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# Briefing



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## Election-Day Registration: A Case Study

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Nearly 4,000 people – or one out of every 100 voters – in Montana were able to register or update their registration and vote on the same day during last November’s mid-term election, something not permitted in the state since the inception of voter lists.

While the number of election-day registrants caused long lines, poll-worker confusion and headaches in parts of the state – prompting some to call for a quick end to the newly-enacted rules – the results were difficult to ignore: voters who had the opportunity to register and vote on Election Day did so en masse.

In the largely rural state, election officials said they were “overwhelmed” by the turnout. Representatives of groups that encouraged the change, including the League of Women Voters, said the long lines and large crowds were symptoms of a lack of preparation and a failure to adequately anticipate demand. The turnout, they argued, represented “a resounding success.”

Montana joined six states around the country allowing the practice of election-day registration (EDR). The process allows those on the fence about participating in an election extra time to make up their minds. If they miss deadlines for registering to vote – a month before an election in some states – they can still have their voices heard and cast a ballot, pro-

vided they live in one of the seven states allowing it.

This, the first in a series of *electionline.org* case studies, examines the implementation, legislative history, practice and outlook for EDR in the states where it is currently permitted and in other parts of the country where it has been or will be considered by lawmakers.

Nationally, EDR has been debated since it was first implemented in three states in the 1970s.

Organizations including Demos, Common Cause and the League of Women Voters have been supportive of efforts to expand EDR beyond Idaho, Maine, Minnesota, Montana, New Hampshire, Wisconsin and Wyoming, the seven states that now permit it.

According to Demos, states with EDR consistently lead the national average in turnout, counteract “arbitrary” voter registration deadlines and help numerous Americans who report trouble with registration procedures.<sup>1</sup>

Common Cause reports registration issues were the most frequently-cited problem by voters who called hotlines in 2004. The organization recommends EDR as a solution to registration problems by eliminating registration “as a barrier to voting.”<sup>2</sup>

But EDR has its skeptics as well.

Paul Gronke, a political science professor at Reed College, has challenged the notion that EDR increases turnout.

“The major barriers to turnout are voter interest and motivation,” Gronke wrote on his blog, *Earlyvoting.net*. “Election reforms are fine as far as they go, but if anyone thinks that minor tweaking around the edges, like same-day registration, will do anything but help turnout a few percentage points, they are sadly mistaken.”

Fraud should also be a concern, said election turnout expert Curtis Gans of the Center for the Study of the American Electorate. In states with a history of voter fraud, EDR can exacerbate the problem.

Speaking about a proposal to introduce EDR in Massachusetts in 2005, Gans said EDR offers “no protection against last-minute fraudulent registration or votes in the name of people who have died or moved.”

“The question is, has there been fraud in Massachusetts? If the answer is yes, then same-day registration is not good for Massachusetts,” he said.<sup>3</sup>

And even in states where it was considered to be a good fit, not everyone is supportive.

Two lawmakers in Montana, troubled by long lines and confusion at some county election offices during the November 2006 election sought to roll back the current law. Those rules allow for a 30-day “late registration period,” permitting voters to register and vote at an election office up until polls close on Election Day. With election officials tied up helping would-be voters register and cast ballots until well after polls closed, other needs, such as troubleshooting problems at the polls or answering voter inquiries on the phone, had to be delayed or pushed aside.

EDR bills have been introduced again in several states this year, including Michigan, Hawaii and Utah. But the movement to expand the practice beyond largely rural, low-population states has been static. EDR has been defeated repeatedly in a number of states, including Connecticut, Massachusetts and Texas. Maryland officials, who are considering introducing EDR to the state in 2008, recently concluded a comprehensive study on its advantages and challenges.

# Executive Summary

The number of states that allow citizens who delay registering to vote just prior to or on Election Day has recently expanded to seven, with Montana joining the group of primarily Western and rural states in 2006.

Designed to give voters the flexibility to circumvent registration deadlines that occur a month before an election in more than half of the states, election-day registration (EDR) has allowed hundreds of thousands of voters access to the political decision-making process they otherwise would not have or at least permitted more flexibility to delay registering.

Advocates say EDR states consistently lead the national average in turnout, while counteracting registration problems, which are frequently cited by voters as barriers to participation.

But the practice has also raised concerns, particularly over whether allowing voters to cast ballots on the same day they register fails to provide adequate scrutiny of credentials or potentially allows double voting by permitting someone who might have cast an absentee ballot or voted at another polling place the ability to do so again. One critic said voter interest and motivation, not EDR, are crucial to increasing turnout.

*electionline.org* examined the states that offer EDR – Idaho, Maine, Minnesota, Montana, New Hampshire, Wisconsin, and Wyoming – detailing the differences in practices in each.

Montana rolled out EDR – termed “late registration” – for the first time in the 2006 election with mixed success.

