Election Day Registration: FAQs

Election Day registration (EDR) — a policy that permits citizens to register and vote all at once — has been available in eight states plus the District of Columbia for years. Those states (Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin and Wyoming) are a nice mix of heavily Democratic and Republican states. This year, though, EDR, sometimes called same day registration, has prompted visible and partisan policy debates, with legislation and victories on both sides. The big news:

- In Colorado, HB 1303, developed by the bipartisan Colorado County Clerks Association, passed the Democratically-controlled legislature on a party line vote, and was signed by the Democratic governor. (California and Connecticut, with solid D majorities, enacted EDR last year, too.)

- In Montana, HB 30, which would have dismantled the Big Sky State’s Election Day registration, was passed by the Republican legislature but vetoed by the Democratic governor. The voters will now decide; this year’s SB 405 puts repeal of Election Day registration on the ballot in 2014.

The Canvass won’t probe the politics of EDR. Instead, we’ll provide FAQs that address what proponents and opponents say, how EDR works, who uses it, and its pocketbook impact.

What is Election Day Registration, anyway?

In most states, citizens sign up as voters prior to Election Day, with a cutoff for registration somewhere between 3 and 30 days before the election. In EDR states, citizens don’t have to act in advance. New residents or first time voters can show up at designated sites and register and vote all at once.

What do proponents say?

The “pro” argument is largely based on ensuring eligible voters have the opportunity to vote. “We as a nation should take the steps we can to increase and expand access for eligible voters,” says Myrna Pérez of the Brennan Center for Justice. “Same day registration makes it possible for eligible voters who find themselves not on the rolls on Election Day to cast a ballot that will count.” Pérez sees EDR as one part of a broader goal of modernizing voter registration systems (along with electronic transmission of registration data between state agencies, maintaining registration if a voter moves within the state, and online voter registration). In addition, it provides a chance to clean up the rolls on Election Day by allowing existing voters who have moved to update their voter registration on the spot. This is significant, given that one out of eight registrations in the nation is inaccurate, according to a 2012 Pew Charitable Trusts report.

What do opponents say?

“All election laws should serve one goal—that all valid votes should be counted,” says James Bopp, Jr., a conservative lawyer and prolific participant in election administration, campaign finance (cont. p. 2)
(cont. from p. 1)

redistricting cases. "In serving that goal, there are two concerns. One is to make it as easy as practicable for people to vote, and the other is to prevent people who are not eligible to vote from voting. When an ineligible person votes he’s canceling out a valid voter. These two goals should have equal weight."

He says that with EDR, there is "simply no way to safeguard against people registering to vote who are not entitled to vote, and yet their ballots go into the ballot box. Verifying eligibility takes time."

How do EDR states ensure that no one votes who shouldn’t?

First, EDR registrants are required to show more proof of eligibility than registrants who act before Election Day. Not only do they need to establish who they are by showing an ID of some form, they also must prove where they live. Requiring both is intended to prevent ineligible people from slipping through.

Second, ballots of Election Day registrants can be segregated and their eligibility validated before they are counted. In Montana, any EDR voter who can’t meet the ID requirements must cast a provisional ballot which isn’t counted until eligibility is verified.

Third, voter fraud is a crime, and the possibility of prosecution is expected to deter ineligible people from taking a risk. To confirm the new registrant lives where he or she says she does, local election officials send a non-forwardable mailing to the registration address. If it is returned as undeliverable, the election officials turn the case over to law enforcement for further investigation. Although cases of voter fraud are rare, cheaters can be caught and prosecuted.

Does Election Day Registration increase turnout as proponents say?

It increases voter participation by 3 to 6 percent, according to Election Day Voter Registration in California, from Demos, an advocacy group supporting EDR. Some say it is the only election administration change that can clearly be linked to an increase in voter turnout. Weather, however, is well known to play a significant role in turnout.

Are there administrative hassles involved in EDR?

Any change to election law requires an adjustment period, as new procedures are developed and shared. Administrators in non-EDR states often aren’t interested in making the shift, citing more work to be done on Election Day. (EDR does reduce the pre-Election Day surge in voter registrations, perhaps compensating a bit.)

Because it can be asking a lot for poll workers to both register people and run an election, many states permit EDR only at a central office.

Does new technology help?

While many states have had Election Day registration for decades, the advent of electronic poll books makes the process easier. E-poll books connect poll workers to the statewide voter registration database, enabling them to see instantaneously if a prospective voter is registered elsewhere in the state or has already voted. The e-poll book makes it possible to enter corrections instantaneously to data in the statewide database, too.

