



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John McNeal
SCPD Director

MEMORANDUM

DATE: April 26, 2017

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Jamie Wolfe, Chairperson
State Council for Persons with Disabilities

RE: H.B. 90 (Early Voting)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 90, which would authorize early voting in Delaware elections “for at least 10 days” (line 4). Polling locations would be published at least 30 days in advance (line 13). For statewide elections, at least 1 site would be required for each county and the City of Wilmington (lines 14-15). The bill would be effective January 1, 2020. The attached fiscal note reflects a modest cost (\$128,000) beginning in FY21. It is part of a legislative package designed to improving voter turnout. See attached excerpt from Delaware House Democrats “Leg Hall Insider” (March 27, 2017).

As background, thirty-seven (37) states and the District of Columbia authorize early voting prior to an election. See attached National Conference of State Legislatures article. The average early voting period is nineteen (19) days. Id.

The advantages of early voting include a reduced need for absentee ballots and flexibility, especially since voting would be authorized on weekends. The enhanced flexibility would benefit persons with disabilities whose health status may fluctuate from day to day. The enhanced flexibility would also benefit caregivers of persons with disabilities who could schedule voting at an opportune time.

However, the bill would benefit from a clarifying amendment. The bill specifically incorporates the procedural protections in Chapter 49 to the early voting process (line 9). This would include provisions authorizing assistance to voters with disabilities and authorizing voter complaints (15

Del.C. §§4943 and 4990-4991). However, it does not specifically incorporate a statutory requirement that each polling place conform to the statutory accessibility standards of 15 Del.C. §4512. If the Commissioner designated an inaccessible polling location as the sole early voting site in a county, the effect on persons with disabilities could be quite serious. This prospect could easily be obviated by a simple amendment, i.e., inserting the following sentence after “election.” in line 14: “The Commissioner shall only designate locations which comply with §4512 of this Title.”

SCPD is endorsing the proposed legislation contingent upon incorporation of the above amendment in the bill.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: Mr. Brian Hartman, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 90 early voting 4-24-17



149th GENERAL ASSEMBLY
FISCAL NOTE

BILL: HOUSE BILL NO. 90
SPONSOR: Representative Bentz
DESCRIPTION: AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO EARLY VOTING.

Assumptions:

1. This Act will become effective January 1, 2020.
2. This Act establishes in-person early voting for the State of Delaware. Registered voters will be allowed to vote in-person for at least 10 days prior to an election, up to and including the Saturday and Sunday immediately prior to the election at locations determined to be by the Elections Commissioner. The Elections Commissioner is also charged with determining whether such voting should occur by a voting machine or a paper ballot. All other procedures relating to conducting voting are the same as for Election Day voting. For statewide elections the statute directs that there must be at least one-in person polling place in each county and an additional location in the City of Wilmington.
3. The Department of Elections estimates the fiscal impact of this Act will be \$128,000 for FY2021. This cost is dependent on whether there is a Primary Election and a General Election versus one statewide election. The cost associated with implementing in-person early voting consists of \$64,000 for 13 Casual/Seasonal positions for 10 days at 4 poll sites. There are two elections in calendar year 2020, the Primary Election and the General Election. Therefore, the personnel costs will be \$128,000 for both elections.

Cost:

FY 2019	\$-0-
FY 2020	\$-0-
FY 2021	\$128,000

Prepared by Jackie Griffith
Office of the Controller General

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House Bills Would Encourage More Delawareans to Register and Vote

DOVER – Lawmakers unveiled a trio of bills Wednesday aimed at increasing voter turnout and encouraging more people to participate in the electoral process.

The measures would consolidate state and presidential primaries, open early voting and establish automatic voter registration at the Division of Motor Vehicles. Taken together, the bills would have the effect of registering more Delawareans to vote while increasing opportunities to vote.



House Bill 90, sponsored by Rep. David Bentz, would have Delaware join the other 34 states that have early voting, allowing residents to cast ballots before Election Day. The measure would require the Department of Elections to offer early voting to Delawareans for 10 days before a general, primary or special election, including the weekend before Election Day. Maryland and New Jersey are among the states that offer early voting.

"We need to do everything in our power to make it easier for working Delawareans across the state to vote in our elections, because when everyone participates, we all stand to do better as a society," said Rep. Bentz, D-Newark/Bear. "There are residents who for one reason or another have a difficult time making it to the polls on one particular day, whether it's due to work, family obligations or illness. Providing more opportunities for Delawareans to vote will increase participation."