More than 7,500 voters took advantage of the rules, which allow citizens to register and vote at central offices after the 30-day pre-election registration deadline until the close of polls on Election Day. But along with big crowds came problems in some areas, including long lines and confusion at local precincts when veteran staff and poll workers found themselves helping same-day registrants rather than attending to other duties during the vote. As a result, some local clerks and lawmakers in 2007 were seeking to roll back EDR by ending the late registration period a week or more before Election Day. Advocates, however, pointed to high demand as proof the practice was needed in the state.

Minnesota, which has offered polling-place EDR for more than 30 years, has recorded between 10 and 20 percent of voters registering and casting ballots on Election Day. Officials noted that EDR can make ordering ballots more difficult and lines can get long in some areas. Nonetheless, one county clerk said voters in her county rarely waited more than 20 minutes to register and vote, and a pilot implementation of electronic poll books in several precincts in special elections this year – offering links to the statewide voter registration database – could help add more safeguards against fraud.

Efforts to expand EDR have been unsuccessful other than in largely rural and/or sparsely-populated states. Lawmakers in a number of states – Connecticut, Florida, Illinois, Indiana, Massachusetts, New York, North Carolina and Texas among them – have rejected EDR measures in recent years. Similarly, ballot measures that would allow EDR failed in both California and Colorado in 2002 by substantial margins.



# The Montana Experience

In 2006, Montana joined six other states around the country that offer citizens the opportunity to make last-minute decisions about voting. By registering on Election Day, recent arrivals who relocated from another county or state, those roused to action at the last minute by a candidate or ballot issue, or plain old procrastinators could participate in the process despite missing a 30-day cut-off for traditional registration.

Lawmakers enacted a bill (S.B. 302) that allowed a similar version of same-day registration or election-day registration (EDR) found in Idaho, Maine, Minnesota, New Hampshire, Wisconsin and Wyoming but with some unique features.

Montana's version of EDR is slightly more restrictive than what is offered in other states. While voters can register and vote in the period between the 30-day cut-off for regular registration and the time the polls close on Election Day, they must do so at a county elections office. The other six states offering EDR allow voters to register and vote at their precinct or at a central location.

According to election administrators, S.B. 302 was a compromise among a number of different factions; among them the state's League of Women Voters, the AFL-CIO, the AARP, Associated Students of the University of Montana, the Secretary of State's office, political parties and county clerks.<sup>4</sup>

"Same-day registration or polling-place registration has always been a big issue: whether or not the person

who moves into Montana two weeks before the election should be allowed to vote," said Duane Winslow, director of elections for Yellowstone County. "We were able to compromise in this and allow late registration. So, after the close of registration, if someone who is not registered to vote in the county and has not been issued an absentee ballot in any other county in Montana...we will allow them to register and to be issued a ballot right there in the election administrator's office. They won't be allowed to go to a polling place, but they will be able to [register and vote at a county office] up until Election Day."<sup>5</sup>

With concerns about the limits of Montana's recently-implemented statewide voter registration system and the potential for double-voting or other forms of fraud, state lawmakers embraced a form of election-day registration that does not allow the convenience of polling-place sign up, but nonetheless permits recent arrivals or procrastinators the ability to participate in elections.

The law limits registration to county offices or courthouses where election officials say they can perform necessary checks to make sure a voter has not cast a ballot previously or been issued an absentee ballot in another part of the state.<sup>6</sup>

## The roll out

The November 2006 election marked the first time Montana voters had the opportunity to register and cast ballots on Election Day, and from media

accounts during and after the vote, the response was overwhelming.

With a hard-fought and high-profile race for U.S. Senate – and with partisan control over the body potentially in the hands of Montana voters – turnout was unusually high at polling places throughout the state, with long lines at locations offering EDR.

Democrat Jon Tester edged incumbent Republican Conrad Burns to take the seat back for the party, which assumed control over the Senate with a single seat advantage.

Countywide turnout at polling places in Missoula was "way, way up for an off year" said Vickie Zeier, county clerk and recorder. She went on to predict "a record number of voters" for a mid-term election, with voters waiting in line for close to two hours for the opportunity to register and vote. In all, 644 people took advantage of EDR in the county.<sup>7</sup>

## Caught 'off guard'

Elaine Gravely, state election director, said the high turnout surprised local election officials, many of whom expected the nearly month-long late registration period would help thin lines on Election Day.

"Turnout caught us off guard, to be honest," Gravely said. "Because [current law] is requiring that people can register and vote on the same day at the court house, we had almost 4,000 people on Election Day in Montana. And we're a state with a small population. It created real havoc for election administrators in the state. One county had people in


line voting at midnight.”<sup>8</sup>

Winslow, who oversees elections in Yellowstone County, home to more than 92,000 registered voters, reported “steady lines” throughout the day. He attributed the rush on Election Day to a number of reasons, but primarily because the county “didn’t do a better job of advertising that they didn’t have to wait until Election Day to come in to register and vote.”

