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## ELECTIVE FRANCHISE— REGISTRATION AND VOTING ON ELECTION DAY

Senate Bill 514

Constitutional Amendment

Testimony before the Senate Education, Health, and Environmental Affairs Committee  
Maryland General Assembly

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Thank you, Chairwoman Conway, Vice Chairman Dyson, and all the Senators of the Education, Health, and Environmental Committee, for inviting me to testify at today's hearing on "Registration and Voting on Election Day."

My name is Allegra Chapman, and I serve as Counsel at Demos: A Network for Ideas and Action. Demos is a non-partisan public policy center, founded in 2000, that works with advocates and policy makers in pursuit of a vibrant democracy with high levels of voting and civic engagement. Achieving this level of inclusivity requires reducing barriers, such as arbitrary registration cut-off deadlines, that prevent all eligible citizens from casting a ballot on Election Day. To this end, Demos' Democracy Program is engaged in a long-term campaign to work with state advocates and election officials, along with legislative offices, to support enactment of Election Day Registration (EDR)—a proven reform to substantially increase voter turnout, among eligible voters, without compromising the integrity of elections or substantially increasing their costs.

By passing this proposed constitutional amendment, and laying the groundwork to enact EDR, Maryland would become the tenth state to permit eligible citizens to both register and vote on the same day. To date, eight states<sup>2</sup> have enacted Election Day Registration; one<sup>3</sup> has passed Same Day Registration, permitting eligible voters to register and vote during an early-voting period; and one state has no statewide registration requirement at all.<sup>4</sup> Beginning in 1973, Maine, followed by Wisconsin and Minnesota, enacted the reform, well before the advent of computer use and the establishment of statewide voter lists. In the 1990s, Idaho, New Hampshire, and Wyoming joined their ranks. And more recently, Montana and Iowa passed EDR close in time to North Carolina's enactment of SDR. All states have shown increased voter turnout, with minimal costs, and no compromise to the electoral system.

<sup>1</sup> Special thanks go to Scott Novakowski, Senior Policy Analyst, and Regina Eaton, Deputy Director, for input and editing.

<sup>2</sup> Eight states with EDR are Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin, and Wyoming.

<sup>3</sup> North Carolina passed SDR in March, 2007.

<sup>4</sup> North Dakota has no statewide voter registration requirement.

The requirement to register well in advance of an election proves onerous to many groups, including young people, low-income populations, frequent movers, and minority groups. It's no surprise that this is the case: when you have just moved to a new school, or are jumping from one job to the next while raising a family, or moving to a new neighborhood because you simply can't make the rent at your old apartment, registering to vote a month in advance of an election may not necessarily be at the forefront of one's to-do list. This hurdle is compounded by the fact that 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, just at the time when registration no longer is possible in approximately half the states."<sup>5</sup>

Many voting rights experts agree that pre-Election Day registration deadlines have contributed to lower turnout among eligible voters in the United States.<sup>6</sup> The numbers are much better, though, in EDR states: whereas only 50.5% percent of the voting aged population turned out to vote in non-EDR states in 2000, 65.6% voted in EDR states.<sup>7</sup> That's a significant difference, and testament to EDR's ability to raise the numbers. Permitting citizens to both register and vote on Election Day ensures that no eligible voter will be denied the right to vote simply because he did not complete a registration form well in advance of selecting a candidate. Studies show that "if all states transitioned to EDR . . . the national registration rate would increase to almost 82%, a 6% increase over the current national voter registration rate [of 76%]."<sup>8</sup>

## BENEFITS OF ELECTION DAY REGISTRATION

Election Day Registration makes the process of registering and voting less daunting and more user-friendly, thereby creating a larger electorate more representative of this country's make-up. EDR states, as a group, generally tout an average voter turnout rate of 10 to 12 percentage points higher than non-EDR states.<sup>9</sup> Academic studies show that a significant part of this difference is directly attributable to EDR, with the elimination of arbitrary registration deadlines increasing turnout by a full three to six percentage points, depending on state and research method used.<sup>10</sup>

### EDR boosts turnout

Final data are not yet available on EDR usage for 2008, but preliminary figures show that over 1.1 million Americans used EDR/ SDR to vote on or before November 4, 2008. In the nine states that permit registration and voting on the same day, voter turnout was seven percentage points higher than in non EDR/ SDR states.<sup>11</sup> Importantly, the five states with the highest turnout—Minnesota, Wisconsin, Maine, New Hampshire, and

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5 Steven Carbo and 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* (cited in *Voters Win with Election Day Registration*).