And yet, this isn’t a complete solution, in that e-poll books can’t check for people who voted in other states. “College students are pestered (by third party registration drives) until they finally register to vote in Montana,” says Representative Ted Washburn (R) of Montana. “We can only check registration records in our state, so every one of those out-of-state college students has the opportunity to vote twice in a national election.”

What costs are associated with Election Day Registration?

It’s not easy to parse costs for EDR (or any other election policy, for that matter). Demos surveyed election administrators in EDR states, and reports that they say costs are minimal. Montana’s vetoed bill had a fiscal note that estimated zero impact for the state or counties.

Wisconsin, which has had EDR since 1976, has considered repealing it. A February 2013 report, Final Report on the Impacts and Costs of Eliminating Election Day Registration in Wisconsin, estimates costs of $2.0 to 5.7 million over two years to eliminate EDR. These potential costs to repeal it are unusual. Along with other states that had EDR at the time the National Voter Registration Act was passed, Wisconsin is exempt from a federal requirement that states provide an opportunity for citizens to register to vote at motor vehicle bureaus. By eliminating EDR, Wisconsin would no longer be exempt, and would face costs associated with providing that service. (States that might adopt EDR at this point do not become exempt.)

Who is likely to register and vote on the same day?

Election Day Registration is a convenience for those who have recently moved or didn’t plan ahead. In 2012, approximately one in eight voters in the EDR states used it, according to Pew Charitable Trusts.

Conventional wisdom says that these are likely to be young people and Democratic-leaning voters. However, The Impact of Election Day Registration on Voter Turnout and Election Outcomes, by Jacob R. Neiheisel and Barry C. Burden, suggests (cont. on p. 3)
that in Wisconsin, at least, it is primarily Republican voters who take advantage of EDR.

**North Carolina is often listed as a “same day” state; why doesn’t NCSL count it?**

North Carolina has a period during early voting when voters can register and vote all at once, but this option ends before Election Day. This year it has legislation to eliminate its same day registration, **HB 451**. Based on passage of this year’s **MD S 279**, Maryland will have same day registration during early voting beginning in 2016.

**How active have legislatures been regarding EDR this year?**

Very active — and in both directions. In terms of new EDR, 16 states in addition to Colorado had legislation this year. We’ll watch Hawaii’s **HB321**, which will go to a conference committee when the legislature reconvenes in 2014, and Nevada’s **AB440**, which is in the second chamber now. Nevada’s bill would permit same day registration during early voting. As for eliminating EDR, Montana was joined by Iowa, where **HF308** is now in its second chamber. See NCSL’s EDR webpage for details.

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**Legislative Action Bulletin**

- 172 bills enacted
- 30 bills in conference or pending gubernatorial action
- 145 bills pending in the second chamber
- 1,056 bills pending in chamber of origin
- 477 bills failed to pass
- 82 bills carried over to 2014 session
- 5 bills vetoed

- 2,213 total election bills introduced in 2013
- 25 states are in session
- States likely to adjourn by the end of the month are AZ, IA, KS, NE, OK and TX

**Early voting** is on many legislative agendas this year.

Last week, the **Connecticut** General Assembly placed a question on the 2014 ballot that, if approved, would allow it to create an early voting process for the state, and **New Jersey** Governor Chris Christie (R) vetoed a bill that would have made New Jersey the 33rd state to offer early voting.

The **New York** Assembly has passed an early voting bill; it’s now in the Senate.

In South Carolina, both chambers have passed early voting bills, but significant differences remain between the **House** and **Senate** versions.

A **Florida** bill that’s currently on the governor’s desk would un-do some of the controversial changes made to early voting last year by allowing election supervisors to offer early voting on the Sunday before Election Day and expanding the locations where it’s available.

Several other states have acted this year to change the early voting period: **Nebraska** shortened it by five days, **Tennessee** by two days and **Utah** by one day.

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**Bookmark**

**Ballot Access News**

The newsletter, **Ballot Access News**, offers a wealth of information for people who want to make it easier for minor parties to form and get on ballots. On the front page, you’ll find news-related blog posts. On the right column, the links to “Paper Issues” take readers to a trove of well-researched news on ballot-related issues (and sometimes other election issues). Editor Richard Winger **welcomes** responses and comments.
Five important online election tools to help voters find the information they need the most are summarized, and their availability in all 50 states and the District of Columbia’s official election websites for the 2012 November election is shown below.

These lookup tools help voters find: polling place location, registration status, absentee ballot status, provisional ballot status, and precinct-level ballot information. These tools help provide valuable election information to voters where they are most likely to look for it—online.

**NOTES:** Idaho, Maine, Minnesota, and New Hampshire do not issue provisional ballots. North Dakota does not issue provisional ballots and does not have voter registration. Idaho has 3 out of 4 possible tools. Maine has 2 out of 4 possible tools.