Winslow said lines were “not as bad” in his county as others in the state, particularly those with large populations of college students. On average, voters waited about 20 minutes, with each registration transaction taking approximately five minutes to complete.<sup>9</sup>

Statewide, 3,947 Montana residents cast ballots using the state’s new late registration rules. Another 3,535 registered and voted at county offices in the period between the end of the 30-day registration period and Election Day. In all, late registration led to nearly 7,500 residents voting – or nearly 2 percent of those who cast ballots – who would have otherwise been unable to vote under previous rules.<sup>10</sup>

Whether the new law or a high-interest U.S. Senate race contributed to the election’s higher-than-usual turnout is a question left for political scientists to debate. What is known, however, is that turnout among registered voters stood at 63 percent, a dramatic 10-point increase over the 2002 midterm vote, and the highest figure in the state in a mid-term since 1994.<sup>11</sup>



...we’re a state with a small population. It created real havoc for election administrators in the state. One county had people in line voting at midnight.

–Elaine Gravelly, Montana election director

### An ‘embarrassment?’ A ‘win?’ Or both?

Votes were still being counted two days after Election Day, resulting in Jim Farrell, the state Democratic Party chair, declaring the vote “an embarrassment in the eyes of the whole country.”<sup>12</sup>

Farrell told reporters that Secretary of State Brad Johnson (R) failed to prepare local officials for the crush of election-day registrants, a charge that Gravelly denied.

“We did a lot of training,” she said. “What you had was everything from [Help America Vote Act] deadlines suddenly hit at the same time. We had the statewide voter registration database, the new AutoMark [accessible voting] machines, provisional ballots, voter identification and election-day registration. The clerks were just overwhelmed.”<sup>13</sup>

The experience of late registration, while trying for voters and some local officials, was nonetheless a success because it expanded the vote to thousands who otherwise wouldn’t have had the opportunity to vote, wrote Mike Cooney, a for-

mer Montana secretary of state in an editorial.<sup>14</sup>

“As often happens with elections, Montanans became motivated and engaged in the closing days of the 2006 campaign,” Cooney wrote, with former Connecticut Secretary of State Miles Rapoport. “[EDR rules] eliminated arbitrary registration deadlines and opened the door for thousands of citizens to exercise their most basic democratic right. Montana now joins its neighbors, Idaho and Wyoming, and four other states offering EDR – states which consistently rank among the top 10 in voter turnout.”<sup>15</sup>

### Rollback efforts

With the problems at the polls – and perhaps some partisan ill will after a hard-fought but unsuccessful election for Republicans in November – some lawmakers are seeking to eliminate the option of election-day late registration in the state by rolling back the deadline to the Friday before an election or earlier.<sup>16</sup>

Rep. Tom McGillvray, R-Billings, proposed a measure (H.B. 281) that



would allow residents to register as late as four days (or the Friday) preceding an election, eliminating the option to register and vote on Election Day itself.<sup>17</sup>

Rep. Rick Jore, a member of the Constitution Party representing Ronan, filed a bill (H.B. 266) that would end the registration period 14 business days before an election, further curtailing the late-registration rules in the state.<sup>18</sup>

Jore said he was disturbed by reports of long lines and confusion at polling places.

“My concern is that we’re diminishing the integrity of the elections process,” Jore said at the hearing.<sup>19</sup>

Opponents of the bill said the long lines in November 2006 proved that same-day registration was serving its intended purpose – increasing the number of Montanans participating in the vote.

“I certainly know that there was some difficulty in terms of long lines, but that just showed that all of those folks voted. There was no voter fraud. We’re just working out the technicalities,” said Terry Kendrick, a representative of Montana Women Vote, a group that encourages women’s political participation.<sup>20</sup>

Sara Busey, HAVA representative for the League of Women Voters of Montana, said her group opposes any efforts to curtail EDR.

“The month leading up to election day on Nov. 7 saw 3,535 people register to vote statewide; on Election Day, an additional 3,947 registered and voted,” she said. “EDR was a resounding success in

terms of providing access to voting. The push for curtailing EDR is coming from the clerks and recorders who weren’t prepared for the rush and had to pull experienced staff off [of supporting] precincts to register folks at the court house. We feel this is a problem easily overcome with proper preparation.”<sup>21</sup>

McGillvray’s bill passed the Republican-controlled House by a 52-48 margin, with Senate debates underway at press time. Most in Montana expect EDR will become a mainstay in the state’s elections, at least if the partisan numbers hold up.