6 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).

7 R. Michael Alvarez, Stephen Ansolabehere & Catherine Wilson, *Election Day Voter Registration in the United States: How One-Step Voting Can Change the Composition of the American Electorate* 16 (Caltech-MIT Voting Technology Project Working Paper, 2002), available at [http://vote.caltech.edu/media/documents/wps/vtp\\_wp5.pdf](http://vote.caltech.edu/media/documents/wps/vtp_wp5.pdf)

8 *Supra*, Alvarez, Ansolabehere, and Wilson, at 15.

9 Dēmos: A Network for Ideas and Action, *Voters Win With Election Day Registration: A Snapshot of Election 2006* (Winter 2007), available at <http://www.demos.org/pub1280.cfm>

10 See Stephen Knack, "Election Day Registration: The Second Wave," *American Politics Quarterly* 29(1), 65-78 (2001); Knack and White 2000; Craig L. Brians & Bernard Grofman, "Election Day Registration's Effect on U.S. Voter Turnout," *Soc. Sci. Q.* 82(1); 171-83 (March 2001); Mark J. Fenster, "The Impact of Allowing Day of Registration Voting on Turnout in U.S. Elections from 1960 to 1992," *American Politics Quarterly* 22(1)(1994): 74-87.

11 Dēmos: A Network for Ideas and Action, *Voters Win With Election Day Registration* (Updated Winter 2009), available at [http://www.demos.org/pubs/voterswin\\_JAN09.pdf](http://www.demos.org/pubs/voterswin_JAN09.pdf) Note that voter turnout figures were derived by the number of votes cast for the highest office and the voting-eligible population, as reported by the United States Election Project at [http://elections.gmu.edu/Turnout\\_2008G.html](http://elections.gmu.edu/Turnout_2008G.html)

Iowa—were all EDR states.<sup>12</sup> And North Carolina, after having recently adopted SDR, boasted record turnout this past presidential election, with 253,000<sup>13</sup> voters using same day registration, placing that state at number 19 in the nation after having been historically ranked among the worst 15 states for voter participation. That figure represents the biggest increase in voter turnout over all other states.

Election Day Registration unquestionably boosts overall voter turnout, but evidence suggests that it especially does so for traditionally low-turnout groups. Younger citizens, frequent movers, and minorities all stand to benefit from EDR. Although we do not have statistics for Maryland specifically, if EDR were adopted nationally turnout among youth (between the ages of 18 and 25) could increase by almost 12%, among Hispanics by 11%, among Blacks by 7.5%, and among Asians and other racial groups by a collective 12%.<sup>14</sup> Moreover, turnout could increase for those who have moved within the past six months by 10%.<sup>15</sup>

Given the national economic recession, and the skyrocketing increase in foreclosure rates, more and more Marylanders may find themselves moving. It is hard enough to move from a home to a new environment, let alone remember to register after such an ordeal. Census data show that almost 40 million people in America moved between 2005 and 2006.<sup>16</sup> Significantly, recent movers constitute 43% of all non-voters.<sup>17</sup> We are sure to see constant, if not higher, numbers over the next couple years. Such figure represents a chunk of the population that legislators, and political candidates, simply can't ignore, especially since many of those using EDR are changing addresses, rather than voting for the first time, and are thus already constituents.<sup>18</sup>

Moreover, EDR is not a partisan issue but a voter one. Indeed, the largest percentage of EDR voters in Iowa in 2008 were “No-Party.” In states with EDR, then, all eligible citizens are potential voters to be courted by campaigners. The job falls to political parties to treat all eligible citizens as potential voters in order to secure their elections. One study shows that individuals are more likely to be contacted by a political party in EDR states, and that those contacted in EDR states are more likely to turn out and vote than in non-EDR states.<sup>19</sup> Youth are especially impacted by this: “young citizens are more likely to be contacted by a political party in states with election day registration by an estimated 11 percentage points in presidential elections, and by an estimated 18 percentage points in midterm congressional elections. This represents a key finding because when people are mobilized they are more likely to vote.”<sup>20</sup>

Momentum continues to build around election reform. Last week alone, the legislatures of Connecticut, Nebraska, and Maryland—my home state—conducted hearings on EDR proposals. We anticipate EDR campaigns will gain strength in 15 to 20 other states, in addition to the District of Columbia.

