

A REPORT FROM

POLICY MATTERS OHIO

ELECTION DAY REGISTRATION: EXPANDING THE OHIO VOTE

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This report is based on *Expanding The Vote: The Practice and Promise of Election Day Registration*, a national report released by Demos. *Demos* is a nonprofit, nonpartisan public policy research and advocacy organization. The report was researched and written by Sarah Tobias and David Callahan, with assistance from Steven Carbó and Jeanette Hedgepeth.

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This report is for all those people who still believe in the power of democracy.

POLICY MATTERS OHIO, the publisher of this report, is a nonprofit, nonpartisan research institute dedicated to bridging the gap between research and policy in Ohio. Policy Matters seeks to broaden the debate about economic policy in Ohio by providing quantitative and qualitative analysis of important issues facing working people in the state. Other areas of inquiry for Policy Matters have included unemployment compensation, workforce policy, wages, education, housing and economic development. Funding for the institute comes primarily from the George Gund Foundation.

EXECUTIVE SUMMARY

Only slightly more than half of voting-age Ohioans voted in the 2000 presidential election. There were huge problems with this election nationwide, ranging from incorrectly cast votes, to voters being turned away from polls, to hotly contested results. A lawsuit filed by the Ohio ACLU alleges that, in Ohio, more than 94,000 voters had their ballots rejected. In the end, the candidate who won the popular vote was deemed to have lost the electoral vote, decided by an extremely small number of ballots cast in Florida, which had an error-prone voting system. The low voter turnout, high number of people denied the right to vote, high error rate, and close results showed that every American vote carries weight.

This research brief discusses ways to strengthen Ohio's democracy by increasing voter participation. The brief is adapted to Ohio from national research by Demos, a research institute devoted to democracy reform. Among the findings:

- States with registration cut-off dates, or closing dates, closer to election day have higher voter turnout than states with early cut-off dates.
- The six states in the U.S. with election day registration (EDR) have seen increases in voter registration and participation. Typical turnout in these states is eight to 15 percent higher than the national average.
- Ohio had a higher percentage of voter turnout (55.8 percent) than the national average (51.3 percent) in 2000, but still fell roughly four- to 13-percentage points below turnouts in five of the six states with EDR.
- Political scientists estimate that nationwide same-day registration would produce an average seven-percentage point jump in number of voters, increasing voter registration in presidential elections by 8.54 million people.
- Nationwide, the number of poll respondents who report giving “quite a lot” of thought to the election jumps from 59 percent in September to 75 percent by October 30th through November 5th. By this time, voter registration deadlines in Ohio have passed.
- Year 2000 presidential voters in at least 25 states arrived at the polls to find their names absent from voter lists due to delays in registration or illegal and unexpected purging. Ohio did not report significant problems with incorrect voting rolls, but as many as 10,000 votes went uncounted between Cuyahoga and Montgomery counties alone.¹
- Older citizens and those with more schooling, higher incomes, and good jobs are more likely to vote than younger, less educated, and less affluent Americans. Easing registration would diversify participation in elections.

The National Voter Registration Act of 1993, or the “motor voter” act, and the Help America Vote Act of 2002 (HAVA) were implemented to make voting more accessible to disabled citizens, eliminate error-prone voting systems, and reduce inaccuracies in voter rolls. EDR, or election day registration, would complement these reforms, by boosting voter registration and increasing participation in our democracy. Though implementing EDR in Ohio would require an amendment to Article V (“Elective Franchise”) of the state constitution, the effort could help bring thousands of nonvoting Ohioans to the polls in upcoming elections.

¹ U.S. House of Representatives, Judiciary Committee, “How to Make a Million Votes Disappear: Electoral Sleight of Hand in the 2000 Presidential Election,” p. 89.

INTRODUCTION

Some 51 percent of eligible Americans – or 80 million – did not vote in the 2000 presidential election. In fact, nearly 50 million of these non-voters, or a quarter of eligible Americans, were not even registered to vote in 2000. In Ohio, more than 80 percent of voting-age residents were registered, but only 62.4 percent of registered voters went to the polls. Overall, just 55.8 percent of eligible Ohioans voted for president in 2000.²

Aside from low voter turnout, “the nation saw...the product of years of neglect by states, localities and Congress of voting rights enforcement and a lack of minimum national voting standards for election machinery and administration” in the rampant rights violations and administrative errors of the 2000 federal election, according to a report issued by the U.S. House of Representatives Judiciary Committee.³ Through the Help America Vote Act of 2002 (HAVA), legislators and election officials nationwide are working on reforms that will prevent a repeat of the disastrous 2000 election. These improvements, however, do not largely target voter registration. HAVA may help with the problems of antiquated voting machinery, ineffective recount systems, inaccurate voter lists, and untrained workers at polling places, but these improvements will only help voting citizens; they will not get non-voting citizens up and out to the polls.