“Realistically, I doubt there will be any change,” Winslow said. “As it becomes more partisan, Democrats will want to keep the system as it is. And Democrats have the Senate and governor’s office.”<sup>22</sup>



## Montana’s Late Registration Process

Unlike other states that offer election-day registration, Montana offers a “late-registration period,” designed to allow similar flexibility to voters who can cast ballots up until polls close on Election Day even if they miss the state’s 30-day pre-election registration deadline.

But it does not permit voters to register and vote on Election Day at local precincts. Because the statewide voter registration database is only online at county registrar offices, the state’s late-registration law limits the process of same-day registering and voting to one centralized location in each county.

A voter who has missed the state deadline is given a registration form at an election office. Identification is required in the state to vote, and the list of acceptable verification includes photo and non-photo documents.

After a voter fills out the form, the statewide registry is checked to make sure the record is not a duplicate and the voter has not been issued an absentee ballot. If the application is accepted, the voter casts a regular ballot at the central location.

# Minnesota: An Election-Day Registration Pioneer

With more than 30 years experience registering voters on Election Day, Minnesota is frequently cited as a model of success by proponents of the process, though election-day registration (EDR) is not uniformly supported.<sup>23</sup>

In 1973, Minnesota made sweeping changes to its voter registration process, including allowing EDR. The legislation also mandated that all jurisdictions maintain voter registration, altering rules that had previously allowed jurisdictions with fewer than 10,000 people – representing about one-third of the state – to operate without rolls.<sup>24</sup>

Not only did EDR represent a new wrinkle in Minnesota elections, it also meant that for many, it would be their first experience registering at all.

## The process

Like nearly all states that require voter registration, Minnesota closes its registration rolls before an election, allowing time to verify new registrants, clean up duplicates and perform other maintenance before the vote. Regular registration closes 21 days prior to Election Day, and voters who sign up before the deadline are termed pre-registered voters.

When voters enter a polling place, they are directed either to a table for those who need to register to vote or a table for those who are pre-registered. A registration judge conducts EDR. The judge is prohibited by law from handling the ballots of same-day registrants.<sup>25</sup>

The judge first checks if the voter is in the correct precinct by examining

a precinct map. Voters must be in the correct precinct to register. If not, they are re-directed.

If in the correct precinct, the voter completes a new voter registration card and provides identification. Acceptable forms include a Minnesota driver's license with a current address; a notice of late registration; a U.S. passport with a utility bill; a U.S. military photo ID card with a utility bill; an oath of a registered voter in a precinct (also known as vouching); or a student ID, registration, or fee statement with a current address.<sup>26</sup>

When the form is completed and the voter's identity has been verified, they are then asked to add their name, address, date of birth and signature to a blank line in the poll book. After this the voter is given a receipt and then directed to the ballot judge.<sup>27</sup>

## The first 30 years of EDR

When EDR was first authorized, the state provided funds to assist local jurisdictions with implementation. The state initially authorized \$125,000. Local jurisdictions soon discovered it was far from enough. In all, \$800,000 was required for that year. Eventually, the state left jurisdictions to fund EDR themselves as part of regular election expenses.<sup>28</sup>

The election of 1976 was the first presidential vote in which same-day registration was permitted, and there were more EDR registrants than expected, causing some administrative problems at the polls.

The state estimated about 10

percent of voters would register on Election Day. In actuality, more than one in five state voters registered the same day they cast ballots, the highest rate since EDR's inception.

This, coupled with a high turnout (73 percent of eligible voters cast ballots<sup>29</sup>) led to long lines at some polling places, voters registering at the wrong polling place and some same-day registrants being allowed to cast ballots without being properly identified.<sup>30</sup>

However, with experience, more realistic estimates of EDR turnout and updated election procedures, officials and observers say these issues have mostly been addressed.<sup>31</sup>

Over the past 30 years, the number of Election Day registrants has remained fairly steady, with approximately 13 percent of voters registering to vote on Election Day during off-year elections, and nearly 19 percent during Presidential elections.<sup>32</sup>

State and local election officials have also stepped up voter education on EDR, while the statewide voter registration database has allowed for a more complete and up-to-date voter list.<sup>33</sup>

## Local snapshot: Anoka County and EDR in 2006

Anoka County, the fourth-most populous of Minnesota's 87 counties, registered approximately 17,000 voters on Election Day in November 2006. The county had a little more than 183,000 pre-registered voters prior to the general election.<sup>34</sup>

After the election, five county election staffers spent approximately

six weeks entering and updating voter registration records, completing the task in mid-January.<sup>35</sup>

County clerk Rachel Smith said she believes EDR safeguards the integrity of voter rolls.

“It provides us with the most up-to-date information on the voter,” she said. “It assures that individuals are voting for offices and districts where they live on Election Day and it eliminates the need for provisional ballots because we resolve any voter registration issues that day.”<sup>36</sup>

### Challenges and responses

There are some administrative challenges to using EDR in Minnesota, but officials say they are manageable.