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12 See [http://elections.gmu.edu/Turnout\\_2008G.html](http://elections.gmu.edu/Turnout_2008G.html)

13 About half registered and voted for the first time; the other half used SDR to change an address and then vote.

14 Supra, Alvarez, Ansolabehere, and Wilson, at 16

15 Id.

16 Brennan Center for Justice at NYU School of Law and Dēmos: A Network for Ideas and Action, “Eliminating Barriers to Voting: Election Day Registration” at 13, available at [http://www.brennancenter.org/content/resource/eliminating\\_barriers\\_to\\_voting\\_election\\_day\\_registration/](http://www.brennancenter.org/content/resource/eliminating_barriers_to_voting_election_day_registration/)

17 Id.

18 In this most recent presidential election, approximately half of voters using EDR in North Carolina and Iowa were changing their addresses.

19 Mary Fitzgerald, “The Triggering Effects of Election Day Registration on Partisan Mobilization Activities in U.S. Elections,” Harvard Univ. (prepared for presentation at the at the Annual Meeting of the American Political Science Assoc., Wash., D.C. Aug. 31-Sept. 3, 2005)

20 Mary Fitzgerald, “Easier Voting Methods Boost Youth Turnout,” Circle Working Paper 01 (James Madison University, Feb 03) (citing Green, Donald P. and Alan S. Gerber. “Getting Out the Youth Vote: Results from Randomized Field experiments” (2001); Rosenstone, Steven J., and John Mark Hansen. Mobilization, Participation, and Democracy in America. New York, NY: Macmillan Publishing Co. 1993)

## EDR reduces the need for provisional ballots

Administrative accidents happen. After the 2000 presidential election, in which upwards of three million Americans were turned away from the polls because of voter registration problems and registry flaws, the U.S. Congress passed the Help America Vote Act, requiring non-EDR states to offer provisional ballots to those citizens who believed they had registered but whose names did not appear on registration rolls. Use of provisional ballots, though, does not ensure that every vote will count. Indeed, in the following presidential election, in 2004, over one third of the nearly 2 million provisional ballots cast were not counted.<sup>21</sup> One can imagine the disappointment a voter feels in finding out, after having cast a ballot, that his vote did not count on Election Day. Administrative error cannot be eliminated. And evidence exists that purgings and failures to input voter registration information abound. Indeed, during the 2008 presidential election, several states—including Maryland—reported problems in transferring voter registration applications timely submitted to the MVA (an authorized voter registration agency under the National Voter Registration Act of 1993) to local elections officials in time for Election Day.<sup>22</sup> Allowing eligible voters to register and vote on the same day would avoid the need to vote by provisional ballot, and save voters from the fear that their votes did not count and elections judges from the time and work involved in processing such ballots.

## ARGUMENTS AGAINST EDR

To be sure, some have voiced concerns over EDR's implementation. While it is legitimate to worry about potential problems, the facts disprove any fears and demonstrate that EDR's benefits far outweigh its negligible costs.

### Fraud

Fraud is a non-issue in EDR states. In this most recent election, close to 550,000 people registered to vote, and voted, using Election Day Registration in Minnesota. *Not one* of those votes was involved in any of the controversies surrounding the U.S. Senate-seat recount.

Elections administrators agree that EDR does not invite fraud. According to a telephone survey conducted by Dēmos of elections officials and poll workers, the great majority of respondents stated that current fraud-prevention measures suffice to ensure the integrity of elections.<sup>23</sup> There is no reason to think otherwise: states impose heavy penalties for voter fraud; voters are required to show documentation for proof of residency; and they must sign an oath attesting to their identity and citizenship. Unlike registration by mail, EDR requires eligible voters to attest to their identity face-to-face, before an elections official. Audits conducted after an election add an additional level of identity verification—and those who get caught will certainly pay a penalty.

Current election procedures ensure against significant voter fraud. And as a practical matter, few occurrences of voter fraud have occurred. An analysis conducted by Lorraine Minnite, a professor at Barnard College of Columbia University, on data from 2002 to 2005 on EDR states revealed *just one case of voter impersonation* at the polls.<sup>24</sup> An initiative by the Department of Justice in prosecuting voter fraud has resulted in only 40

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21 *Id.*

22 [http://voices.washingtonpost.com/annapolis/2008/10/a\\_word\\_on\\_registering\\_to\\_vote.html](http://voices.washingtonpost.com/annapolis/2008/10/a_word_on_registering_to_vote.html)

23 Dēmos: A Network for Ideas and Action, Election Day Registration: A Ground-Level View, available at [http://www.demos.org/pubs/EDR\\_Clerks.pdf](http://www.demos.org/pubs/EDR_Clerks.pdf)