Though it has never climbed significantly above 60 percent in the last century, voter turnout in U.S. elections reached record lows in the 1996 and 2000 presidential elections.⁴ In fact, voter turnout in the U.S. is among the lowest around the globe. At just over 50 percent in 2000, U.S. turnout compares poorly to turnout in such countries as Italy (90 percent), Australia (84 percent), Germany (80 percent), the UK (75 percent), and Japan (69 percent).⁵ Political scientists and voting rights advocates agree that the nation’s registration requirements and procedures hamper voter participation. “The U.S. is one of the few countries to require citizens to get themselves registered to vote, rather than having government proactively making sure that all voters are on the electoral rolls – usually through some form of automatic (and permanent) registration on achieving voting age.”⁶ In contrast, many countries with higher voter turnout do not require citizens to register at all; their federal governments maintain lists of their citizens that they use to track votes.⁷

“Expanding The Vote: The Practice and Promise of Election Day Registration,” a national report by the New York City-based research institute Demos, hones in on voter registration in the U.S. The study finds that states with registration cut-off dates closer to election day have higher voter turnout than states with early cut-off dates. In states that have same-day registration, voter turnout rates are among the highest in the country. According to Demos, the six states in the U.S. that have adopted election day registration (EDR) have consistently achieved voter turnout that is eight- to 15-percentage points higher than the national average. These states report few problems with fraud. Figure 1 illustrates voter turnout in EDR states over time, as compared to turnout in Ohio and national turnout.

² FEC, “Voter Registration and Turnout 2000.”

³ U.S. House of Representatives, Judiciary Committee, pp. 13-14.

⁴ Committee for the Study of the American Electorate, “Presidential Election Turnout, 1924-1996.”

⁵ Tova Andrea Wang, “Reforming the Voter Registration System,” The Century Foundation, p. 1.

⁶ Bernard Grofman, “Questions and Answers About Motor Voter: An Important Reform That Is Not Just For Democrats,” *Voting and Democracy Report*, 1995, Center for Voting and Democracy.

⁷ Tova Andrea Wang, The Century Foundation, p. 1.

Figure 1

Voter Turnout in Presidential Elections in Ohio, States with EDR, and the Nation by Percentage, 1968-2000									
(boldface indicates when EDR was instituted)									
	1968	1972	1976	1980	1984	1988	1992	1996	2000
Ohio	63.33	57.28	55.11	55.32	58.00	55.13	60.64	54.32	55.80
Idaho	73.34	63.34	60.68	67.71	59.93	58.34	65.16	57.05	54.50
Maine	66.37	60.27	63.66	64.49	64.77	62.15	71.98	71.90	67.30
Minnesota	73.75	68.65	71.53	69.96	68.16	66.33	71.73	64.07	68.80
New Hampshire	69.62	63.63	57.27	57.14	52.98	54.81	63.14	57.30	62.50
Wisconsin	66.52	62.49	66.52	67.35	63.46	61.98	68.99	57.43	66.10
Wyoming	66.95	64.41	58.56	53.23	53.38	50.30	62.30	59.43	59.70
United States	60.84	55.21	53.55	52.56	53.11	50.15	55.23	49.08	51.30

Source: Federal Election Commission

SAME-DAY REGISTRATION: SIMPLIFYING THE SYSTEM

Since voter registration is handled on the county level, there are thousands of variations of registration procedure in the U.S. This makes traditional registration a very large and complicated system. HAVA reforms that create statewide voter databases in all 50 states may standardize voter registration, but they cannot completely eliminate machine or human error. EDR is a straightforward procedure that can make up for the possible mistakes of election officials and poll workers. Also, because EDR requires voters to offer proof of identification and residency *in person* to election officials, it could deter voter fraud.

States with EDR have pre-election registration deadlines, just like other states, ranging from 10 days before election day in Maine to 30 days before election day in Wyoming. But, with EDR, citizens who do not register before these deadlines are able to register and vote at their polling places or at an official centralized location on election day. The only requirement for registration is proof of identity and residency; legitimate documentation ranges from drivers' licenses and passports to property leases and utility bills. In Wisconsin and Minnesota, for example, picture identification is not required; in Idaho, however, picture identification plus proof of residency (property leases, utility bills) is required.⁸ In New Hampshire, residents must complete affidavits and show proof of age as well as residency. If election officials doubt a person's identity or residency claim, they can contest the person's ballot, usually by marking it or placing it aside to be checked later. After elections, officials in Wisconsin and Minnesota verify registrants' residency by sending out non-forwarding postcards.⁹ Because EDR requires identification and authorization in person, and election officials (not poll workers) handle same-day registrations, there is less opportunity for fraud and registration error. According to Demos, many voters in EDR states pre-register, so the number of people seeking to register on election day is not large enough, typically, to cause major delays at polling places.¹⁰

Currently, six states – Idaho, Maine, Minnesota, New Hampshire, Wisconsin, and Wyoming – use EDR. Three of the states with EDR – Minnesota, Maine, and Wisconsin – adopted the system in the 1970s. The remaining three – Wyoming, Idaho, and New Hampshire – did not

⁸ Demos, "Expanding The Vote: The Practice and Promise of Election Day Registration," p. 9.

⁹ Ibid., p. 9.

¹⁰ Ibid., p.10.

adopt EDR until 1993-1994, when given the option to implement same-day registration or adopt the National Voter Registration Act (NVRA) of 1993.¹¹ Figure 1 shows that, after implementing EDR, these states consistently experienced voter turnouts well above the national average. It is important, however, to note that these states experienced the same drop in voter turnout that all states saw between 1992 and 1996. Because the drop in national voter turnout between the 1992 and 1996 presidential elections was the largest decline between elections in recent history (6.15 percent), it had a major effect on turnout in individual states by shrinking the voting pool. But even with their respective drops in voter turnout (from 11.56 percent in Wisconsin to 0.08 percent in Maine), all six EDR states were able to remain well above the 49.08 percent national average. In fact, two EDR states – Maine and Minnesota – had the #1 and #2 voter turnouts in the U.S. in both the 2000 and 1996 presidential elections. In the 2000 election, four of the states (including Maine and Minnesota) with the top ten voter turnouts were EDR states; in 1996, five EDR states were among the top ten. All six EDR states exceeded Ohio in voter turnout in 1996, and all but Idaho exceeded Ohio in turnout again in 2000.

