

FREE THE VOTE

Cutting Red Tape from the Voting Process

by: Brenda Wright

For the first time ever, people around the country who love American democracy have decided to come together to observe a National Voter Registration Day on September 25, 2012 – a day to pull out all the stops in making sure that every eligible voter is registered and able to vote in this critical election year. Hundreds of non-partisan organizations have agreed to reach out to help hundreds of thousands of people get registered to vote, so that they can fulfill their civic duty as citizens and make their voices heard in November.¹

This is an inspiring project that all of us should support. Yet, it also provides an important occasion for asking deeper questions about our voting system:

Why exactly are there so many Americans who are not registered to vote, and how can we improve our electoral system to get rid of red tape around the registration process and ensure that every eligible person is able to exercise the freedom to vote?

American democracy should be a model for the world. A legitimate government “of the people, by the people, and for the people”² must vigorously promote and protect the freedom to vote so that all eligible voters can participate in this fundamental exercise in self-government.

But today, in the 21st century, too many bureaucratic barriers still block the ability of eligible persons to register, which in most states remains a prerequisite to voting. Our antiquated system puts the burden of registration on each individual, with unnecessarily restrictive registration deadlines.

The numbers tell the tale of how far we have to go in making sure all eligible persons can register:

- Today, approximately 51 million eligible Americans are still not registered to vote. This represents almost one in four eligible persons, disproportionately low-income voters, people of color, and younger Americans.³ Among eligible voters, some 30 percent of African Americans, 40 percent of Hispanics, 45 percent of Asian Americans, and 41 percent of young adults (age 18-24), were not registered to vote in the historic 2008 election.⁴
- In the 2008 elections, the voting rate for all eligible persons of voting age was only 64 percent, while the voting rate for people who were registered to vote was 90 percent – showing that registration is key to turnout.⁵

- In many states, pre-election registration deadlines of 25-30 days prior to the election have not been updated for decades; such deadlines may have been adopted long before the age of the Internet or computers, and no longer make sense in today's world.⁶
- In the 2008 election, 2 to 3 million registered voters were prevented from voting because of various administrative problems, and 9 million eligible Americans were not registered because of residency rules or registration deadlines.⁷
- The number of people barred from voting in 2008 because of such problems exceeded the popular vote margin of the 2000 and 2004 presidential elections.⁸

Apart from the numbers, the stories of individuals caught up in red tape around voting underscore the need for reform.

Former U.S. Representative Lincoln Davis, of Tennessee, knows something about elections and government, yet this year when he went to polls in his hometown where he'd been voting since 1995, he was denied the right to vote.

“We walked in and they told me I was not a registered voter. I had been taken off the list . . . These are people who I grew up with. I told them I live here. I went to school about 20 yards away. . . .It's always been this way and today, for some reason, they change it. I had a sense of uneasiness when I was told that I was not allowed to vote. They didn't offer me a provisional ballot⁹, or anything, just told me I wasn't registered. . . . He said I would have to re-register, and I told them I'm already registered, I'm not going to re-register. I'm a former member of Congress, state senator, House member, mayor and all my life, I've been involved in the community, coaching Little League, participating in Boy Scouts and serving on boards here, and I'm denied the right to vote. It just doesn't make sense.”¹⁰

Representative Davis had been improperly “purged” from the voting rolls.¹¹ If it can happen to a former Congressman, it can happen to anyone.

All this makes clear that a major focus for increasing citizen participation in elections should be to decrease the bureaucratic barriers to becoming, and remaining, registered to vote. Americans deserve an election system that is much more responsive to their needs, and that facilitates their participation in democratic governance.

SAME DAY VOTER REGISTRATION

One example of the unnecessary red tape surrounding access to registration is the deadline for voter registration itself.

Many states still impose lengthy pre-election voter registration deadlines that may have been established decades ago, despite the proven effect of such deadlines in dampening voter participation.¹² Many citizens become most interested and engaged with the election in the last few weeks before Election Day, when candidate debates are taking place, just as registration deadlines may be closing in their state. Other voters who are already registered may lose eligibility merely because they move to a different neighborhood or county, or because of clerical errors with their registration, or because of flawed and erroneous pre-election challenges to a voter's eligibility.¹³ If they fail to discover the problem prior to Election Day, when the registration deadline has passed, they may be unable to vote.