“[EDR] can sometimes make ballot orders slightly more difficult because there is more flexibility on the number of people that can show up to vote. There are [also] some technical issues in working with what is considered legal identification that election judges frequently get confused, but the county does provide ‘cheat sheets’ and is always available for questions,” said Smith, referring to her experience in Anoka County.<sup>37</sup>

Two other major concerns critics have about EDR are the potential for voter fraud, i.e. voters casting more than one ballot, and longer lines at the polls due to the EDR check-in process.

In the past, former Minnesota Secretary of State Mary Kiffmeyer (R), who supported continued use of EDR in the state, expressed one of those concerns.

“We have long lines because of same-day. People get frustrated and leave.”<sup>38</sup>

Gary Poser, the state’s election director, acknowledged that while long lines can be a problem, election officials have responded to this issue.

“Longer lines can be expected in precincts where numerous new registrants might be anticipated - near college campuses, near large apartment complexes and in areas with new housing developments,” he said. “Precincts in these areas may hire additional election judges to help administer anticipated larger numbers of EDR voters. Accurate news media articles on acceptable proofs of residence can also help voters bring the appropriate documentation to the polling place to keep the process moving.”<sup>39</sup>

Smith said it is not a problem she has encountered much in Anoka County, noting the county rarely sees long lines and that at peak times voters probably don’t wait more than 15 to 20 minutes to register.<sup>40</sup>

On voter fraud, both Poser and Smith agree there is little evidence of EDR leading to double-voting or other voter fraud and in fact may be less prone to fraud than other means of registering to vote.

“EDR is an in-person registration with an election official (poll worker) where an authorized proof of residence is shown. EDR has less fraud potential than a mail registration,” said Poser.<sup>41</sup>

Smith said she knew of one instance of potential voter fraud in

2004 in her county – where a voter cast both an absentee ballot and voted on Election Day in another precinct. The case could not be pursued by the county attorney because of the mental state of the individual and an inability to establish intent, she said.

She said she does not know of recent instances of voter fraud in Anoka County and describes how they check for this when inputting registration information into the state database.

“The statewide [voter registration] system will immediately notify us if a voter voted more than once,” she said. “We also send a non-forwardable postcard to each voter when they register to vote and if the postcard is returned, we will immediately investigate. The majority of the postcards that are returned are due to moves during December and January following an election and therefore are also not fraudulent.”<sup>42</sup>

### What’s next

The state is hoping to test electronic poll books in select precincts in upcoming special elections in 2007. An informal request for proposal has been issued for such poll books, which may either have a real-time connection to the statewide voter registration database or may hold data that will be uploaded to the database after the election. For the potential upcoming pilot project, the state will use a parallel approach, using the new electronic poll books along with the printed rosters.<sup>43</sup>



# Election-Day Registration Outside of Montana and Minnesota

Along with Minnesota and Montana, five other states — Idaho, Maine, New Hampshire, Wisconsin and Wyoming — also permit election-day registration (EDR).

Wyoming was the first to allow EDR when in 1945 the practice was allowed at primaries in several rural counties, cities and municipalities that had fewer than 1,000 votes cast in the previous election. EDR was used for the first time in primary elections in Wyoming in 1952, and for the first time in general elections in 1994. In 2003, it was permitted in all elections except “special district elections.”<sup>44</sup>

The state has a 30-day cut-off period for voter registration prior to each election; however, if someone misses the 30-day deadline they may go to their county courthouse, register to vote and vote in-person absentee at the same time.<sup>45</sup>

Citizens in Wisconsin may register to vote on Election Day as well by filling out a special voter form (EB-131) at their polling place. Those wishing to register must provide a driver’s license number (or state-issued ID or the last four digits of their Social Security number) and have proof of residence indicating they have lived at their current address for at least 10 days prior to the election.<sup>46</sup>

If a registrant does not have a license with them and does not know the number, they are permitted to vote a provisional ballot. They then have until 8 p.m. to return to the polling place with the necessary identification, or they may fax it by 4 p.m. the next day.<sup>47</sup>

Voters have until 5 p.m. on the

day prior to the election to register to vote, but sometimes, even that’s not quite enough time.

