, with the highest level of early voting on

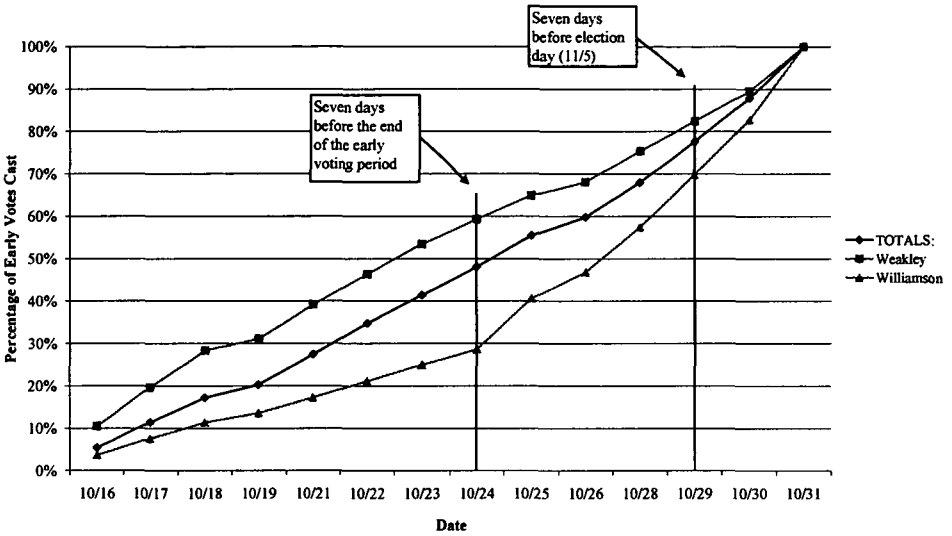
¹¹¹ Gimpel & Schuknecht, *supra* note 88, at 471.

¹¹² See, e.g., Stein, Owens & Leighley, *supra* note 62, at 4–5.

¹¹³ See *supra* p. 441 (discussing H3a).

¹¹⁴ Cf. M. Johnson, W. Phillips Shively & R. M. Stein, *Contextual Data and the Study of Elections and Voting Behavior: Connecting Individuals to Environments*, 21 ELECTORAL STUD. 219, 219 (2002) (illustrating a technique to test for contextual effects based on subject’s integration into their neighborhoods).

October 24, and Williamson County, with the lowest level.¹¹⁵ Similarly, county by county variation in Texas is rather dramatic. Figure 8 shows box plots of county early voting rates for 253 of the 254 counties in Texas since 1988. What is noticeable here is (a) the slow growth in the median level of early voting, and (b) the wide variation on the upper end.



**Figure 7: Early Voting in Tennessee, Nov. 2002
(Statewide, highest, and lowest counties compared)**

Why do voters in some counties vote absentee at very high rates, approaching 100%, while absentee voting in other localities percolates along at 10–15%? Weakley County is a small rural county located in the northwest corner of the state. Are the different rates of early voting a consequence of the races in 2002? Contextual characteristics? Aggressive election officials? Are the same counties in Texas consistently showing high levels of early voting, or do these change from year to year? Only time, and additional analyses, will tell. The hypotheses proposed here (convenience and campaign competitiveness) ought to provide some guidance to examining these data.

¹¹⁵ I chose these dates because they are seven days before the end of the early voting period, and can be compared to the seven-day figures presented for Oregon in Figure 6.