24 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/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.)

prosecutions nationwide for election crimes related to illegal voting between 2002 and 2005.<sup>25</sup> Wisconsin was the only EDR state where a federal investigation led to any voter fraud prosecutions. Four voters were charged with double voting and 10 were charged for voting while disfranchised for a felony conviction. Charges against the “double voters” were dropped or exonerated, and only half the felon voters were convicted. (The antidote to felony voting is to post clear signs at polling stations informing those with felony convictions of their inability to vote until sentences have been fully served. Those with records rarely intentionally commit voter fraud; rather they are simply unaware of its illegality.) Considering DOJ’s otherwise 90-percent conviction rate, such failure to convict—for a minute number of cases to begin with—provides strong evidence that voter fraud simply does not attend EDR. Indeed, when attorneys general from both New Hampshire and Wisconsin investigated Election Day votes from the 2004 election, neither found any fraud attributable to EDR.

## Costs

Iowa, the state that has most recently enacted EDR, spent less than a total of \$40,000 in implementation for a total of 99 counties in this last presidential election. (The biggest cost incurred - \$26,000—was for producing a training video to be used statewide by auditors and precinct officials.) \$9000 was spent on EDR precinct kits, including registration forms, oath forms, and instructions. And \$1568 was spent on information brochures on EDR education. All in all, EDR was implemented in a very cost-effective manner, one that could easily be duplicated.

On Election Day, many of the counties in Iowa hired one additional precinct official to handle EDR. The average cost in Iowa was about \$100 per official; the state has 1774 precincts, so at most they spent a total of \$17,740 for all counties. The production of additional registration forms added a little more to the cost, so officials in the Secretary of State’s office estimate that the total cost for precincts was about \$20,000 statewide.

The experience in Iowa is typical of the long-standing EDR states; one authoritative study indicates that elections are no more expensive to administer in EDR states than non-EDR states.<sup>26</sup> Indeed, in a telephone survey conducted by Dēmos of local election officials in the EDR states of Idaho, Maine, Minnesota, New Hampshire, Wisconsin, and Wyoming, most respondents described the incremental cost of EDR as “minimal.”<sup>27</sup> Where costs did exist, they were used for training and employing additional staff to help with registrations on Election Day and inputting data, in the following days, on the permanent voter registration rolls.<sup>28</sup> Note, though, that respondents stated that EDR *did not add* work or expense but rather shifted the cost burden from one time and place to another.<sup>29</sup> Rather than devoting time and resources to surges at the close of pre-Election Day registration, elections administrators shift these costs to Election Day and the days that follow, when inputting information is easier and not as time-sensitive.

Election Day Registration not only fails to add significant expenses but can also result in a decreased reliance on provisional ballots, as stated earlier. We don’t yet have final data for the 2008 election; however, we do know that Iowa’s use of provisional ballots in this presidential election was significantly reduced from the previous one. In 2004, Iowans cast 15,000 provisional ballots, compared with only 5,000 in 2008. Even without factoring in this election’s higher voter turnout in Iowa, the state saw a 67% reduction in provisional ballots. Once states get used to EDR, their provisional ballot numbers may grow even smaller: in 2004, Wisconsin used only 374 and Wyoming used only 95. Such reduction does away with the complicated post-election process of verifying

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

26 Supra, Alvarez, Ansolabehere, and Wilson

27 Dēmos: A Network for Ideas and Action, Election Day Registration: A Ground-Level View, available at [http://www.demos.org/pubs/EDR\\_Clerks.pdf](http://www.demos.org/pubs/EDR_Clerks.pdf)

28 Id.

29 Id.

registrations and/ or sending notifications to those whose votes were not counted—a time-consuming and expensive task. In fact, several elections officials claimed that EDR helped defuse confrontations with voters whose names were missing from the registration lists—the same people who would have to vote by provisional ballots.<sup>30</sup> Without EDR, the clerk of a New Hampshire town of 30,000 said, “we’d have a lot of unhappy people” at the polls.<sup>31</sup> And even though some poll workers admitted that EDR required them to do additional work, they similarly acknowledged that such reform made things easier for voters.<sup>32</sup>

## CONCLUSION

Passage of Election Day Registration will increase participation, ease problems at the polls, and occur without the problem of fraud. Such a reform—due to the ease with which it allows one to register and vote—promises to increase voters’ confidence in the electoral system and should create repeat voters. Maryland could become a model for the nation, and trail the way for the rest of the states. Dēmos would applaud such a move.

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30 Id.

31 Id. at 4

32 Id.