According to Demos, none of the EDR states experience high rates of voter fraud as a result of using EDR.¹² Because same-day registrations are processed directly through the election system, there is less chance of duplication, as can occur with NVRA registrations. There is also less chance of signature forgery (as with mail-in registration) with EDR.¹³ In addition, EDR states make a concerted effort to inform voters of the penalties they face for fraud; most post “voting penalty posters” at registration sites and polling places, and Minnesota and Wisconsin send out warning postcards to voters that register at the wrong polling place or under a questionable identity or residency claim, warning them of the penalties they face if they repeat such mistakes.¹⁴ Also, Minnesota requires county attorneys to give immediate attention to allegations of voter fraud.¹⁵

HOW EDR CAN HELP OHIO

In the 2000 presidential election, just over half of voting-age Ohioans voted. Ohio had a higher percentage of voter turnout (55.8 percent) than the national average (51.3 percent), but still fell roughly four- to 13- percentage points below voter turnouts in five of the six states with EDR (Ohio had a higher turnout than Idaho). These figures indicate that, though Ohio voters go to the polls at a relatively high rate, Ohio can still benefit from the increase in voter turnout likely to be generated by EDR. In 2000, four of the six states with voter turnouts at least 10 percent higher than the national average were EDR states.¹⁶ In 1996, when the national turnout was only 49 percent and Ohio’s turnout was 54 percent, every EDR state had a turnout over 57 percent.¹⁷ Based on an analysis of the states that used EDR between 1972 and 1996, political scientists Craig Leonard Brians and Bernard Grofman estimate that implementing same-day registration in all 50 states would produce a seven-percentage point increase in voters in the average state.¹⁸ Political scientist Mark J. Fenster estimates that implementing EDR nationwide could increase

¹¹ Ibid., p. 9.

¹² Demos, “Securing The Vote: An Analysis of Election Fraud,” p. 26.

¹³ Ibid., p. 28.

¹⁴ Ibid., p. 28.

¹⁵ Ibid., p. 28.

¹⁶ Demos, “Expanding The Vote: The Practice and Promise of Election Day Registration,” p. 10.

¹⁷ FEC, “Voter Registration and Turnout 1996.”

¹⁸ Craig Leonard Brians and Bernard Grofman, “Election Day Registration’s Effect on U.S. Voter Turnout,” *Social Science Quarterly*, Vol. 82, No. 1, March 2001, pp. 171-183.

voter participation in U.S. presidential elections by 8.54 million people.¹⁹ Though the EDR states experienced decreased turnout in 1996, it should be noted that all states experienced a decrease in voter turnout in 1996, from less than one-percentage point in Maine to 12-percentage points in North Dakota (the only state in the U.S. without voter registration).²⁰

Figure 2

Voter Registration and Turnout, 1996 and 2000					
	1996 Voting Age Population (VAP)*	1996 Registered Voters	Percent Registered of VAP	Turnout	Percent Turnout of VAP
Ohio	8,347,000	6,879,687	82.4%	4,534,434	54.3%
United States	196,511,000	147,211,960	74.4%	96,456,345	49.1%
	2000 Voting Age Population	2000 Registered Voters	Percent Registered of VAP	Turnout	Percent Turnout of VAP
Ohio	8,433,000	7,537,822	89.4%	4,701,998	55.8%
United States	205,815,000	156,421,311	76%	105,586,274	51.3%

* Includes all persons over age 18, including those not permitted to vote in U.S. elections.

Source: Federal Election Commission, U.S. Census Bureau

With just six states enacting EDR since the 1970s, it is clear that the system has not enjoyed widespread popularity. Congressional bills that would have implemented election day registration nationwide were introduced to the U.S. House of Representatives in 1989, 1991, 1993, and 1995, and none passed. Opponents of EDR argue that the system would cause increased voter fraud, open up voting to ineligible voters, and cost states millions of dollars in new equipment and training. In both California and Colorado, EDR ballot initiatives were defeated during the 2002 election.²¹ In both states, concerns about costs, technological capability, and fraud swayed voters.

California and Colorado are not the only states that have shot down EDR. In May of 1977, Senate Bill 125 was passed in Ohio, establishing same-day and permanent registration. Those opposing the bill feared that EDR would lead to increased voter fraud despite identification requirements outlined in the bill, according to Ohio League of Women Voters Elections Specialist Peg Rosenfield, who lobbied for SB 125.²² Because the bill contained an appropriation, and could not be overturned by referendum, a group of opposing legislators backed by Secretary of State Ted Brown started an initiative petition for an amendment that requires voters to register at least 30 days in advance of an election in Ohio. The amendment was approved by a margin of 61.6 percent to 38.4 percent, and added to the state constitution in November 1977. Ironically, an estimated 380,000 voters used same-day registration in the election that would overturn SB 125.²³

¹⁹ Mark J. Fenster, “The Impact of Allowing Day of Registration Voting on Turnout in U.S. Elections from 1960 to 1992.” *American Politics Quarterly*, Vol. 22, No. 1, 1994, p. 84.

²⁰ FEC, “National Turnout and Voter Registration - 1960 to 1992.” See Figure 4.

²¹ Demos, “Securing The Vote: An Analysis of Election Fraud,” p. 28.

²² Interview with Peg Rosenfeld, Elections Specialist, Ohio League of Women Voters, June 3, 2003.