A 2013 Brennan Center for Justice report (<https://www.brennancenter.org/publication/early-voting-what-works>) found that early voting reduces stress on the voting system, creates shorter lines on Election Day, and increases access to voting as well as voter satisfaction. It also improves poll worker performance by allowing workers and volunteers to gain valuable experience before handling the high volumes of Election Day, and provides more opportunity to discover and correct voting machine errors, re-check electronic systems, and fine-tune poll site management.



House Bill 89, sponsored by Rep. Stephanie T. Bolden, would move Delaware's state primary elections to coincide with its presidential primary elections.

Currently, Delaware holds its presidential primaries for both major parties on the fourth Tuesday in April. However, the First State's primaries for statewide and local political offices are held on the second Tuesday after the first Monday in September. The separate dates can create confusion (<https://twitter.com/MollyMurrayIn/status/724956560321961984>) among voters, while turnout for the state primary dramatically drops off from the presidential primary.

In 2016, 30 percent of registered Democrats and 37.7 percent of registered Republicans voted in the presidential primary. But those numbers dropped to 20 percent of Democrats and 16 percent of Republicans in the state primary later last year. In 2012, Republican primary voter participation dropped from 16 percent in the presidential primary to 13 percent in the state primary.

"Democracy works best when everyone gets involved and participates," said Rep. Bolden, D-Wilmington East. "We've seen from year to year that far more people vote in the presidential primaries than in the state primaries of the same year. In some cases, voters turning out to vote for president are confused when they can't vote in a primary for governor, Congress or local legislative races.

"Consolidating the presidential and state primaries will save the state money, reduce voter confusion and increase turnout. We owe it to residents to do whatever we can to improve our electoral process, and I'm confident that this is a common-sense move in the right direction."

House Bill 89, which is co-sponsored by a bipartisan group of 13 legislators, would move all state primaries to the fourth Tuesday in April. The change would take effect with the presidential election in 2020, but it also would move "off-year" elections (2022, 2026, etc.) to the same Tuesday.

According to the National Conference of State Legislatures, at least 17 other states already hold their state primaries on the same day as their presidential primaries. Surrounding states Maryland, New Jersey and Pennsylvania are among those states with both primaries on the same day.

A third bill, House Bill 79, sponsored by Rep. Bentz, would establish automatic voter registration at state DMV offices. Delaware's Motor Voter Law, an "eSignature" model, is considered one of the better such policies in the country. The bill would require eligible voters to decline having their information automatically shared with the Department of Elections for registration. Six states and the District of Columbia have enacted similar policies.

The bills have been assigned to the House Administration Committee.

###

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NATIONAL CONFERENCE of STATE LEGISLATURES

Absentee and Early Voting

3/20/2017

Latest Developments: In North Carolina, the 4th U.S. Circuit Court of Appeals struck down that state's 2013 law that reduced early voting hours. This change is not reflected below, pending actions state authorities may take in response to the ruling.

Most states have a method for any eligible voter to cast a ballot before Election Day, either during the early voting period or by requesting an absentee ballot. In 13 states, early voting is not available and an excuse is required to request an absentee ballot.

States offer three ways for voters to cast a ballot before Election Day:

- 1. Early Voting:** In 37 states (including 3 that mail ballots to all voters) and the District of Columbia, any qualified voter may cast a ballot in person during a designated period prior to Election Day. No excuse or justification is required.
- 2. Absentee Voting:** All states will mail an absentee ballot to certain voters who request one. The voter may return the ballot by mail or in person. In 20 states, an excuse is required while 27 states and the District of Columbia permit any qualified voter to vote absentee without offering an excuse. Some states offer a permanent absentee ballot list: once a voter asks to be added to the list, s/he will automatically receive an absentee ballot for all future elections.
- 3. Mail Voting:** A ballot is automatically mailed to every eligible voter (no request or application is necessary). In-person voting sites may also be available for voters who would vote in-person and to provide additional services to voters. Three states mail ballots to all eligible voters for every election. Other states may provide this option for some types of elections.

Scroll over the map below for state-by-state details.



Overview

The table below details the types of pre-election day voting that are available in each state. Information on the details for each category may be found below the table.