“Obviously I knew the election was coming up, but I just never got around to registering. I’d like to blame it on the fact that I was in my third-trimester [of pregnancy] at the time, but really, I can’t,” said Jen Fudge of Wauwatosa who recently moved back to Wisconsin. “But it was great to know that I could register and vote on Election Day. The whole process took me about five minutes to register. It actually took longer to vote.”<sup>48</sup>

Voter registration in New Hampshire closes 10 days prior to an election; however, those who do not meet that deadline may register to vote on Election Day. Unlike Wisconsin, which requires that voters be residents for at least 10 days prior to an election, New Hampshire mandates no such minimum residency. Those who are unable to make it to the town or city clerk’s office prior to the election need only bring proof of age, citizenship and domicile to the polling place with them on Election Day.<sup>49</sup>

According to its Web site, Maine has one of the most accessible voting processes in the country. Voters who do not complete their voter registration form at least 20 days prior to an election may register to vote in person through and including on Election Day. Voters wishing to register in person must show proof of identity and residency.<sup>50</sup>

Voters who are unable to either register in person or by mail at least 25 days prior to an election may register to vote on Election Day in Idaho. Those wishing to register via

EDR in Idaho must provide proof of residence along with a photo ID. Idaho permits college students with a valid student ID and a current student fee statement that contains the student’s valid address in the precinct to register as well.<sup>51</sup>

## The North Dakota exception

North Dakota is the only state in the nation without some form of voter registration. It could also be argued that North Dakota was actually the first state to support EDR when, in 1895, the North Dakota Legislative Assembly passed a law requiring voter registration, part of which allowed an unregistered voter to appear at the polls on Election Day and vote after they filled out an affidavit swearing to the fact that they were indeed a resident.<sup>52</sup>

In 1951, North Dakota repealed mandatory voter registration and left registration optional with governing boards of municipalities. Although there have been several legislative attempts to reinstitute voter registration, all have either failed at the state legislature level or been vetoed by the governor.<sup>53</sup>

Today, in order to vote in North Dakota, one needs to be 18, a U.S. citizen and have lived in North Dakota for 30 days preceding the election. To prove that, citizens need a valid ID (driver’s license, tribal ID, student ID, etc.), a utility bill dated 30 days prior to Election Day or a change of address verification letter from the U.S. Postal Service. If a potential voter does not have one of those forms of ID, they may still vote if a poll worker is able to vouch for their identity or they complete a voter’s affidavit.<sup>54</sup>

# Legislative Outlook

## Connecticut's 'Presidential Ballots'

While stopping short of allowing EDR, the Nutmeg State has a unique system allowing unregistered residents to cast ballots on Election Day, but only for the office of President. While voters are not required to register at the time they cast these ballots, registration can be offered by the clerk.

In place since 1963, the "Presidential Ballot" directs unregistered voters to town clerk offices beginning up to 45 days before an election and ending, until recently, a week before the vote. In 1997, the law was amended to allow presidential balloting until polls close on Election Day.<sup>55</sup>

To receive the ballot, applicants must sign a form attesting they are a U.S. citizen of legal age, have not forfeited their right to vote (by committing certain crimes), are a resident of the town or a former resident who has moved within the past 30 days and they have not nor will not cast any other ballot. Since 2004, applicants also have to provide qualifying photo or non-photo identification.<sup>56</sup>

The 2000 vote, the first Election Day allowing same-day Presidential voting, saw a huge jump in presidential ballots – from about 1,000 in 1996 to more than 30,000 in the 2000 general election.

The crush of same-day presidential voters caused some problems at clerks' offices, including long lines, ballot shortages and concern over fraud – a worry shared by lawmakers who in 2004 opted to require presidential ballot voters to show identification when applying for the ballot.<sup>57</sup>

Election-day registration (EDR) has been limited to largely rural and sparsely-populated states. Maine, Minnesota and Wisconsin have permitted the practice since the 1970s, while New Hampshire, Idaho and Wyoming adopted it statewide beginning in the 1990s.

It took another decade for an additional state to join the small group, when Montana lawmakers adopted a late-registration process in 2005.

Legislative failures have been plentiful in recent years. Bills introduced in 12 states – Connecticut, Florida, Illinois, Indiana, Nebraska, New Jersey, New Mexico, New York, North Carolina, Oregon, Texas and Utah – failed in 2005 sessions. A year earlier bills failed in 13 states, among them Alaska, Hawaii, Massachusetts, Missouri, Pennsylvania, Ohio, Tennessee and Vermont.<sup>58</sup>

With bill failures widespread, it would seem the prospects for this year's crop of bills are bleak, especially with repeat efforts in Illinois, Indiana and Texas.<sup>59</sup> Michigan state Sen. Liz Brater, D-Ann Arbor, introduced S.B. 13 in early January to allow polling-place EDR.

Brater said partisan politics would likely keep her bill from succeeding. Democrats have control of the governorship and state House in Michigan, but are a minority in the state Senate.<sup>60</sup>

With a district that includes the University of Michigan, Brater said the introduction of EDR in the state would get more young people voting and increase participation statewide, as evidenced by turnout rates in states

which offer it. And with Michigan's Qualified Voter File able to check against duplicate or fraudulent registrations and double voting, Brater said "people who have considerable expertise in election law have endorsed this concept."<sup>62</sup>

Edward Foley, a law professor at the Moritz School of Law at The Ohio State University, said partisanship and EDR are more nuanced than the simple notion that Democrats support and Republicans oppose EDR.