²³ Gongwer News Service, “Special Year-End Report – The Year In Review – 1977,” 112th Ohio General Assembly, Vol. 54, Report No. 250, December 30, 1977.

Article V of the Ohio Constitution mandates that voters pre-register at least 30 days before elections: “Every citizen...of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and has been registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote in all elections.”²⁴ Studies show that states with voter registration deadlines closer to election day have a higher voter turnout. After witnessing the effect that faulty registration procedures and inaccurate voter rolls can have on election results in 2000, many Ohioans may be more open to voter registration reform than in 1977. Though critics of election reform typically charge that changes to the voting system increase the chance of voter fraud, there have been no major studies on election fraud in the U.S. that prove this assertion.²⁵ Analysis of several election fraud cases in the U.S. receiving attention in recent years shows that some of the most notable allegations of fraud were baseless.²⁶ Demos argues that antiquated voting machines, errors, mismanaged voter rolls, and intimidation and harassment pose bigger problems to the U.S. election process than either individual or organized voter fraud.²⁷

EDR helps to ensure that every person who arrives at the polls has the opportunity to vote. People of color, the young, the mobile, and low-income Americans are less likely to vote than others.²⁸ Though analysis shows that middle income Americans are most likely to benefit from EDR, enacting the system nationwide provides an easier option for millions of inactive voters to register to vote that could reverse the long-term decline in registration in the U.S.²⁹

DO AWAY WITH EARLY DEADLINES?

Steven J. Rosenstone and Raymond E. Wolfinger, who studied voter registration as early as the 1970’s, identify closing dates (the deadline or last day to register before an election) as the legal restriction that has the single largest impact on voter turnout.³⁰ In 38 states, including Ohio and several EDR states, closing dates for voter registration occur significantly before election day, ranging from 21 days in advance in Alabama to 30 days in advance in Michigan and Pennsylvania. Voters in EDR states can “work around” these early deadlines, if necessary; voters in states that do not have same-day registration cannot. Because of this, the average voter turnout under EDR is predicted at 59 percent, while the average with a typical 30-day closing date is only 53 percent, a six-percentage point difference.³¹

In both 2000 and 1996, eight of the 10 states with voter turnouts over 60 percent had registration deadlines that were less than 30 days before election day (these states include EDR states and North Dakota). Only five of the states with voter turnout over 50 percent in 2000 and in 1996 had registration deadlines of 30 days before election day; Ohio was one of them, along with Alaska, Montana, Michigan, and Wyoming, an EDR state. Though turnout increases as closing dates shorten, it is significant that voter turnout becomes higher with the adoption of EDR than with

²⁴ The Constitution of the State of Ohio, Article V, Elective Franchise, Section I.

²⁵ Demos, “Securing The Vote: An Analysis of Election Fraud,” p. 14.

²⁶ Ibid., p. 17.

²⁷ Ibid., p. 15.

²⁸ Demos, “Expanding The Vote: The Practice and Promise of Election Day Registration,” p. 5.

²⁹ Brians and Grofman, pp. 171-183.

³⁰ Steven J. Rosenstone and Raymond E. Wolfinger, “The Effect of Registration Laws on Voter Turnout,” *American Political Science Review*, Vol. 72, 1978, pp. 22-45.

³¹ Brians and Grofman, pp. 171-183.

very short closing dates.³² This means that same-day registration is an even more effective way of increasing voter turnout than shortening closing dates.

Though early closing dates are intended to give officials adequate time to prepare rolls for election day, they can actually function to disfranchise voters who do not know when deadlines fall, who fail to take advantage of mail-in registration, or who take a late interest in elections. People who become engaged in issues during the final weeks of an election campaign but have not previously registered to vote are effectively shut out of voting by early closing dates. During the 2000 presidential campaign, 59 percent of people surveyed reported giving “quite a lot” of thought to the election between September 11 and 17. This figure jumped to 62 percent between October 2 and October 8, the period in which most registration deadlines occurred. Notably, between October 16 and October 22, 70 percent of those surveyed reported giving “quite a lot” of thought to the election, and, between October 30 and November 5, the figure hit 75 percent.³³ By this time, Ohio's official deadline, along with the deadlines of every other state, had already passed. Many of the prospective voters surveyed were likely to have lost their opportunity to vote if they had failed to register by these deadlines, unless they lived in states with EDR. In states that have EDR, those taking a late interest in an election can register to vote on election day if they have missed the registration deadline.

Figure 3

NORTH DAKOTA: THE ONLY STATE WITHOUT VOTER REGISTRATION

North Dakota was one of the first states to implement a voter registration system in the nineteenth century, but it abolished this system in 1951. Since then, the state's voting system has worked with few problems. Some precincts in North Dakota keep voter lists from prior elections. In these precincts, officials check a prospective voter's information against that list. In precincts without pre-existing lists, voters must present proof of residency, and/or be willing to swear an affidavit to residency in the precinct. Election officials can challenge a person's right to vote if they suspect that the individual is not eligible. North Dakota officials report that there has not been widespread voter fraud; no one has been prosecuted in North Dakota for voter fraud since the registration system was abolished in 1951. Voter turnout has been consistently high in presidential elections, only falling below 60 percent of the electorate once in the past 20 years.