PRE-ELECTION DAY VOTING

State	In-Person		By Mail		
	Early Voting	No-Excuse Absentee	Absentee; Excuse Required	All-Mail Voting	Permanent Absentee Sta
Alabama			•		
Alaska	•	•		(a)	
Arizona	•	•		(a)	•
Arkansas	•		•	(a)	
California	•	•		(a)	•
Colorado				•	
Connecticut			•		•
Delaware			•		
D.C.	•	•			•
Florida	•	•		(a)	
Georgia	•	•			
Hawaii	•	•		(a)	•
Idaho	(b)	•		(a)	
Illinois	•	•			
Indiana	(b)		•		
Iowa	(b)	•			
Kansas	•	•		(a)	
Kentucky			•		
Louisiana	•		•		
Maine	(b)	•			
Maryland	•	•		(a)	
Massachusetts	(c)		•		

State	In-Person	By Mail		
Michigan			•	
Minnesota	(b)	•		(a) •
Mississippi			•	
Missouri			•	(a)
Montana	(b)	•		(a) •
Nebraska	•	•		(a)
Nevada	•	•		(a)
New Hampshire			•	
New Jersey	(b)	•		(a) •
New Mexico	•	•		(a)
New York			•	
North Carolina	•	•		
North Dakota	•	•		(a)
Ohio	(b)	•		
Oklahoma	(b)	•		
Oregon				•
Pennsylvania			•	
Rhode Island			•	
South Carolina			•	
South Dakota	(b)	•		
Tennessee	•		•	
Texas	•		•	
Utah	•	•		•
Vermont	(b)	•		

State	In-Person	By Mail			
Virginia			•		
Washington				•	
West Virginia	•		•		
Wisconsin	(b)	•			
Wyoming	(b)	•			
TOTAL	34 states + DC	27 states + DC	20 states	3 states	8 states + DC

Source: National Conference of State Legislatures, January 2016.

(a) Certain elections may be held entirely by mail. The circumstances under which all-mail elections are permitted vary from state to state.

(b) Although these states do not have Early Voting in the traditional sense, within a certain period of time before an election they do allow a voter to apply in person for an absentee ballot (without an excuse) and cast that ballot in one to an election official's office. This is often known as "in-person absentee" voting.

(c) Massachusetts has Early Voting only during even-year November elections, beginning in 2016. Currently it does permit Early Voting in primaries or municipal elections.

Early Voting

More than two-thirds of the states—37, plus the District of Columbia—offer some sort of early voting. Early voting allows voters to visit an election official's office or, in some states, other satellite voting locations, and cast a vote in person without offering an excuse for why the voter is unable to vote on Election Day. Some states also allow voters to receive, fill out and cast absentee ballot in person at the elections office or at a satellite location rather than returning it through the mail. This is often referred to as in-person absentee voting. Satellite voting locations vary by state, and may include other county and state offices (besides the election office), grocery stores, shopping malls, schools, libraries, and other locations. More detailed information can be found on NCSL's State Laws Governing Early Voting page.

The time period for early voting varies from state to state:

- The date on which early voting begins may be as early as 45 days before the election, or as late as the Friday before the election. The average starting time for early voting across all 34 states is 22 days before the election.
- Early voting typically ends just a few days before Election Day: seven days before the election in two states, on Thursday before the election in one state, the Friday before in eight states, the Saturday before in seven states and the Monday before Election Day in 13 states.
- Early voting periods range in length from four days to 45 days; the average across all 33 states is 19 days.
- Of the states that allow early in-person voting, 22 and the District of Columbia allow some weekend early voting:
 - Saturday: 18 states + the District of Columbia provide for voting on Saturday. 4 additional states (California, Kansas, Vermont and Massachusetts) leave it up to county clerks who may choose to allow Saturday voting.
 - Sunday: 4 states (Alaska, Illinois, Ohio and Maryland) allow for Sunday voting. 5 states (California, Florida, Georgia, Nevada and Massachusetts) leave it up to county clerks who may choose to be open on Sunday.

No-Excuse Absentee Voting

Absentee voting is conducted by mail-in paper ballot prior to the day of the election. States typically require that a voter fill out an application to receive an absentee ballot. Many states help facilitate this process by making absentee ballot applications available online for voters to print and send, and at least states (Florida, Louisiana, Maryland, Minnesota and Utah) permit a voter to submit an application entirely online. Arizona has some counties that have online absentee ballot applications, and in Detroit, Michigan, voters can request an absentee ballot through a smartphone app.

