



Hearing of the New York State Standing Committee on Elections April 25, 2009

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My name is Steven Carbó, and I serve as Senior Program Director at Demos. We are a national, non-partisan research and advocacy organization established in 2000 and headquartered in New York City. Demos' Democracy Program works with policy makers, advocates and scholars around the nation to improve our democracy and election process.

First, allow me to thank the Chair and members of the Committee for this opportunity to testify before you today on the package of election reform legislation under consideration. Adoption of an Election Day Registration (EDR) -- also known as Same Day Registration (SDR) -- measure like that in effect in other states, and assisting incarcerated individuals and those released from confinement in the exercise of their right to vote will greatly enhance voter participation in New York. I will focus my remarks on S.3372, the EDR bill proposed by Chairman Addabbo. I commend the Chair for advancing this very important reform measure.

In enacting Same Day Registration, New York would become the ninth state in the nation to permit eligible citizens to both register and vote on the same day. Maine, Minnesota and Wisconsin adopted SDR in the 1970's. New Hampshire, Idaho and Wyoming followed suit twenty years later. Three more states moved to Same Day Registration in the last several years: Montana (2006), North Carolina (2007), and Iowa (2008). All have been able to open up their voter registration systems with minimal costs and without compromising the integrity of their elections. I have attached three recent Demos reports on Election Day Registration for your review: *Voters Win with Election Day Registration*, *Election Day Registration: Best Practice*, and *Election Day Registration; A Study of Voter Fraud Allegations and Findings on Voter Roll Security*.¹

Benefits of Same Day Registration

The argument for Same Day Registration is simple: it can increase voter turnout. States with SDR have historically seen average turnout rates that are 10 to 12 percentage points higher than non-SDR states. They led the nation by 7 percentage points in the

¹ Demos, *Voters Win With Election Day Registration* (Winter 2009), available at http://www.demos.org/pubs/voterswin_09.pdf; Cristina Vasile, Regina Eaton, *Election Day Registration: Best Practice*, Demos (2009), available at http://www.demos.org/pubs/EDR_bestpractices_final.pdf; Lorraine C. Minnite, *Election Day Registration; A Study of Voter Fraud Allegations and Findings on Voter Roll Security*, Demos (2007), available at <http://www.demos.org/pubs/EDRVF.pdf>.

high-turnout 2008 presidential election.² The five states with the highest turnout – Minnesota, Wisconsin, Maine, New Hampshire, and Iowa – were all EDR states.³ All told, over 1.5 million Americans were able to participate in the historic 2008 presidential election because of Same Day Registration.⁴

Same Day Registration's potential for increased voting is due to the fact that it removes one of the chief obstacles to voter participation: pre-election voter registration deadlines. Voting rights experts agree that pre-Election Day registration deadlines have contributed to lower turnout among eligible voters.⁵ While these deadlines may have served some legitimate public purpose in an earlier era, the experiences of Same Day Registration states show them to be unnecessary today. New York's early 25-day deadline is particularly problematic. Indeed, fifteen states accept registrations after that point.⁶

Pre-election day voter registration deadlines are particularly unjustified in our highly mobile society. Earlier this week, the U.S. Census Bureau reported that over 35 million individuals changed residences between 2007 and 2008, representing nearly 12 percent of the nation's population.⁷ The current home foreclosure crisis will likely spur even more mobility. Americans who change addresses can easily find themselves unable to vote in their new election districts. They fail to re-register to vote or update their voter registration records in time to cast a ballot on Election Day. In fact, recent movers make up about 43 percent of all non-voters.⁸

Same Day Registration solves the problem. Those who move can simply register anew in their new voting districts on Election Day or the days beforehand, and cast a legal ballot.

It is important to note that SDR can be particularly effective in increasing participation among those segments of the electorate who are most mobile and have historically had lower turnout rates, such as young people, African Americans, Latinos, and those with low incomes. Experts project increased voting rates for these groups with EDR.⁹

² Demos, *Voters Win With Election Day Registration* (Winter 2009), available at http://www.demos.org/pubs/voterswin_09.pdf

³ See http://elections.gmu.edu/Turnout_2008G.html

⁴ *Voters Win with Election Day Registration*, op. cit. , p. 2

⁵ See Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000). See also Frances Fox Piven and Richard A. Cloward, *Why Americans Don't Vote* (New York: Pantheon, 1988).