Source: Demos

Though EDR does shift the burden of two-stage registration onto local election officials, it not only helps voters who miss closing dates, but it eliminates worry over problems that occur with NVRA registrations, mail-in registrations, and provisional ballots. In the 2000 presidential election, many voters were missing from voter rolls because their NVRA registrations were not reported in a timely manner. Many mail-in registrations were invalidated because would-be voters used inauthentic registration forms found on the Internet. And provisional ballots were not made available to many voters whose names were erroneously purged from voter lists. Because these “fail-proof” methods do indeed fail to help some voters, additional reforms like EDR should be considered as a means of securing votes.

PROBLEMS AT THE POLLS

Just as detrimental to voter turnout as low registration rates is the problem of registered voters finding themselves unable to vote at polling places. Caltech/MIT researchers report that 4 to 6 million votes were lost in the 2000 presidential election. As many as 3

³² Ibid.

³³ The Gallup Poll, “The Nine Weeks of Election 2000.”

million of these votes were lost or not cast because of problems with registration processes and voter lists.³⁴

According to an August 2001 House report, voters in at least 25 states went to the polls in the 2000 presidential election and found their names were illegally removed from voter lists or were not added to lists in a timely fashion.³⁵ Most of the problems were caused by failure to add the names of people who registered for the first time at state agencies under the NVRA to voter lists. In fact, the Federal Election Commission (FEC) has noted that the 2000 presidential election produced a record number of complaints about registrations that were not added to voter lists in time for registrants to vote.³⁶ Also, the FEC reports that, nationally, election officials deleted 13,014,912 names and declared 18,274,197 registrants “inactive” under list verification procedures outlined by the NVRA.³⁷ Unfortunately, many states failed to notify these individuals of their removal from voter rolls before registration closed, so that they could re-register in time for election day.

Several states reported other list maintenance problems to the FEC following the 2000 election, including increased duplicate registrations; inaccurate postal service change of address information; lack of responses to confirmation mailings; and faulty felony conviction notifications or death notices that resulted in the mistaken removal of individuals from the voter registry. Many of these complaints could have been prevented if voters had been able to simply re-register to vote on election day. Under EDR, voters who mistakenly think that they are registered to vote can register, voters whose NVRA registrations were not added to voter lists in a timely fashion, and voters whose names have been erroneously purged from lists can re-register.

Although they experienced greater voter turnout than most other states, EDR states were not able to avoid the widely reported problems at polling places during the 2000 presidential election. The EDR system, however, gave voters in these states a way around problems with voter rolls.

In Maine, at least 1,000 residents whose names should not have been purged were removed from election rolls and the applications of some voters who had registered through the DMV were not forwarded to the state’s Elections Division.³⁸ Yet, because the state has EDR, these voters had the option of re-registering. Election officials and EDR advocates report that major disorder occurred at the Wisconsin polls, including distribution of multiple ballots, voters taking ballots out of polling places, poll workers failing to request identification, and voters presenting poll workers with multiple addresses. These problems were a product of understaffing at the state’s polls; they were not caused by the EDR system, which created no complications in Wisconsin’s 1998 and 1996 elections.³⁹ Idaho reported 15,038 unrecorded ballots, or 2.8 percent of ballots cast, but these lost votes can be attributed to the state’s use of punch-card voting machines, which increase the likelihood of over-voting (choosing more than one candidate) and under-voting (failing to clearly indicate a candidate), and its lack of procedures for resolving disputes over unclear ballots.⁴⁰

³⁴ Ibid.

³⁵ U.S. House of Representatives, Judiciary Committee, p. 15.

³⁶ Ibid.

³⁷ FEC, “The Impact of the National Voter Registration Act on Federal Elections 1999-2000.”

³⁸ U.S. House of Representatives, Judiciary Committee, p. 16.

³⁹ Demos, “Expanding The Vote: The Practice and Promise of Election Day Registration,” p. 10.

⁴⁰ U.S. House of Representatives, Judiciary Committee, p. 47.

THE NATIONAL VOTER REGISTRATION ACT: HOW IT HAS AND HAS NOT HELPED

Voter turnout in the U.S. has not risen above 60 percent since 1968, according to the FEC. In 1993, President Bill Clinton signed the National Voter Registration Act (NVRA) of 1993, or the “motor voter” act, to promote voter participation. The NVRA increases the number of locations where voter registration can take place and mandates states to allow mail-in voter registration. In particular, the NVRA makes the Department of Motor Vehicles (DMV), public assistance offices, and other state agencies into registration sites, so that people applying for drivers’ licenses or government aid can conveniently register to vote at the same time.

The FEC reports that voter registration in states covered by the NVRA (Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming are exempt) rose from 73.45 percent, or 136,791,845 citizens, in 1996, to 73.80 percent, or 144,406,765 citizens, in 2000. This is a noticeable, but very small, increase. According to the FEC, 45,654,673 registration applications/transactions were processed nationwide in 1999-2000. Nearly half (49.24 percent, or 22,478,632) of these applications were received through motor vehicle offices. Thirty one percent, or 14,150,732 applications, were mail-in registrations.⁴¹ That means a little over 80 percent of voter registrations in 1999-2000 were generated by the NVRA.