Eleven states, plus the District of Columbia, have now adopted Same Day Registration in order to ensure that eligible voters are not turned away because of errors with their registrations or failure to register in advance of Election Day.¹⁴ Same Day Registration eliminates arbitrary pre-election deadlines and allows voters to register and vote on the same day, making it a more convenient one-stop process and ensuring that eligible individuals who are not on the lists can register to vote, or correct inaccurate existing registration information. Same Day Registration means that voters no longer are without recourse when faced with registration problems that threaten their right to vote.

Same Day Registration increases political participation, without undue costs or administrative burdens.¹⁵ States that allow Same Day Registration have consistently led the nation in voter participation. Indeed, the top five states for voter turnout in 2008 all had Same Day Registration,¹⁶ and average voter turnout was seven percentage points higher in Same Day Registration states in the 2008 presidential elections. North Carolina witnessed the greatest increase in voter turnout over the previous presidential election, one year after Same Day Registration was adopted¹⁷ (see Figure 1 and 2).

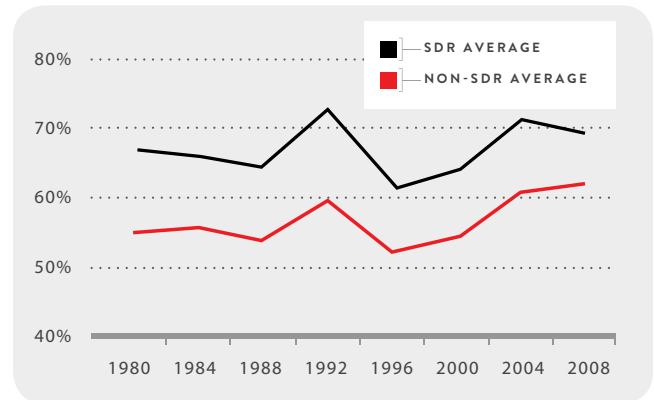
Experts have projected substantial voter turnout increases in states that have considered adopting Same Day Registration, with average voting projected to rise by over 4 to nearly 9 percent. Even greater increases are estimated for young people, low-income populations, people of color, newly naturalized citizens, and those who have recently changed residences (see Figure 3).

Same Day Registration is so popular with voters that an overwhelming majority of Maine citizens used a so-called “People’s Veto” on the November 2011 ballot to reinstate Same Day Registration after the nearly forty-year old program was repealed by the state legislature.¹⁹

The convenience and accessibility of Same Day Registration should be available to voters throughout the country. The Voter Empowerment Act of 2012, H.R. 5799, introduced by Rep. John Lewis and 140 co-sponsors, would provide for Same Day Registration throughout the country, along with many other pro-voter reforms.²⁰

FIGURE 1.

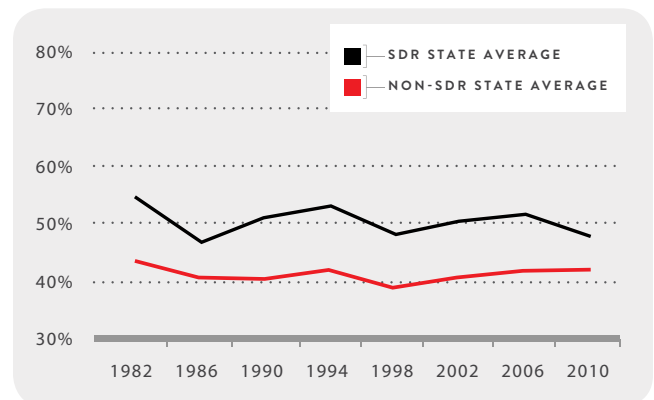
TURNOUT RATES IN SDR VS. NON-SDR STATES, 1980 - 2010, PRESIDENTIAL ELECTION YEARS



Source: United States Election Project, http://elections.gmu.edu/voter_turnout.htm, using Voting Age Population

FIGURE 2.

TURNOUT RATES IN SDR VS. NON-SDR STATES, 1980 - 2010, MIDTERM ELECTION YEARS



Source: United States Election Project, http://elections.gmu.edu/voter_turnout.htm, using Voting Age Population

FIGURE 3.