⁶ (Alabama, California, Connecticut, Delaware, Kansas, Maryland, Massachusetts, Nebraska, Nevada, New Jersey, Oregon, South Dakota, Utah, Vermont, West Virginia)

⁷ U.S. Census Bureau, *Geographical Mobility 2007 – 2008*, Tables 1, available at <http://www.census.gov/population/www/socdemo/migrate/cps2008.html>.

⁸ *Eliminating Barriers to Voting: Election Day Registration*, Brennan Center for Justice at NYU School of Law and Demos: A Network for Ideas and Action, at 13, available at http://www.brennancenter.org/content/resource/eliminating_barriers_to_voting_election_day_registration/

⁹ See, e.g., R. Michael Alvarez, Jonathan Nagler, *Election Day Registration in New Mexico*, Demos (2009), available at <http://www.demos.org/pubs/newmexico.pdf>; R. Michael Alvarez, Jonathan Nagler, *Election Day Registration in Nebraska*, Demos (2008), available at <http://www.demos.org/pubs/EDRnebraska.pdf>; R. Michael Alvarez, Jonathan Nagler, *Election Day Registration in Vermont*, Demos (2008), available at [http://www.demos.org/pubs/Vermont%20\(2\).pdf](http://www.demos.org/pubs/Vermont%20(2).pdf); R. Michael Alvarez, Jonathan Nagler, *Election Day Registration in Massachusetts*, Demos (2008), available at <http://www.demos.org/pubs/EDRmass.pdf>. See also Mary Fitzgerald, "Easier Voting Methods Boost Youth Turnout," February 2003, available at <http://www.civicyouth.org/PopUps/WorkingPapers/WP01Fitzgerald.pdf>

A second argument for Election Day Registration is that it accommodates the fact that many Americans do not fully focus on candidates and other voter choices until elections near. According to the Gallop Poll, the percentage of people giving 'quite a lot' of thought to U.S. presidential elections rises dramatically in the final four weeks prior to the election.¹⁰ Voter registration deadlines move in the opposite direction. New York and about 25 other states close the door on voter registration just as interest in elections begins to peak for many Americans.

A third, important benefit of Same Day Registration is that it reduces the need for provisional or affidavit ballots. Affidavit balloting can be a frustrating experience for elections officials and voters alike. Elections workers are often hard-pressed to comb their voter registration records in the hectic days after each election looking for evidence of the prior registration of affidavit voters, whose names could not be found on the voter rolls on Election Day. Voters are upset that poll workers can not find their names on poll books and bridle at casting affidavit ballots. Many are later disillusioned by learning that their affidavit ballots were ultimately rejected, and never vote again. Over one-third of the nearly 2 million provisional ballots cast in the 2004 presidential election were not counted.¹¹

Affidavit balloting was a particular problem in New York last November. While New York City has yet to report its data for November 2008, over 94,000 affidavit ballots were tallied in counties outside the City. Almost 39 percent of them were later rejected.¹² And accidents happen. 100,000 voter registration forms collected by a third-party registration group were mistakenly sent to the New York State Board of Elections in Albany last fall. The Board then had the difficult task of sorting through the avalanche of forms and forwarding them to the proper county elections offices. About 3,500 of these forms were delivered to the New York City Elections Office *after* Election Day.¹³ Many other voters who had timely completed voter registration applications at the Department of Motor Vehicles showed up at the polls on November 4, 2008, only to find that their names did not appear on the rolls.¹⁴

Election Day Registration offers a ready solution to these problems. Eligible voters whose names do not appear on poll books merely complete a new voter registration application on Election Day, and vote a regular ballot.

Success in Newest Same Day Registration States

Iowa and North Carolina both enacted Same Day Registration legislation in 2007. SDR went into effect in their first presidential elections last November. The results were astounding. With Same Day Registration in place, North Carolina saw the greatest increase in voting among all states since the 2004 presidential election. 253,000 citizens were able to participate because of SDR, which is available during the state's 16-day

¹⁰ Steven Carbo, Brenda Wright, "The Promise and Practice of Election Day Registration," p. 72, in *America Votes!* (Benjamin E. Griffith ed., 2008), citing The Gallup Poll, *The Nine Weeks of Election 2000*.

¹¹ Data derived from *2004 Election Day Survey*, U.S. Election Assistance Commission, available at http://www.eac.gov/election_survey_2004/toc.htm.

¹² Email from New York State Board of Elections to Youjin B. Kim, Research Intern, Democracy Program, Demos (Apr. 22, 2009,) 09:24 EST) (on file with Demos).