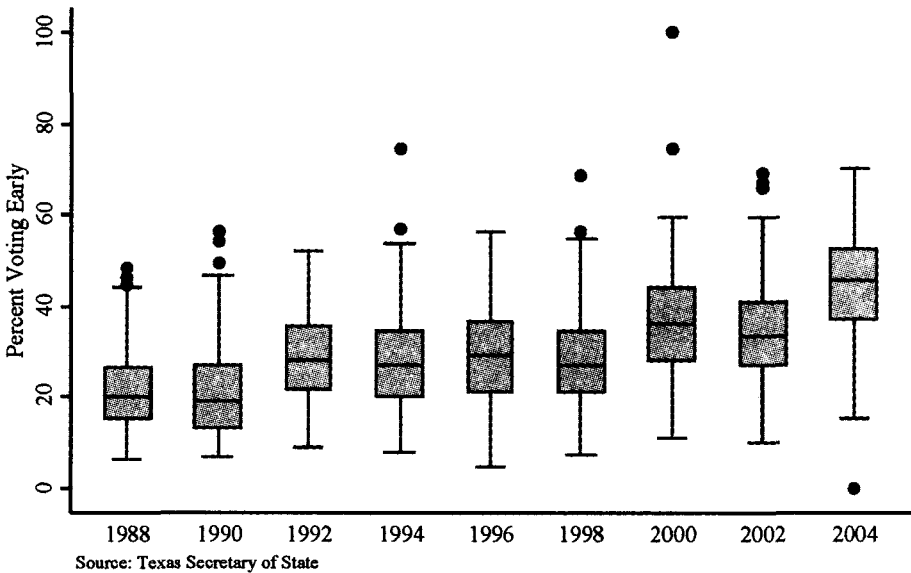


Figure 8: Texas Early Voting
Variation Across Counties

CONCLUSION

No political reform is all upside. If there is a downside to early voting, it is that voters can cast their ballots well before the campaign has ended, thus potentially missing information about the candidates. The sense of election day as a community-wide civic event is also diminished when 30% or more of the electorate has checked out of the campaign. These are the primary concerns raised by the opponents to early voting reforms.¹¹⁶ The proponents argue that early voting reduces the cost of voting for the individual,¹¹⁷ and makes the ballot counting procedure more accurate and efficient—no small concern given recent problems with voting technology.¹¹⁸

Political science can make a contribution to this important policy debate, evaluating these competing claims. The research thus far has already disproved one com

¹¹⁶ See Nagourney, *supra* note 77.

¹¹⁷ See Harwood, *supra* note 43 (“[E]arly voting has become increasingly appealing to time-pressed voters in recent years, and far easier as well.”); ACE, *supra* note 36 (“For many voters, absentee voting facilities may be the most practicable means by which they may participate in voting.”).

¹¹⁸ See Vascellaro, *supra* note 9 (“Florida switched to early voting after the controversial 2000 recount [Florida officials] realized that the voter is a potential walking scandal and that if they get a third or half of the people out ahead of time, it is easier to run an election.” (quoting Brian Lunde, General Manager of helpingamericansvote.org)).

monly made assertion, that early voting increases turnout. It does not. Early voting does encourage turnout among regular voters for low-intensity contests, but it does not help solve the participation puzzle for new voters or those outside the system for reasons of disinterest, language, disability, or other burdens. It is possible that this relationship may change as voters become used to early voting systems, as early voting locations become more easily accessible, and as political organizations adapt to the early voting system.¹¹⁹ As statewide voter registration systems fall into place in response to the federal requirements of HAVA, it is also possible that ballot return information may become readily and cheaply available on a “real-time” basis to campaigns. This should allow campaigns to target their appeals to citizens who have not yet cast a ballot, also possibly enhancing turnout in the future.

It is too early to make many conclusions regarding campaign effects. The evidence thus far, however, is consistent. Campaigns like early voting because it allows them to get a leg up on their voter mobilization efforts, but they dislike it because of the cost. HAVA changes, referred to above, may alter this perception.

Finally, what of the voter? Does early voting really improve democracy, as promised by some proponents? I was able to discover clear patterns among the ballot return data—early voters are more partisan and live in areas with a higher average commute. I have no evidence whether voters spend more time on the ballot or discuss the election with friends, neighbors, or co-workers. Southwell’s evidence, accumulated over six years of experience with vote-by-mail in Oregon, certainly indicates that voters like the system.¹²⁰ Whether this translates into higher quality decision making is less clear.

¹¹⁹ See Stein, Owens & Leighley, *supra* note 62.

¹²⁰ SOUTHWELL, SENATE ELECTION, *supra* note 23, at ii.

APPENDIX

Multnomah County Elections Analyzed in This Paper			
Election Turnout	Description	Number of Ballots	Turnout
May 21, 2002	Primary Election Six major candidates running for Governor; non-competitive races for Senate	161,544	47%
November 5, 2002	General Election Races for U.S. Senate and Governor	245,860	68%
January 28, 2003	Special Election Vote on Measure 28, a statewide tax increase, to solve a budget gap	235,760	65%
May 20, 2003	Special Election Multiple local races and a county-wide tax increase to solve the budget gap	204,662	56%
November 4, 2003	Special Election Measures to create, fund, and oversee a "People's Utility District," for a publicly held power utility	160,328	46%