

HEARING OF SUBCOMMITTEE C JOINT COMMITTEE ON THE JUDICIARY WEST VIRGINIA LEGISLATURE

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Dēmos is a national, non-partisan research and advocacy organization headquartered in New York City. Our Democracy Program works with policy makers, election officials, advocates, and scholars around the nation to strengthen democracy in the United States by reducing barriers to voter participation and encouraging civic engagement.

Allow me to thank the members of the Joint Committee on the Judiciary for this opportunity to testify on Same Day Registration. We strongly support this reform as a proven means of increasing voter participation, particularly for youth and other segments of the electorate with historically lower turnout rates, without imposing undue administrative burdens or undermining the integrity of the vote. Nine states (Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, North Carolina, Wisconsin, and Wyoming) and the District of Columbia¹ currently allow eligible voters to register to vote and cast a ballot after the close of the regular voter registration period, on Election Day and/or during the early voting period.

SDR states generally lead the nation in voter turnout. And all have extended the vote with minimal costs and without comprising the integrity of election results. I have attached *Voters Win with Election Day Registration*, a Dēmos reports on Same Day Registration, for your review.²

BENEFITS OF SAME DAY REGISTRATION

SAME DAY REGISTRATION INCREASES 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 high-turnout 2008 presidential election,³ and nearly 6 percentage points in the 2010 midterm elections.⁴ The five states with the highest turnout in the last presidential election – Minnesota, Wisconsin, Maine, New Hampshire, and Iowa – were all SDR states.⁵ All told, over 1.5 million Americans were able to participate in the historic 2008 presidential election because of Same Day Registration.⁶

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 registration deadlines have contributed to lower turnout among eligible voters.⁷ While these early deadlines may have

served some legitimate public purpose in an earlier era, the experience of Same Day Registration states shows them to be unnecessary today. Nearly a dozen states accept registrations after the registration period closes in West Virginia.⁸

Pre-election day voter registration deadlines are particularly unjustified in our highly mobile society. The U.S. Census Bureau reports that almost 25 million voting age individuals changed residences between 2010 and 2011, representing over 8 percent of the nation's population.⁹ 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 have been estimated to represent about 43 percent of all non-voters.¹⁰

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

SAME DAY REGISTRATION REDUCES THE NEED FOR PROVISIONAL BALLOTS

Another important benefit of Same Day Registration is that it reduces the need for provisional ballots. Provisional 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 prior registration of provisional voters, whose names could not be found on the voter rolls on Election Day. Voters are upset and bridle at casting provisional ballots. Many are later disillusioned by learning that their provisional ballots were ultimately rejected, and never vote again. West Virginia reported rejecting over one-third of the provisional ballots cast in the 2010 election.¹¹

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.

SUCCESSFUL IMPLEMENTATION OF SDR IN IOWA AND NORTH CAROLINA

Iowa and North Carolina both enacted Same Day Registration legislation in 2007. SDR went into effect in their first presidential elections in November 2008. 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 early voting period, after the state's voter registration deadline. 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 that November.¹²

Iowa's first major experience with Election Day Registration was also impressive. Nearly 46,000 Iowans used EDR to vote in November 2008.¹³

Provisional balloting also fell sharply in both states. In Iowa, provisional votes dropped from 14,661 in 2004 to 4,725 in November 2008.¹⁴ In North Carolina, almost 40,000 fewer provisional ballots were cast in the much-higher-turnout 2008 presidential race than in the 2006 mid-term election.¹⁵

CONCERNS ABOUT SAME DAY REGISTRATION

Opponents of Same Day Registration traditionally argue that SDR will undermine the integrity of elections and substantially increase costs. Careful examination of the record in states with long-standing experience in SDR administration and authoritative research show these concerns to be unfounded.

SAME DAY REGISTRATION DOES NOT LEAD TO VOTER FRAUD

Simply put, voter fraud is a non-issue in SDR 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.

Several years ago, Dēmos conducted a survey of 49 local election officials in the six original Same Day Registration states to elicit information on their experience in administering SDR. The great majority of respondents reported that their fraud-prevention measures were sufficient in ensuring the integrity of elections.¹⁶ Their states impose heavy penalties for voter fraud, voters are required to show documentary proof of residency, and voters must sign an oath attesting to their identity and citizenship.

Same Day Registration also offers an inherent element of integrity not available in many other voter registration transactions: SDR 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 SDR voters like those conducted in Wisconsin can add an additional level of security.¹⁷

The research also shows that sufficient safeguards against voter fraud are in place in SDR states and that very few instances of voter fraud develop. Then-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.¹⁸

A high-profile voter fraud initiative by the U.S. Department of Justice in the Bush Administration resulted in only 40 prosecutions for elections crimes relating to illegal voting nationwide between 2002 and 2005.¹⁹ Wisconsin was the only SDR state implicated. Four voters were charged with double voting, and 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.

