

Testimony
Subcommittee on Elections
“Expanding and Improving Opportunities to Vote by
Mail or Absentee”
Honorable Susan A. Davis
October 16, 2007

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

I appreciate that we have the opportunity today to discuss an often overlooked but critical piece of our elections process—absentee voting.

It is an honor for me to testify along with our distinguished panelists. I appreciate that they have taken the time to come before our subcommittee. Each has had extensive experience with vote by mail and has a great deal to contribute. I look forward to hearing their testimony and the exchange of perspectives to follow.

My testimony will focus on No-Excuse absentee voting.

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

As my colleagues from California know, anyone can vote by mail in California for any reason. Like voters in seven other states, a Californian can even choose to be a “permanent absentee”—someone who always votes by mail. Voting by mail is so popular that 46% of Californians chose to vote that way in 2006 and 25% list themselves as permanent absentees.

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

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

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

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

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

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

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

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

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

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

Some states allow people over a certain age to vote absentee—in Michigan, it's over 60, in Mississippi, it's 65 and in Georgia it's 75 to be a permanent absentee.

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

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

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

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

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

The expense and burden required for both the voter and the elections officials in these restrictive states are totally unnecessary, as they do nothing to increase security. All they do is suppress the use of absentee ballots, which is around 1-10% in most of these states as opposed to 20-50% in No-Excuse States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

No Excuse absentee voting also does not add the undue burden for local elections officials of having to deal with something new since all already have systems for

absentee voting for military voters. It merely increases the number of people who are eligible to have a fair chance to vote.

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

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

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

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