"Strategic considerations do not fully explain the positions of the two parties in these voting administration debates. Rather, their different positions conform to their overall ideological differences," Foley said. "Democrats, tending generally to value equality and civil rights over the detection and punishment of crimes, would be expected to value guaranteeing equal access to the electoral process over prevention of election fraud. Republicans, conversely, being more law-and-order in general than Democrats, would naturally be inclined to see stopping election fraud as a higher value than removing all obstacles to the casting of a ballot."

## Efforts to repeal

While not as common as bills to introduce EDR, efforts to repeal it are underway in at least one state. Long lines and confusion at clerk/recorder offices in parts of Montana led two lawmakers – one Republican and the other a member of the conservative Constitution Party

– to introduce legislation to alter the state’s late registration period, closing the rolls four to 14 days before Election Day.<sup>62</sup>

That effort was dismissed by some as partisan ill-will after a Democratic upset in the race for the U.S. Senate.

“Election-day registration was not partisan [in the state] before 2006,” said Sara Busey of Montana’s League of Women Voters. “But it has become somewhat due to the very closeness of the parties in the legislature. A heavy turnout on Election Day at court houses to register and vote occurred in heavily Democratic areas. Some feel that allowed Jon Tester (D) to defeat [then-incumbent] Sen. Conrad Burns (R).”<sup>63</sup>


While the correlation between party preference and EDR is not always present, searches across the country looking at bills to expand or restrict registration procedures closer to or on Election Day show some patterns.

Republican lawmakers have sought to restrict efforts to introduce EDR or roll back existing rules allowing it; Democrats have sought to increase EDR in states and oppose measures to curtail its use in states that allow it.

**The people choose – and pick ‘No’** Brater said she would consider trying to take the issue of EDR directly to voters in the form of a ballot question to circumvent Republican opposition in the legislature.

Voters in California and Colorado have both had the opportunity to vote on measures that would allow EDR in their states, and in both cases, rejected it by substantial margins.

In California, EDR failed by 20



Demos said the citizens of Colorado and California were “losing out” by defeating the measures. In a press release, the organization blamed “a campaign of misinformation and distortion... [caused] the initiatives’ defeats.”

percentage points in the 2002 election, despite efforts by Demos, a New York-based organization that supports EDR, and others to convince voters that it would increase turnout. The state Republican Party led the opposition to Proposition 52, press reports indicated, along with then-Secretary of State Bill Jones.<sup>64</sup>

Voters were apparently receptive to arguments put forth by Prop. 52 opponents, which included assertions that permitting EDR would “make it easier for criminals and non-citizens to vote.”

“Hidden in the fine print is a change in the law that makes proving fraud almost impossible,” stated the

official rebuttal to Prop. 52 on state voter guides. “The authors of Prop. 52 are trying to fool you with talk of tough penalties. Tough penalties mean nothing if it’s impossible to prove the crime was committed.”<sup>65</sup>

That same year, Colorado voters rejected EDR by an even greater margin. Amendment 30, as it was called on ballots, garnered just over 37 percent of the vote.<sup>66</sup>

Demos said the citizens of Colorado and California were “losing out” by defeating the measures. In a press release, the organization blamed “a campaign of misinformation and distortion...that caused the initiatives’ defeats.”<sup>67</sup>

# SNAPSHOT OF THE STATES: Election-Day Registration States

## Idaho

*Voter registration deadline (pre-election):* 25 days<sup>68</sup>

*EDR location:* Polling place<sup>69</sup>

*Non-EDR voter identification requirements:* Driver's license number or last four digits of Social Security number. A voter who lacks documentation checks a box indicating so on a registration form.<sup>70</sup>

*EDR voter identification requirements:* Driver's license or state identification card issued through the department of transportation; any document which contains a valid address in the precinct together with a picture identification card; or current valid student identification card from a post-secondary educational institution in Idaho accompanied with a current student fee statement that contains the student's valid address in the precinct with a picture identification card.<sup>71</sup>

**2004 registration:** 798,015; EDR registrants: 117,622<sup>72</sup>

**2006 registration:** 764,880; EDR registrants: 54,531<sup>73</sup>

## Maine

*Voter registration deadline (pre-election):* 21 days before election if registering by mail. No deadline for in-person voting.<sup>74</sup>

*EDR location:* Polling place<sup>75</sup>

*Non-EDR voter identification requirements:* Driver's license number or last four digits of Social Security number. A voter who lacks both forms checks a box indicating so on the registration form.<sup>76</sup>

*EDR voter identification requirements:* Same as non-EDR requirements.<sup>77</sup>

