Election Day: Frequently Asked Questions

June 12, 2020
Election Day: Frequently Asked Questions

Election Day is the day legally established to select public officials in the United States. General elections for federal offices—President, Vice President, and U.S. Congress—are held on the Tuesday after the first Monday in November in even-numbered years. Citizens vote for President and Vice President every four years, Representatives every two years, and Senators every six years; this excludes special elections to fill unexpired terms. State and local elections are often but not always held on the same day as federal elections.

This report provides responses to frequently asked questions about the history and current legal status of Election Day. It discusses how the first federal elections were held, how a single Election Day for federal offices was established in the 19th century, why the Tuesday after the first Monday in November was selected as Election Day, and related issues.
Contents

What Is Election Day? ........................................................................................................... 1
When Is Election Day? ............................................................................................................. 1
What Does the Constitution Say About Election Day? ......................................................... 1
When Were the First Federal Elections Held? ....................................................................... 1
When and How Was a Single Election Day Created? ............................................................ 2
Why Was the First Tuesday After the First Monday in November Chosen as Election Day? ......................................................................................................................... 3
Are State and Local Elections Held at the Same Time as Federal Elections? ....................... 3
Can Election Day Be Rescheduled or Postponed? ............................................................... 3
Are Liquor Sales Prohibited on Election Day? ..................................................................... 4

Contacts

Author Information .................................................................................................................. 4
What Is Election Day?

Election Day is the day legally established for the general election of federal public officials: President, Vice President, and U.S. Congress. Citizens vote for President and Vice President every four years, Representatives every two years, and Senators every six years; this excludes special elections to fill unexpired terms. State and local elections are often, but not always, held on the same day as federal elections.

When Is Election Day?

Election Day for federal offices is held on the Tuesday after the first Monday in November in even-numbered years. Election Day falls between November 2 and November 8, depending on the calendar. Upcoming elections are scheduled for November 3, 2020, and November 8, 2022.

What Does the Constitution Say About Election Day?

The Constitution and federal statutes provide a structure for elections and voting in the United States, but election administration is primarily a state responsibility. The Constitution does not designate a specific day for holding elections. It allows states to choose the “Times, Places and Manner of holding Elections for Senators and Representatives,” but it permits Congress to “make or alter” those state rules “except as to the Places of [choosing] Senators.” 1 The Constitution also empowers Congress to select the time for choosing presidential electors for the Electoral College and the day all states’ electors vote for President and Vice President. 2

When Were the First Federal Elections Held?

Popular elections for Representatives were held between November 24, 1788, and June 22, 1789. 3 Senators were selected by state legislatures, as established in the Constitution. 4 Different states chose presidential electors in different ways, some by popular vote and others by legislatures; 5 the electors cast their ballots on February 4, 1789, and the newly assembled Congress counted the votes on April 6, 1789. 6

---

1 Article I, Section 4, clause 1.
2 Article II, Section 1, clause 4.
4 Article I, Section 3, clause 1.
When and How Was a Single Election Day Created?

In 1845, the 28th Congress set a single date for states to appoint presidential electors.

In 1792, the 2nd Congress decided presidential electors would vote on the first Wednesday in December, and electors must be chosen in the 34 days leading up to that date.7 More than half of the states in the early 1800s held presidential elections in early November.8

As travel and communication methods became faster in the 19th century, potential manipulation and fraud concerns grew due to different election days in different states: “The 34-day period during which elections could be held prolonged excitement and provided time for more intrigue.”9 Members of the House, when debating a bill in 1844 that would set a uniform presidential Election Day across the country, declared the goal was “to guard against frauds in the elections of President and Vice President.”10

In 1845, the 28th Congress set “the Tuesday next after the first Monday in the month of November” as the date for states to appoint presidential electors.11 The first unified presidential Election Day was November 7, 1848.12 Current law states that “the electors of President and Vice President shall be appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President.”

In 1872, the 42nd Congress aligned House elections with presidential elections by scheduling them for “the Tuesday next after the first Monday in November” starting in 1876 and “in every second year thereafter.”14 Current law states that “the Tuesday next after the 1st Monday in November, in every even numbered year, is established as the day for the election, in each of the States and Territories of the United States, of Representatives and Delegates to the Congress commencing on the 3d day of January next thereafter.”15

Before the Seventeenth Amendment was ratified in 1913, state legislatures elected Senators. In 1914, the 63rd Congress aligned popular election of Senators with the biennial House elections.16 Under current law, the regular election held in any State next preceding the expiration of the term for which any Senator was elected to represent such State in Congress, at which election a Representative to Congress is regularly by law to be chosen, a United States Senator from said State shall be elected by the people thereof for the term commencing on the 3d day of January next thereafter.17

---

7 1 Stat. 239.
14 17 Stat. 28.
16 38 Stat. 384.
**Why Was the First Tuesday After the First Monday in November Chosen as Election Day?**

The timing of Election Day means citizens cast their ballots for President and Vice President roughly one month before the formal vote of the Electoral College.\(^\text{18}\)

In a mostly agrarian society, holding elections late in the year avoided the harvest season and the onset of harsh weather. “Early November fell, Goldilocks-like, between the end of the autumnal harvest and the grip of winter.”\(^\text{19}\)

Voting on Tuesday, rather than Monday, sidestepped religious complications. “Given that voters from remote areas had to travel overnight to poll, it did not seem appropriate to require them to travel on Sunday, the Sabbath for most Christians.”\(^\text{20}\)

Lawmakers prevented Election Day from falling on November 1 by selecting the first Tuesday after the first Monday, which “took into consideration the fact that many merchants used the first day of the month to tally their books from the previous month.”\(^\text{21}\)

**Are State and Local Elections Held at the Same Time as Federal Elections?**

The federal government has no formal role in scheduling elections for nonfederal offices at the state and local level,\(^\text{22}\) but many jurisdictions use the federal election date for convenience. A few states hold “off-year” elections in odd-numbered years.\(^\text{23}\) Many cities and local school districts hold “off-cycle” elections, as well.\(^\text{24}\)

**Can Election Day Be Rescheduled or Postponed?**

The timing of Election Day is set by law, and changing the date would require enacting a new law, as “neither the Constitution nor Congress provides any ... power to the President or other federal officials to change this date outside of Congress’s regular legislative process.”\(^\text{25}\)

---


\(^{20}\) Orr, 2016, p. 39.


Are Liquor Sales Prohibited on Election Day?

Not anymore. A long tradition in American politics offered strong drink as an incentive for voters to turn out and support certain candidates at the polls.\(^\text{26}\) As of the early 1970s, alcohol sales were “prohibited almost uniformly on Election Day, at least during polling hours.”\(^\text{27}\) States abandoned the policy over time, and South Carolina lifted the nation’s last statewide Election Day liquor ban in 2014.\(^\text{28}\)

**Author Information**

Ben Leubsdorf
Reference and Digital Services Librarian

**Disclaimer**

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS’s institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.

---