*Graphic courtesy of Pew Charitable Trusts; it can be viewed as an interactive map.*
Joe Burns is the deputy director of election operations for the New York State Board of Elections. He took this position four years ago, after working as staff for the New York Senate. NCSL talked with him on May 1.

Excerpts:

- “We just had a lengthy hearing on a proposal from the secretary of state to take motor voter registration and make it into an “opt out” plan. This would mean that people who have gone to the DMV would be automatically registered.”
- “Anytime we have an idea, the cost issues are important because our counties are resource-starved. We had a couple of county commissioners write in opposition to the automatic registration bill, largely due to fiscal concerns. Sensitive as I am to fiscal concerns, I just don’t think it’s a good enough reason not to promote access.”
- “Oregonians love vote-by-mail. People get their ballots about 15 to 20 days before the election. Voters don’t have to worry about taking time off from work to vote and standing in line.”

Read the full interview here for more from Joe Burns.

The Election Administrator’s Perspective

Oregon Representative Chris Garrett (D) is the state’s speaker pro tempore and the chair of the House Rules Committee. He serves in the district where he grew up—southwest Portland and Lake Oswego. NCSL spoke with him on May 9.

Excerpts:

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One big number

That is the number of people who voted in the 2012 presidential election, according to The Diversifying Electorate: Voting Rates by Race and Hispanic Origin for 2012 (and Other Recent Elections), a report from the U.S. Census Bureau. The nationwide voter participation rate stood at 61.8 percent, down from 64.0 percent in 2008 and 2004. This was the first year that the Census Bureau credits black voters with a higher participation rate (66.2 percent) than non-Hispanic white voters (64.1 percent). Turnout expert, Michael McDonald, reports that 2008 was the year that threshold was crossed.
Worth Noting

- Two projects funded by the U.S. Election Assistance Commission aim to make voting easier for people with traumatic brain injuries, aphasia (a term covering a variety of language disorders) or other troubles with reading. Both are part of the Accessible Voting Technology Initiative. One, from the University of Maryland, Baltimore County, creates web-based voter guides that work by simplifying text and using audio, video and other formats to present information. The second comes from the Center for Information Technology Research in the Interest of Society, and it makes a mobile interactive application for California’s voter guides.

- NCSL is generally considered the nation’s keeper of voter ID requirements. Other organizations also capture this data, and may categorize it differently. Here’s an example from the Election Integrity Defense Project, a subset of the American Civil Rights Union.

- Which states permit electronic ballot transmission, and under what circumstances? NCSL has the answers at our new webpage, Internet Voting. Our thanks go to Verified Voting Foundation and the Federal Voting Assistance Program for sharing their resources and knowledge with us as we conducted the research.

- Reza Jan, an analyst with the American Enterprise Institute, voted in Pakistan’s election last week. His report includes a professional analysis of the election, with a few personal details.

- A House Divided—United, by Neil Simon, is a film about how an evenly split Oregon State House rose above party labels to work together, and create change, by sharing leadership in 2011 and 2012. (The link goes to a trailer; you’ll have to contact Simon to get the full video.)


- Michael McDonald, George Mason University political scientist, used a political lens to look at data about online voter registration from Maryland’s State Board of Elections. It’s well worth a full read, but his conclusion is: “Registered Republicans appear to more often use Maryland’s online system to initiate a new registration while Democrats use it to update an existing registration.” And then there’s the caveat: “Keep in mind, Maryland is just one state, so these observations may not be applicable elsewhere.”

- After a May city council vote, Takoma Park, Md., will be the first city in the nation to allow 16-year-olds to vote in local elections. By NCSL’s count, 12 states allow 17-year-olds to vote in primary elections—if they will turn 18 by the general election.

- NCSL’s elections team is joining the Twittersphere; our handle is @NCSLelections. Please follow us.

From NCSL’s Elections Team

When legislatures adjourn, as 25 have so far, it might feel a bit like “school’s out for summer.” And yet, there is still much to be done before a bill truly becomes a law: proofreading, cross-referencing, preparing bills for signatures, compiling journals and keeping all records straight. Here’s what’s entailed in West Virginia; post-session goings-on are just as complex in other states.

At NCSL, our work has begun to shift a bit from “need it now” information requests to longer term research projects. Do you have one you’d like us to consider? Let us know.

Jennie Bowser and Wendy Underhill

The Canvass is an elections newsletter for legislators and legislative staff. It seeks to inform by sharing research, analysis and legislative best practices. It is published by the National Conference of State Legislatures. William T. Pound, Executive Director.

To subscribe, contact TheCanvass@ncsl.org

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