While all states offer some version of absentee voting, there is quite a lot of variation in states' procedures. For instance, some states offer "no-excuse" absentee voting, allowing any registered voter to request an absentee without requiring that the voter state a reason his/her desire to vote absentee. Some states also allow a time period before the election for voters to appear at the elections office or other designated location in person to request, fill out and cast an absentee ballot in on stop. Still, some states permit voters to vote absentee only under a limited set of circumstances.

The following 27 states and D.C. offer "no-excuse" absentee voting:

NO-EXCUSE ABSENTEE VOTING

Alaska	Kansas	North Dakota
Arizona	Maine	Ohio
California	Maryland	Oklahoma
District of Columbia	Minnesota	South Dakota
Florida	Montana	Utah
Georgia	Nebraska	Vermont
Hawaii	Nevada	Wisconsin
Idaho	New Jersey	Wyoming
Illinois	New Mexico	
Iowa	North Carolina	

Source: National Conference of State Legislatures, January 2016

Permanent Absentee Voting

Some states permit voters to join a permanent absentee voting list. Once a voter opts in, s/he will receive an absentee ballot automatically for all future elections. The states that offer permanent absentee voting to any voter are:

- Arizona: Ariz. Rev. Stat. §16-544(A)
- California: Cal. Elec. Code §3200
- Connecticut
- District of Columbia: D.C. Law §1-1001.07
- Hawaii: Hawaii Rev. Stat. §15-4(c)
- Minnesota: Minn. Rev. Stat. §203B.04(5)
- Montana: Mont. Code Ann. §13-13-212(4)
- New Jersey: N.J. Stat. §19:63-3(e)
- Utah: Utah Code §20A-3-304(4)

At least eight states offer permanent absentee status to a limited number of voters who meet certain criteria:

- Alaska (Alaska Admin. Code tit. 6. § 25.650) - voters

- who reside in a remote area where distance, terrain, or other natural conditions deny the voter reasonable access to the polling place
- Delaware (Del. Code Ann. Tit. 15, §5503(k)) - military and overseas voters, and their spouses and dependents; voters who are ill or physically disabled; voters who are otherwise authorized by federal law to vote by absentee ballot
- Kansas (Kan. Stat. Ann. §25-1122(g)) - voters with a permanent disability or an illness diagnosed as permanent
- Massachusetts (Mass. Gen. Laws ch. 54, §86) - permanently disabled voters
- Mississippi (Miss. Code Ann. § 23-15-629) - permanently disabled voters
- Missouri (Mo. Rev. Stat. §115.284) - permanent disabled voters
- New York (N.Y. Election Law §8-400) - permanently disabled voters
- West Virginia (W. Va. Code §3-3-2(b)) - voters who are permanently and totally disabled and unable to vote at the polls

Mail Voting

Three states -- Oregon, Washington and Colorado -- conduct all elections by mail. A ballot is automatically mailed to every registered voter in advance of Election Day, and traditional in-person voting precincts are not available. However, these states still provide one or more locations for voters to return mail ballots, vote in-person if they would like, and receive other voter services. Learn more about each state's vote-by-mail program: Oregon, Washington, Colorado.

Nineteen other states allow certain elections to be held by mail. More information can be found on NCSL's All-Mail Elections (aka Vote-By-Mail) webpage.

Early and Absentee Voting in Your State

Are you looking for information on how to vote early or by absentee ballot in an upcoming election? While NCSL is not involved in holding elections and cannot provide information or advice on how, when or where to vote in your state, we are pleased to provide this link to a page which will direct you to the answers you need regarding your state's laws: [Vote?](#)

Military Voters

All states permit members of the military who are stationed overseas, their dependents, and other U.S. citizens living abroad to vote by absentee ballot. For more information, please visit the Overseas Vote Foundation.

Additional Resources

- [NCSL's State Laws Governing Early Voting page](#)
- Article from NCSL's elections newsletter, *The Canvass*: Pre-Election Day Voting—Just the FAQs, Ma'am
- FVAP's Absentee and Early Voting Myths and Realities Fact Sheet
- NCSL's video Q&A with MIT's Charles Stewart III on early voting and turnout
- The Early Voting Information Center (EVIC) based at Reed College
- The U.S. Vote Foundation has state dates deadlines for requesting and returning absentee ballots, as well as early voting periods
- Long Distance Voter, a non-profit with information on registering and voting by mail

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