Figure 4

Sources of Voter Registration Applications in Ohio, 1999-2000				
Registration Source	Number of applications	Percent of total applications	Number of duplicates	Percent of duplicates
Motor Vehicles Offices	501,866	27.9%	49,402	9.8%
By Mail	398,777	22.1%	40,692	10.2%
Public Assistance Offices	28,712	1.6%	2,947	10.3%
Disability Services	1,793	0.1%	195	10.9%
Armed Forces Offices	1,423	0.1%	68	4.8%
State Designated Sites	198,155	11.0%	153,111	7.7%
All Other Sources	671,393	37.3%	50,895	7.6%
TOTAL	1,802,119		159,510	8.9%
New Registrations = 903,417				

Source: Federal Election Commission

In Ohio, the NVRA pulled in approximately 1,130,726 voter registrations in 1999-2000, primarily through motor vehicle offices (27.9 percent of registrations) and by mail (22.1 percent of registrations).⁴² NVRA registrations made up over half (57.7 percent) of registrations for 1999-2000, and registration was up seven percent – to 89.4 percent – from 82.4 percent in 1996. Registration also shot up between 1992 (80.3 percent) and 1996, an increase that could be attributed to the enactment of the NVRA in 1994.⁴³

Despite an overall increase in national voter registration rates from 1996, there are notable differences in who registered to vote in the U.S. between 1998-2000 based on age, education, length of residency, and race. Americans from 18 to 24 years old have the lowest rates of registration, 43.6 percent in 1998, while seniors have the highest rates – more than three-quarters

⁴¹ FEC, “Impact of the National Voter Registration Act on Federal Elections 1999.”

⁴² FEC, “Sources of Voter Registration Applications 1999-2000.”

⁴³ FEC, “Ohio Voter and Registration Turnout in Presidential Elections – 1960 to 1992.”

of those over age 65 were registered in 1998. More people with bachelor's degrees (73.8 percent) were registered to vote in 1998 than people without a high school diploma (43.4 percent). Advanced degree holders were registered at the highest levels – 77.7 percent in 1998. Not surprisingly, lower-wage earners were less likely to be registered than high-wage earners. Less than half of workers with incomes under \$50,000 were registered to vote in 1998, compared with 77.3 percent of people with incomes of \$75,000 or more⁴⁴.

According to Demos, length of residency is a major factor governing voter registration. Of those who had lived someplace for less than six months, only 43.2 percent were registered to vote in 1998, while 76 percent of those who had lived in the same residence for 5 years or longer were registered. This is significant, as the United States has a high level of geographic mobility. According to the U.S. Census Bureau, 43.4 million Americans, or 16 percent of the population, moved between March 1999 and March 2000. Over half of these moves were made within the same county; 20 percent were made within the same state. Only 20 percent of these moves were made to a different state. If county-to-county and out-of-state moves are combined, it turns out that roughly 1.7 million of America's mobile citizens had to re-register to vote in 1999-2000. These movers were disproportionately young, nonwhite, and poor – three groups that are already less likely to register and vote.⁴⁵

Despite NVRA provisions that aim to make registration accessible to a larger portion of the population, more whites in the U.S. register and vote. According to the U.S. Census Bureau, whites had the highest voter registration rate in 2000 – 72 percent – in comparison with blacks (68 percent) and Hispanics (57 percent). Though the rate of whites registered dropped slightly in 2000, from 73 percent in 1996, the rates for blacks and Hispanics, despite NVRA reforms, remained basically the same.⁴⁶ The overall increase in voter turnout in 2000 came, then, not from increased voting in any one group, but from an increased rate of registered voters coming out to polls; in 2000, 86 percent of registered voters reported that they voted, up from 82 percent in 1996.⁴⁷

MOVING BEYOND THE NVRA

Registration reforms beyond the provisions of the NVRA are needed for several reasons:

- The NVRA cannot affect registration deadlines; states are free to set these deadlines as early as they want, potentially denying people with a late interest in an election the opportunity to vote.
- Many states do not fully comply with the NVRA's provisions for offering registration opportunities at government agencies other than the DMV, such as public assistance offices, despite state and federal measures.
- Even when flawlessly implemented, the NVRA may not reach people who do not know where to register to vote, who are not aware of mail-in registration or lack access to valid mail-in registration forms, or who are not English proficient or have disabilities.

According to Census Bureau surveys, the NVRA has been more successful in reaching specific groups of Americans than others. Non-urban Americans are more likely to register to vote at the DMV than their city-living counterparts, especially African American and Latino urban residents.

⁴⁴ Demos, "Expanding The Vote: The Practice and Promise of Election Day Registration," p. 5.

⁴⁵ Ibid.

⁴⁶ U.S. Census Bureau, "Current Population Survey," November 2000, p. 4.

⁴⁷ Ibid., p. 3.

African Americans are also less likely to use mail-in registration. Further, the indicated failure of many states to provide registration opportunities in public assistance agencies disproportionately affects people of color, who are already less likely to register. African American and Latino urban residents are more likely to register to vote through special registration efforts that are not provided for by the NVRA, underlining the need for additional electoral reform.⁴⁸

Figure 5

THE GOOD, THE BAD, & THE UGLY: RACE & VOTING TECHNOLOGY IN THE 2000 PRESIDENTIAL ELECTION

The House Committee on Government Reform found that voters in low-income, high minority voting districts were over three times as likely to have their votes discarded than voters in affluent, low-minority districts. In an analysis of 40 congressional districts in 20 states, better voting technology reduced uncounted votes in low-income, high-minority districts and narrowed the disparity in uncounted votes between these districts and affluent, low-minority districts. When voters used punch-card machines, 7.7 percent of votes in low-income districts went uncounted, compared with 2 percent in affluent districts. In districts where voters used paper ballots that were optically scanned at polling places (precinct-counted optiscan voting), the gap dropped from 5.7-percentage points to less than one-percentage point (0.6 percent).

Source: "Income and Racial Disparities in the Undercount in the 2000 Presidential Election," U.S. House of Representatives, House Committee on Government Reform, July 9, 2001.