**2004 registration:** 1,023,956; EDR registrants: Unavailable

**2006 registration:** Unavailable; EDR registrants: Unavailable

## Minnesota

*Voter registration deadline (pre-election):* 21 days<sup>78</sup>

*EDR location:* Polling place<sup>79</sup>

*Non-EDR voter identification requirements:* Driver's license number; or last four digits of Social Security number. A voter who lacks documentation checks a box indicating so on the registration form.<sup>80</sup>

*EDR voter identification requirements:* Driver's license, learner's permit, identification card, or receipt for one, with current address; tribal ID; if Minnesota license, tribal ID or state ID has a former address, a voter can present a current utility bill with address; "Notice of Late Registration" postcard; U.S. passport with utility bill; U.S. military photo ID card with utility bill; voter's prior registration listed on roster at former address in precinct; oath of a registered voter in precinct vouching for residence; student ID, registration, or fee statement with current address, utility bill.<sup>81</sup>

**2004 registration:** 3,569,917; EDR registrants: 492,421<sup>82</sup>

**2006 registration:** 3,410,683; EDR registrants: 292,168<sup>83</sup>

## Montana

*Voter registration deadline (pre-election):* 30 days. At end of the period, applicants must register and vote at local election offices.<sup>84</sup>

*EDR location:* Local election offices.<sup>85</sup>

*Non-EDR voter identification requirements:* Registrant must provide a driver's license or last four digits of Social Security number. Those with neither a driver's license nor a Social Security number must provide (in person) or enclose (by mail) a copy of one of the following: any photo ID with their name; or a current utility bill, bank statement, paycheck, government check or other government document that shows name and current address.<sup>86</sup>

*EDR voter identification requirements:* Same as non-EDR requirements.<sup>87</sup>

**2004 registration:** 638,474;<sup>88</sup> EDR registrants: Not applicable.

**2006 registration:** 649,436;<sup>89</sup> EDR registrants: 3,947<sup>90</sup>

## New Hampshire

**Voter registration deadline (pre-election):** 10 days<sup>91</sup>

**EDR location:** Polling place<sup>92</sup>

**Non-EDR voter identification requirements:** Driver's license number or last four digits of Social Security number.<sup>93</sup>

**EDR voter identification requirements:** Registrant must prove citizenship, age, and domicile. A birth certificate, U.S. passport, naturalization papers if the applicant is a naturalized citizen, a citizenship affidavit and a domicile affidavit are acceptable.<sup>94</sup>

**2004 registration:** 855,861; EDR registrants: 94,431<sup>95</sup>

**2006 registration:** 848,317; EDR registrants: 25,924<sup>96</sup>

## Wisconsin

**Voter registration deadline (pre-election):** 21 days before election if registering by mail. If registering to vote in person at the municipal clerk's office, can register up until 5 p.m. the day before an election.<sup>97</sup>

**EDR location:** Polling place<sup>98</sup>

**Non-EDR voter identification requirements:** Driver's license number, other state-issued ID card or last four digits of Social Security number or their state ID card. A voter who lacks acceptable forms checks a box indicating so on the registration form.<sup>99</sup>

**EDR voter identification requirements:** Wisconsin driver's license or other state-issued ID; employee ID with or without photo; a real estate tax bill or receipt for the current year or the year preceding the date of the election; a current residential lease; a university, college or technical institute fee card with photo; a university, college or technical institute identification card with photo; a utility bill for the period commencing not earlier than 90 days before election day; bank statement; paycheck; a check or other document issued by a unit of government.<sup>100</sup>

**2004 registration:** Unavailable; EDR registrants: Unavailable

**2006 registration:** 3,450,258; EDR registrants: 360,059 (not including Deerfield and Unity)<sup>101</sup>

## Wyoming

**Voter registration deadline (pre-election):** 30 days. At the end of period, applicants must register and vote at local election offices.<sup>102</sup>

**EDR location:** Polling place<sup>103</sup>

**Non-EDR voter identification requirements:** Driver's license number or last four digits of Social Security number.<sup>104</sup>

**EDR voter identification requirements:** Same as non-EDR requirement.<sup>105</sup>

**2004 registration:** Unavailable; EDR registrants: Unavailable

**2006 registration:** Unavailable; EDR registrants: Unavailable





## Methodology

Research was compiled through the use of primary and secondary sources, including interviews with state and local election officials, state election division Web sites, news accounts, data derived from state law, information provided by other non-governmental organizations and an election reform information database created by the National Conference of State Legislatures.

All sources are cited below in the endnotes.

The opinions expressed by election officials, lawmakers and other interested parties in this document do not reflect the views of non-partisan, non-advocacy *electionline.org* or the Election Reform Information Project.

All questions concerning research should be directed to Sean Greene, research director, at [sgreene@electionline.org](mailto:sgreene@electionline.org).

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