STATE	PROJECTED OVERALL TURNOUT INCREASE
California	4.8%
Hawaii	5.3%
Massachusetts	4.9%
Maryland	4.3%
Nebraska	5.4%
New Mexico	4.4%
New York	8.6%
Vermont	4.8%
West Virginia	5.4%
TOTAL AVERAGE	5.3%

Source: Percentages compiled from Michael Alvarez and Jonathan Nagler, *Demos, Election Day Voter Registration reports, CA, HI, MD, NE, NM, NY, VT, WV*.¹⁸

OTHER REFORMS TO MODERNIZE VOTER REGISTRATION

Same Day Registration is just one element of the reforms needed to modernize our current system of voter registration. Our current system is archaic and inefficient, and badly needs modernization. It still relies on handwritten, paper forms that can result in clerical errors and is needlessly expensive for states to administer.²¹ It leaves the burden on the citizen to negotiate the registration process and to update her registration again and again each time she moves.

We need policy changes that put the responsibility for registering voters squarely on the government by automating the registration process. Under a modernized voter registration system, eligible citizens interacting with the government will be asked if they consent to being registered to vote, and will be added to the rolls through a paperless process if they do. This shifts the administrative burden off of the individual voter and onto the government to register eligible citizens to vote. Delaware has implemented a version of this by providing for paperless voter registration for persons interacting with the motor vehicle bureau or public assistance offices.²²

The need to update registration when a person moves is another major source of red tape in our mobile society. Almost 36.5 million US residents moved between 2011 and 2012.²³ Low-income individuals are twice as likely to move as those above the poverty line. Young people, moreover, are more likely to move than any other demographic group; between 2011 and 2012, 21 percent of young adults between the ages of 18 and 24 moved.²⁴

Voter registration should become portable and permanent for persons who move within a state, by automatic updates to registration records as citizens change their address. Because all states now are required to have statewide voter registration databases, there should be no need for persons to register anew each time they move within a state. States such as Colorado and Minnesota have procedures that help voters keep their registration current when they move.²⁵ Reforms to make voter registration portable and permanent for persons who move within a state also are part of The Voter Empowerment Act of 2012 that is pending in Congress.

We need to clear out the unnecessary red tape that still besets our voter registration system, so that every eligible person can exercise the freedom to vote. Sensible reforms such as Same Day Registration, automatic registration and portable registration will modernize our registration process and ensure that American democracy remains a model for the world.