THE HELP AMERICA VOTE ACT OF 2002

In October 2002, President George W. Bush signed into law the Help America Vote Act of 2002 (HAVA). In the wake of the 2000 presidential election debacle, the act was designed to reform the national voting system by maintaining accurate lists of citizens registered to vote; using equipment that accurately records the voter's choice; handling close elections in a planned and fair way; and establishing universal standards of system efficiency. According to the Ohio secretary of state's office, implementing HAVA is no easy task in a state like Ohio.⁴⁹ The state's demographics reveal a mix of urban, rural, and mid-size communities, each of which enjoy their own community cultures and election traditions. Also, Ohio is a punch-card voting state, and punch-card voting is to be eliminated under HAVA. In fact, 69 of Ohio's 88 counties use punch-card voting.⁵⁰ Those 69 counties hold 72.5 percent of all registered voters in Ohio and 74 percent of the state's 11,756 voting precincts. Cuyahoga County, with its 861,113 registered voters, uses punch-card voting machines in its elections.⁵¹

Punch-card ballots produced the "hanging chads" that made it difficult for election officials in Florida and other states to decipher what presidential candidate voters chose in the 2000 election. In fact, Professor Stephen Ansolabehere, co-director of the Caltech/MIT Voting Technology Project, testified to the Senate that counties using punch cards had the highest residual vote rates – 3 percent of total ballots cast – in the four elections from 1988 to 2000.⁵² This places punch-card counties well above the national mean of 2.3 percent residual votes, while counties using optical scanning and hand-counted ballots, at 1.5 percent and 1.8 respectively, had rates well

⁴⁸ Ibid., p. 8.

⁴⁹ J. Kenneth Blackwell, Ohio Secretary of State, "Changing The Election Landscape In The State of Ohio: A State Plan to Implement the Help America Vote Act of 2002," May 13, 2003, p. 7.

⁵⁰ Ibid., p. 10.

⁵¹ Ibid., p. 13.

⁵² U.S. House of Representatives, Committee of Commerce, Science and Transportation, Hearings on Election Reform, Prepared Testimony, Stephen Ansolabehere, MIT, May 8, 2001, p. 7.

below it.⁵³ Residual votes include unmarked, spoiled, or uncounted ballots. According to Ansolabehere, punch cards lose at least 50 percent more votes than optically scanned ballots.

On October 11, 2001, the ACLU of Ohio filed a class action suit in the U.S. District Court against election officials in Summit, Montgomery, Hamilton, and Sandusky counties that takes punch-card voting to task. The suit alleges that more than 94,000 Ohioans had their ballots rejected in the 2000 presidential election, and that the disparities in rates of discarded ballots between Ohio precincts (10 precincts had discarded ballot rates between 10 percent and 15 percent) differ with the type of voting technology used in the different Ohio counties. Touch-screen voting technology alerts voters to mistakes, such as not recording a vote or voting twice in a particular race, and allows correction of ballots. Punch-card voting does not alert voters to mistakes or allow them to correct mistakes before casting their ballots. Consequently, the percentage of rejected ballots countywide in Franklin County, where touch-screen voting technology was used, was just one-half of one percent (0.5 percent), whereas the percentage of rejected ballots in Summit County, where voters use punch-card ballots, was over three percent (3 percent).

Statewide research conducted by the ACLU found a strong relationship between the voting technology, the racial composition and the percentage of discarded ballots in several Ohio voting precincts; this means that a number of African American voters in Ohio may have been disfranchised in violation of the Fourteenth Amendment to the U.S. Constitution and the Voting Rights Act of 1965 by the use of punch-card voting in various counties. The suit, which is currently in the discovery phase, is going to trial in May 2004. By then, HAVA reforms may be in place to prevent similar problems in the 2004 presidential election. However, because states can seek waivers from the federal government that hold off HAVA reforms until 2005, the ACLU is not pulling back from its case.

In addition to the elimination of punch-card/lever voting, other changes that will occur under HAVA are:

- States will maintain a centralized, interactive, computerized registration database to ensure accurate voter lists.
- New voting machines will be required to meet strict error rate standards.
- Provisional ballots will be made available to **all** individuals whose names do not appear on voter lists.
- At least one voting machine accessible to the disabled will be set up in every voting precinct.
- First-time voters who do not provide drivers' license numbers or the last four digits of their social security numbers when registering will be required to provide an ID at their polling places and will be assigned a special number that identifies them at their County Board of Elections office.
- Voters will also be able to check for and correct mistakes on ballots.
- In Ohio, ballots will be made more accessible to men and women in the military and residents living overseas.

The act also provides grants for research and development and to fund pilot programs that test new voting systems and equipment. Under the improved system, Ohioans will be able to avoid the many problems that voters experienced at the polls in the 2000 election.

⁵³ Caltech/MIT Voting Technology Project, "Voting: What Is, What Could Be," July 2001, p. 21.

On May 13, 2003, Ohio Secretary of State J. Kenneth Blackwell made public the draft of Ohio's Preliminary State Plan for HAVA, which his office is holding for the federal Elections Assistance Commission, which has not yet been formed by President Bush.⁵⁴ After hearing expert and citizen testimony and reviewing public statements, Secretary of State Blackwell and his thirteen-member reform committee drafted the plan, which will gain Ohio up to \$161 million to implement HAVA. Citizens had 30 days after the plan was publicly released, from May 13 to June 13, to comment on the plan before final review and approval by the Secretary of State. When the state plan is submitted to the federal commission, Ohio will secure its place in line for federal funds to implement changes that meet the requirements of HAVA.