¹³ Testimony of Jonah Goldman, Director, National Campaign for Fair Elections, Lawyers' Committee for Civil Rights Under Law, before U.S. Senate Committee on Rules and Administration, *Hearing on Voter Registration: Assessing Current Problems*, 111th Cong., 1st sess., 11 March 2009.

¹⁴ *Election Protection 2008: Helping Voters Today, Modernizing the System for Tomorrow*, Lawyer's Committee for Civil Rights Under Law, Washington, DC (2008), p. 25, citing *New York Post*, Dec. 2, 2008.

early voting period, and after the close of the state's traditional voter registration period. African Americans were one of the particular beneficiaries of Same Day Registration in North Carolina. While blacks represent 21 percent to the state's voting age population, they accounted for fully 36 percent of state residents who used SDR to vote last fall.¹⁵

Iowa's first major experience with Election Day Registration was also impressive. Nearly 46,000 Iowans used EDR to vote in November 2008.¹⁶

Provisional balloting also fell sharply in both states. In Iowa, provisional votes dropped from 14,661 in 2004 to 4,725 last November.¹⁷ In North Carolina, almost 40,000 fewer provisional ballots were cast in the much-higher-turnout 2008 presidential race than the 2006 mid-term elections.¹⁸

Election Day Registration's Potential Impact in New York

In 2004, Demos commissioned two distinguished political scientists to study the potential impact of Election Day Registration in New York were the state to adopt it. Their subsequent report predicted substantial increases in voter turnout, in line with the experience of EDR state.¹⁹ Professors Jonathan Nagler and R. Michael Alvarez forecast an 8.6 percent increase in voter turnout in presidential elections. They went on to predict particularly even better results for citizens who have the greatest difficulty in maintaining up-to-date voter registration record. Professors Nagler and Alvarez calculated the following:

- A 12.3 percentage point increase in turnout by 18-to-25-year olds.
- A 9.8 percentage point increase in turnout by those with a grade school education or less.
- An 11 point increase in turnout by Latinos, and an 8.7 percentage point increase in turnout by African Americans.
- A 10.1 percentage point increase in turnout by those who have lived at their current address for less than six months.
- A 12.2 percentage point increase in turnout by naturalized citizens.²⁰

We can reasonably expect similar results today, *provided* that New York adopts Election Day Registration like that in effect in other states.

¹⁵ *2008 Recap: the Year of the Voter*, Democracy North Carolina (2009), available at <http://www.democracy-nc.org/nc/2008/WrapUp.pdf>, p. 2.

¹⁶ Secretary of State Michael A. Mauro, *Iowa Secretary of State 2008 Report* (2009), available at <http://www.sos.state.ia.us/pdfs/2008report.pdf>, p. 4.

¹⁷ *Id.*, p. 6.

¹⁸ Information available from the North Carolina State Board of Elections, Raleigh, NC.

¹⁹ R. Michael Alvarez, Jonathan Nagler, *Making Voting Easier: Election Day Registration in New York*, Demos (2004), available at <http://demos.org/publication.cfm?currentpublicationID=D5DC1627-3FF4-6C82-5A35A1B9F60281EB>.

²⁰ *Id.*

S.3372 is therefore problematic in one important regard. It would only extend Election Day Registration to individuals who are not currently registered in the state. With that limitation the many thousands of registered New Yorkers who move from one county to another without re-registering in their new jurisdiction or updating their voter registration records would continue to be denied an opportunity to vote a ballot that will be counted. Their names would not appear on the voter rolls for their new residence, and they would have no opportunity to add it on Election Day. In North Carolina, over one-half of the 253,000 voters who used Same Day Registration to vote in the 2008 presidential race did so by changing their registration records. I strongly recommend that the Chair and the Committee amend S.3372 to make the same opportunity available to New York voters through the legislation.

Concerns about Election Day Registration

Opponents of Election Day Registration traditionally argue that EDR will undermine the integrity of elections and substantially increase the cost of elections. Careful examination of long-standing state experience with the administration of Same Day Registration and authoritative research shows these concerns to be unfounded.

Election Integrity

Simply put, voter fraud is a non-issue in EDR states. Election administrators there report that they can offer voters the opportunity to register and vote on Election Day without undermining the integrity of election results.

In 2007, Demos conducted a survey of 49 local elections officials in the six original Election Day Registration states to elicit information on their experience in administering EDR. The great majority of respondents reported that their fraud-prevention measures were sufficient in ensuring the integrity of elections.²¹ Their states impose heavy penalties for voter fraud, voters are required to show documentation for proof of residency, and voters must sign an oath attesting to their identity and citizenship. These protections would hold in New York with adoption of S.3372.