An investigation of votes cast in 2004 by the New Hampshire Attorney General also found no fraud attributable to SDR.²⁰

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 Same Day Registration states, and elsewhere.

SAME DAY REGISTRATION IS A COST-EFFECTIVE MEANS TO INCREASE VOTER PARTICIPATION

The 49 local election officials who participated in Dēmos' telephone survey described the incremental cost of SDR as "minimal."²¹ 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.²² Rather than devoting time and resources to processing a surge of voter registration applications at the close of the 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 with SDR appreciably reduces work demands on local election offices in the aftermath of elections.

Iowa's first experience with Same 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, \$26,000, was 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.²³

The cost of SDR implementation for Iowa's 99 counties was also minimal. Many hired one additional precinct official to handle new registrations 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.²⁴

CONCLUSION

Same Day Registration is a proven innovation that increases voter participation, reduces the need for provisional balloting, and has been cost-effectively administered in a number of states without increasing voter fraud. I applaud the Committee for studying SDR's adoption in West Virginia. Dēmos stands ready to assist you in any further consideration of this proven reform. Thank you for the opportunity to provide this testimony.

ENDNOTES

1. 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). The District of Columbia began offering SDR in 2010.
2. Dēmos' publications on Same Day Registration are available at http://www.Demos.org/publications?field_related_issues_nid=859.
3. Dēmos, Voters Win with Election Day Registration, available at http://www.Demos.org/sites/default/files/publications/VotersWinSDR_2010_Demos.pdf.
4. Dēmos, Voters Win with Election Day Registration, 2010 Midterm Elections Fact Sheet, available at http://www.Demos.org/sites/default/files/publications/Voters_Win_2010_Demos.pdf.
5. See United States Elections Project, 2008 General Elections Turnout Rates, http://elections.gmu.edu/Turnout_2008G.html.
6. Voters Win with Election Day Registration, op. cit., p. 2.
7. 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).
8. See Steven Carbo, Brenda Wright, "The Promise and Practice of Election Day Registration," fn. 29, in *America Votes!* (Benjamin E. Griffith ed., 2008), available at <http://www.Demos.org/publication/america-votes>.
9. U.S. Census Bureau, Geographical Mobility 2010 – 2011, Tables 1, available at <http://www.census.gov/hhes/migration/data/cps/cps2011.html>.
10. Eliminating Barriers to Voting: Election Day Registration, Brennan Center for Justice at NYU School of Law and Dēmos: A Network for Ideas and Action, at 13, available at http://www.brennancenter.org/content/resource/eliminating_barriers_to_voting_election_day_registration/
11. U.S. Election Assistance Commission, 2010 Election Administration and Voting Survey, Table 34, available at http://www.eac.gov/research/election_administration_and_voting_survey.aspx.
12. 2008 Recap: the Year of the Voter, Democracy North Carolina (2009), available at <http://www.democracy-nc.org/reports/researchreports/WrapUp.pdf>, p. 2.
13. Secretary of State Michael A. Mauro, Iowa Secretary of State 2008 Report (2009), p. 4.
14. *Id.*, p. 6.
15. Information available from the North Carolina State Board of Elections, Raleigh, NC.
16. Dēmos: A Network for Ideas and Action, Election Day Registration: A Ground-Level View, available at http://www.Demos.org/pubs/EDR_Clerks.pdf
17. See Cristina Vasile, Regina Eaton, Election Day Registration: Best Practice, op. cit., p. 26.
18. Dēmos: 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/sites/default/files/publications/edr_fraud.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.)
19. *Id.* In 2002, 78,381,943 votes were cast in national elections; in 2004, 122,294,987 votes were cast in national elections.
20. Memorandum from Bud Fitch, Deputy Attorney General to Chairman Robert Boyce and Members of Senate Internal Affairs Subcommittee; Chairman Michael D. Walley and Members of House Election Law Committee (Apr. 6, 2006).
21. Dēmos, Election Day Registration: A Ground-Level View, available at http://www.Demos.org/pubs/EDR_Clerks.pdf.
22. *Id.*
23. Email from Linda Langenberg, Iowa Deputy Secretary of State, to Regina Eaton, Deputy Director, Democracy Program, Dēmos (Feb. 18, 2009, 11:25 CST) (on file with recipient).
24. *Id.*

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