In the meantime, Secretary Blackwell has established an election reform account exclusively for HAVA funds, and the state has already secured \$5 million in federal funding. According to the state plan, \$136 million of Ohio's HAVA funding will be spent on new voting equipment; up to \$10 million will be spent on the voter registration base and voter education, respectively, for a total of \$20 million; \$5 million will go to poll worker training; \$2 million will go to administrative expenses; and \$250,000 will go to a provisional voter hotline that will be run by the state.⁵⁵

WILL HAVA HELP VOTER REGISTRATION?

About HAVA, Common Cause Education Fund President Scott Harshberger says, "It's not just enough to put the punch-cards out to pasture and hope we don't repeat the Florida fiasco. We need to take bold steps to ensure that all Americans have the fullest confidence that if they cast a vote, it will indeed count."⁵⁶ HAVA contains provisions for replacing punch-card voting and maintaining accurate registration lists, but the Act does not address early registration deadlines, mobile voters, or limited knowledge of registration sites and opportunities. This means that, for many states, other electoral reforms may be needed to help increase voter registration and participation. For example, HAVA requires all states to offer provisional ballots to voters who claim to be registered but whose names do not appear on voter lists. Provisional ballots are set aside until after the election, when officials must verify the eligibility of the voter before counting the vote. Provisional ballots are preferable to turning away would-be voters from the polls because their names do not appear on the voter rolls, but they may shake voters' confidence that their votes will actually be counted. They are also prone to be discounted by officials who do not want to spend extra time and effort verifying their validity. A better alternative to using provisional ballots is EDR, which allows voters to register and cast their votes on election day. In this way EDR can supplement already-established efforts to increase voter participation in Ohio and the U.S. It would not only enhance voter registration overall, but could reach segments of the eligible population that typically fail to register and vote.

HAVA provides grant money to states that can be used to supplement allocated government funds for electoral reforms. Secretary of State Blackwell has already declared that "[Ohio] will apply for research and pilot program grants" after establishing a statewide registration database and replacing punch-card and lever voting machines with more reliable voting systems.⁵⁷ According to the state plan, "[Ohio's] focus is to... establish a reliable, accurate and fair election system" through HAVA, one that is run by well-trained workers and that is accessible to all residents.

⁵⁴ Interview with Faith Lyon, Election Reform Project Coordinator for the State of Ohio, July 28, 2003.

⁵⁵ J. Kenneth Blackwell, Ohio Secretary of State, p. 23.

⁵⁶ Hannah News Service, "Common Cause Releases Election Reform Report," *The Hannah Report*, 124th General Assembly, November 6, 2001.

⁵⁷ J. Kenneth Blackwell, p. 21.

One way that Ohio can make its election system more reliable and fair is by using available HAVA funding to implement EDR. The federal funding authorized by HAVA – roughly \$830 million to the states in 2003 – can be used to “carry out other activities [besides those mandated] to improve the administration of elections.” Implementing EDR clearly qualifies as such an activity. That means that a portion of the roughly \$27 million going to voter education, poll worker training, and administrative expenses under HAVA in Ohio could be used to implement EDR, furthering the effort to increase voter registration and turnout in the state.

Under HAVA, Ohio could use federal funding to hire and train additional officials to oversee same-day registration, to conduct education campaigns that inform the public of what EDR is and how to use it, or for other similar costs. The state can use its statewide, computerized voter database to help make same-day registration under EDR a smoother process for voters. These databases can make it simpler for poll workers to safeguard against duplicate registrations, verify voter eligibility, and direct recent movers to their correct precincts. A statewide database would also make it easier to monitor illegal purging of election rolls.

CONCLUSION AND RECOMMENDATIONS

Election Day Registration is likely to increase voter turnout in Ohio. The six states with EDR have seen increases in voter registration and participation and experience typical turnout that is eight to 15 percent higher than the national average. Ohio’s turnout falls roughly four- to 13-percentage points below turnouts in five of the six states with EDR.

Nationwide, the number of poll respondents who report giving “quite a lot” of thought to the election jumps from 59 percent in September to 75 percent by October 30th through November 5th. By this time, voter registration deadlines in Ohio have passed. Younger citizens, minorities and those with less schooling and lower incomes are less likely to vote nationwide. Easing registration could diversify participation in elections.

To increase and diversify voting in Ohio, we recommend implementation of Election Day Registration. The National Voter Registration Act of 1993, or the “motor voter” act, and the Help American Vote Act of 2002 (HAVA) were implemented to expand voter registration, eliminate error-prone voting systems, and reduce inaccuracies in voter rolls. Election day registration would complement these reforms by boosting voter registration and increasing participation in our democracy. According to Roy G. Saltman, a former worker for the U.S. National Institute of Standards and Technology, “Voter registration, including voter verification at polling stations, is...[an] area in which assurance of accuracy, integrity, and security is [sic] necessary for public confidence...”⁵⁸ Though implementing EDR in Ohio would require an amendment to Article V of the state constitution, the effort could bring thousands of nonvoting Ohioans to the polls in upcoming elections. Increasing voter turnout in Ohio would strengthen our democracy and strengthen our society.

⁵⁸ Roy G. Saltman, “Adopting Computerized Voting in Developing Countries: Comparisons with the US Experience,” *Computer Professionals for Social Responsibility Newsletter*, Vol. 16, No. 1, Winter 1998, pp. 13-16.

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