Election Day Registration also offers an inherent element of integrity not available in many other voter registration transactions: EDR requires eligible voters to attest to their identity face-to-face, before an elections official. This safeguard does not hold for mail-in voter registration applications. Post-election audits of EDR voters like those conducted in Wisconsin can add an additional level of security.²²

The research also shows that sufficient safeguards against voter fraud are in place in EDR states and that very few instances of voter fraud develop. Barnard College professor Lorraine Minnite conducted an extensive analysis of voting data in Election Day Registration states from 2002 to 2005. Her research uncovered *just one case of voter impersonation* at the polls.²³ Indeed, contemporary voter fraud is exceedingly rare today. A high-profile voter fraud initiative by the U.S. Department of Justice under the

²¹ Demos: A Network for Ideas and Action, *Election Day Registration: A Ground-Level View*, available at http://www.demos.org/pubs/EDR_Clerks.pdf

²² See Cristina Vasile, Regina Eaton, *Election Day Registration: Best Practice*, op cit., p. 26.

²³ Demos: A Network for Ideas & Action, *Election Day Registration: A Study of Voter Fraud Allegations and Findings on Voter Roll Security*, available at <http://www.demos.org/pubs/EDRVF.pdf> (A 17 year-old in New Hampshire was caught casting his father's ballot in a 2004 Republican presidential primary. This fraud was unrelated to EDR because the father was already registered and on the rolls.)

Bush Administration resulted in only 40 prosecutions for election crimes relating to illegal voting nationwide between 2002 and 2005.²⁴ Wisconsin was the only EDR state implicated. Four voters were charged with double voting; 10 were prosecuted for voting while disfranchised for a felony conviction. Ultimately, the charges were dropped or the defendants were exonerated in all the double-voting cases and half the felon prosecutions. The minute number of convictions (the federal government obtains an average 90-percent conviction rate in nearly all felony crime cases) speaks strongly to the integrity of elections in Election Day Registration states, and elsewhere. Investigations of 2004 election day votes by the attorneys general in both New Hampshire and Wisconsin also found no fraud attributable to EDR.

Administrative Costs

The 49 local election officials who participated in Demos' telephone survey described the incremental cost of EDR as "minimal."²⁵ Where costs were incurred, they were for training and employing additional staff to help with registrations on Election Day and inputting data to the permanent voter registration rolls on subsequent days. Significantly, respondents noted that Same Day Registration *did not add work or expense* but rather shifted the cost burden from one time and place to another.²⁶ Rather than devoting time and resources to processing a surge of voter registration applications at the close of pre-Election Day registration period, elections administrators shifted costs to Election Day and the days that follow, when inputting information data is far easier and less time-sensitive.

Same Day Registration can actually save staff time and expenses in one regard. The steep drop in provisional balloting achieved by SDR appreciably reduced work demands on local election offices in the aftermath of elections.

Iowa's first experience with Election Day Registration in a presidential election in 2008 is instructive. In preparation for the election the Iowa Secretary of State spent \$36,568 to implement Same Day Registration statewide. The allocation was for public education and training. The biggest cost was \$26,000 to produce a training video to be used statewide by auditors and precinct officials. \$9000 was spent on same day registration precinct kits, including registration forms, oath forms, and instructions. And \$1568 was spent on information brochures on Same Day Registration education.²⁷

The cost of EDR implementation for Iowa's 99 counties was also minimal. Many hired one additional precinct official to handle the new registration on Election Day, at an average cost of approximately \$100 per official. The maximum combined expenditure for all counties was \$177,400. Including the production of additional registration forms, the Secretary of State's office estimated that the total cost for counties to be \$200,000 statewide – an average of just over \$2000 per county.²⁸

²⁴ *Id.* In 2002, 78,381,943 votes were cast in national elections; in 2004, 122,294,987 votes were cast in national elections.

²⁵ Demos, *Election Day Registration: A Ground-Level View*, available at http://www.demos.org/pubs/EDR_Clerks.pdf

²⁶ *Id.*

²⁷ Email from Linda Langenberg, Iowa Deputy Secretary of State, to Regina Eaton, Deputy Director, Democracy Program, Demos (Feb. 18, 2009, 11:25 CST) (on file with recipient).

²⁸ *Id.*

In closing, I again commend the Chairman Addabbo and the Committee for considering the adoption of Same Day Registration. If amended to allow individuals to both register for the first time on Election Day or change/update existing registration records from elsewhere in the state, New York can expect to see increased voting, decreased affidavit balloting, and great overall improvement in election administration.