ENDNOTES

1. For more information, please visit the National Voter Registration Day website, <http://nationalvoterregistrationday.org/>.
2. Abraham Lincoln, "The Gettysburg Address" (Nov. 19, 1863), available at <http://showcase.netins.net/web/creative/lincoln.html>.
3. The Pew Center on the States, *Inaccurate, Costly and Inefficient: Evidence That America's Voter Registration System Needs an Upgrade* (February 14, 2012), available at <http://www.pewstates.org/research/reports/inaccurate-costly-and-inefficient-85899378437>.
4. Thom File and Sarah Crissey, *Voting and Registration in the Election of November 2008*, U.S. Census Bureau, Table 2 (May 2010), available at <http://www.census.gov/prod/2010pubs/p20-562.pdf>.
5. *Id.*, Table 1.
6. Steven Carbo and Brenda Wright, *The Promise and Practice of Election Day Registration*, in *Voting Rights and Election Law Handbook* (Benjamin Griffith, ed., American Bar Association 2008).
7. Stephen Ansolabehere, Testimony before the Senate Rules Committee at 19 (March 11, 2009), available at http://vote.caltech.edu/drupal/files/news/03112009Ansolabehere_Testimony.pdf.
8. Ian Urbina, *Hurdles to Voting Persisted in 2008*, The New York Times (March 10, 2009), available at http://www.nytimes.com/2009/03/11/us/politics/11vote.html?_r=2&scp=3&sq=voting&st=Search.
9. Provisional ballots are not even counted in many instances. In 2008, nearly one third of provisional ballots cast were rejected, and of those ballots nearly 70% were rejected for registration related problems. U.S. Election Assistance Commission, *2008 Election Administration and Voting Survey*, June 7, 2010, available at <http://www.eac.gov/assets/1/Documents/2008%20Election%20Administration%20and%20Voting%20Survey%20EAVS%20Report.pdf>.
10. Nicole Young, *Former U.S. Rep. Lincoln Davis says he was denied right to vote* (March 6, 2012), available at <http://www.wbir.com/news/article/209528/2/Former-US-Rep-Lincoln-Davis-says-h>.
11. Ansley Haman, *Former U.S. Rep. Lincoln Davis sues State of Tennessee over voting rights* (March 12, 2012), available at <http://timesfreepress.com/news/2012/mar/12/former-us-rep-lincoln-davis-sues-state-over-voting/>.
12. Barry C. Burden, David T. Canon, Kenneth R. Mayer, Donald P. Moynihan, *The Turnout Effects of Early Voting, Election Day Registration, and Same Day Registration in the 2008 Presidential Election*, Working Paper, at 8 (September 17, 2009), available at http://users.polisci.wisc.edu/apw/archives/Burden_et_al.pdf.
13. For more information on how wrongful challenges to a voter's eligibility may affect her registration status, see Liz Kennedy, Stephen Spaulding, Tova Wang, Jenny Flanagan, and Anthony Kammer, *Bullies at the Ballot Box: Protecting the Freedom to Vote against Wrongful Challengers and Voter intimidation*, at 8, Demos and Common Cause (September 10, 2012), available at <http://www.demos.org/sites/default/files/publications/BulliesAtTheBallotBox-Final.pdf>.
14. States that have enacted Same Day Registration are Connecticut, Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, North Carolina, Wisconsin, and Wyoming, as well as the District of Columbia; in addition, as of this writing, California is poised to become the 11th state as a bill has been approved by both houses of the legislature and is awaiting the signature of Governor Jerry Brown. In California as well as in Connecticut, which also passed an SDR bill in 2012, the policy will not be in effect in the November 2012 election. California's bill will go into effect after the state establishes its statewide voter registration database; and Connecticut's bill will go into effect in 2013. North Carolina's system, which went into effect in 2008, allows a voter to register and vote on the same day during the pre-election early voting period, but not on Election Day itself.
15. Laura Rokoff and Emma Stokking, *Small Investments, High Yields: A Cost Study of Same Day Registration in Iowa and North Carolina*, Demos (February 15, 2012), available at <http://www.demos.org/sites/default/files/publications/SDR-Cost-Study-Final.pdf>.
16. Demos, *Voters Win with Same Day Registration* (February 4, 2010), available at http://www.demos.org/sites/default/files/publications/VotersWinSDR_2010_Demos.pdf.
17. *Id.*
18. Liz Kennedy, *Protecting the Freedom to Vote: The Voter Empowerment Act of 2012*, Demos (May 17, 2012), at 6, available at <http://www.demos.org/publication/protecting-freedom-vote-voter-empowerment-act-2012>.
19. Eric Russell, *Mainers Vote to Continue Election Day Registration*, Bangor Daily News (November 8, 2011), available at <http://bangordailynews.com/2011/11/08/politics/early-results-indicate-election-day-voter-registration-restored/>.
20. See supra n.18. A Senate version of the Voter Empowerment Act was introduced by Sen. Gillibrand on September 21, 2012.

21. Robert Bauer and Trevor Potter, *Voter Registration is Key to Election Process*, The Washington Post, June 24, 2009, available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/06/24/AR2009062403095.html>.
22. Steven Rosenfeld, *Delaware Expands Innovative Paperless Voter Registration Program*, Project Vote (April 28, 2010), available at <http://www.projectvote.org/blog/2010/04/delaware-expands-innovative-paperless-voter-registration-program/>; see also 15 Del. Code Ann. § 1302.
23. US Census Bureau, DataFerret, Current Population Survey, Annual Social and Economic Supplement, March 2012, available at <http://www.census.gov/aprd/techdoc/cps/cpsmar12.pdf>.
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DĚMOS MEDIA

LAUREN STRAYER
LSTRAYER@DEMOS.ORG
P: (212) 389-1413

DĚMOS

220 FIFTH AVE, FL 2
NEW YORK, NY 10001
P: (212) 633-1405

ENGAGE

WWW.DEMOS.ORG
WWW.POLICYSHOP.NET
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