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# Election Day: Frequently Asked Questions

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SUMMARY

# Election Day: Frequently Asked Questions

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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 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.

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# What is Election Day?

Election Day is the day legally established for the general election (sometimes referred to as a "popular election") of federal public officials: President, Vice President, and Members of the U.S. Congress.[1] 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.[2] Primary elections, used to nominate candidates for a general election, are also excluded.[3] The Senate is divided into three election classes, with approximately one-third of Senators standing for reelection or election every two years, each term lasting six years. State and local elections are often held on the same day as federal elections.[4]

# When is Election Day?

A federal statute provides that Election Day for federal offices is held on the Tuesday after the first Monday in November in even-numbered years.[5] Election Day falls between November 2 and November 8, depending on the year. Upcoming federal elections are scheduled for November 3, 2026, and November 7, 2028.

# Is Election Day a federal holiday?

Election Day is not a federal holiday.[6] However, several states recognize it as a state holiday.[7] For more information on federal holidays, see CRS Report R41990, *Federal Holidays: Evolution and Current Practices*, by Jacob R. Straus.

# What does the Constitution state about Election Day?

The Constitution allows states to choose the "Times, Places and Manner of holding Elections for Senators and Representatives" but permits Congress to "make or alter" those state rules "except as to the Places of [choosing] Senators."[8] The Constitution also empowers Congress to select the time for choosing presidential electors for the Electoral College and the day all states' electors

[1] 3 U.S.C. §1 and 2 U.S.C. §1.

[2] See 3 U.S.C. §21 for the President, 2 U.S.C. §7 for the House of Representatives, and 2 U.S.C. §1 for the Senate. For Senators, see also art. I, §3, cl. 2, and the section of Senate Classes at U.S. Senate, "About the Senate and the Constitution," https://www.senate.gov/about/origins-foundations/senate-and-constitution.htm.

[3] National Conference of State Legislatures, "Primaries: More Than One Way to Find a Party Nominee," January 19, 2021, https://www.ncsl.org/elections-and-campaigns/primaries-more-than-one-way-to-find-a-party-nominee.

[4] For information on state elections generally, see National Conference of State Legislatures, "Elections and Campaigns," https://www.ncsl.org/elections-and-campaigns/.

[5] 2 U.S.C. §7.

[6] 5 U.S.C. §6103.

[7] See, for example, 1 Del. Code §501; Ky. Rev. Stat. §2.190; Mont. Code Ann. §1-1-216; Va. Code §2.2-3300.

[8] U.S. Const. art. I, §4, cl. 1. See generally CRS, "Historical Background on Elections Clause," *Constitution Annotated*, https://constitution.congress.gov/browse/essay/artI-S4-C1-1/ALDE_00013351/. For further discussion of relevant constitutional provisions, see CRS In Focus IF13267, *Congressional Authority Over Elections: Key Constitutional Provisions, Federal Statutes, and Supreme Court Rulings*, by L. Paige Whitaker.

vote for President and Vice President.[9] The Constitution does not designate a specific day for holding elections; rather, that date was designated by an act of Congress.[10]

# When were the first federal elections held?

Between November 24, 1788, and June 22, 1789, elections were held for the U.S. House of Representatives and the Senate. Popular elections were held for Representatives.[11] Senators were selected by state legislatures, as established in the Constitution.[12]

States chose presidential electors in different ways, some by popular vote and others by legislatures.[13] The electors cast their ballots on February 4, 1789, and the newly assembled Congress counted the votes on April 6, 1789.[14]

# When and how was a single Election Day created?

In 1845, the 28th Congress set a single date for states to appoint presidential electors.[15]

## History of the 1845 Act

In 1792, the 2nd Congress decided that presidential electors would vote on the first Wednesday in December and that electors must be chosen in the 34 days leading up to that date.[16] In the early 1800s, more than half of the states held presidential elections in early November.[17]

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."[18] Members of the House, when debating a bill in 1844 that would set a uniform presidential Election Day across the country, declared that the goal was "to guard against frauds in the elections of President and Vice President."[19]

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.[20] The first unified presidential

[9] U.S. Const. art. II, §1, cl. 4. See generally CRS, "Timing of Electoral Votes Generally," *Constitution Annotated*, https://constitution.congress.gov/browse/essay/artII-S1-C4-1/ALDE_00013599/.

[10] Act of February 2, 1872, ch. 11, §3, 17 Stat. 28.

[11] Kate Kelly, *Election Day: An American Holiday, An American History* (Facts on File, 1991), p. 26.

[12] U.S. Const. art. I, §3, cl. 1.

[13] Marcus Cunliffe, "Elections of 1789 and 1792," in *History of American Presidential Elections, 1789-1968*, eds. Arthur M. Schlesinger et al., vol. 1 (Chelsea House Publishers, 1971), pp. 3-32.

[14] D. Jason Berggren, "Presidential Election of 1789," in *Digital Encyclopedia of George Washington*, eds. Jim Ambuske and Jeanette Patrick, https://www.mountvernon.org/library/digitalhistory/digital-encyclopedia/article/presidential-election-of-1789.

[15] Act of January 23, 1845, ch. 1, 5 Stat. 721.

[16] Act of March 1, 1792, ch. 8, 1 Stat. 239.

[17] Jeffrey M. Stonecash et al., "Congressional Intrusion to Specify State Voting Dates for National Offices," *Publius*, vol. 38, no. 1 (Winter 2008), pp. 137-151.

[18] Kelly, *Election Day*, p. 34.

[19] "Election Bill," *Congressional Globe*, December 13, 1844, p. 29.

[20] 5 Stat. 721.

Election Day was November 7, 1848.[21] Current law states, "The electors of President and Vice President shall be appointed, in each State, on election day, in accordance with the laws of the State enacted prior to election day."[22] Election day is defined as "the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President held in each State, except, in the case of a State that appoints electors by popular vote, if the State modifies the period of voting, as necessitated by force majeure events that are extraordinary and catastrophic, as provided under laws of the State enacted prior to such day, 'election day' shall include the modified period of voting."[23]

## Post-1845 Act Developments

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."[24] 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."[25]

Before the Seventeenth Amendment was ratified in 1913, state legislatures elected Senators. In 1914, the 63rd Congress aligned the popular election of Senators with the biennial House elections.[26] Under current law:

> At 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.[27]

# 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.[28]

One researcher noted that 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."[29]

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[21] Robert J. Dinkin, *Election Day: A Documentary History* (Greenwood Press, 2002), pp. 77-78.

[22] 3 U.S.C. §1.

[23] 3 U.S.C. §21(1).

[24] Act of February 2, 1872, ch. 11, 17 Stat. 28.

[25] 2 U.S.C. §7.

[26] 38 Stat. 384.

[27] 2 U.S.C. §1.

[28] CRS Report RL32611, *The Electoral College: How It Works in Contemporary Presidential Elections*, by Thomas H. Neale.

[29] Graeme Orr, *Ritual and Rhythm in Electoral Systems: A Comparative Legal Account* (Routledge, 2016), p. 39.

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."[30]

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."[31]

# 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 levels,[32] but many jurisdictions use the federal election date for convenience.[33] A few states hold "off-year" elections in odd-numbered years.[34] Many cities and local school districts hold "off-cycle" elections as well.[35]

# 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."[36]

# Are liquor sales prohibited on Election Day?

Not anymore. Following the passage of the Twenty-First Amendment in 1933, which ended Prohibition and delegated alcohol regulation to the states,[37] a number of states continued to prohibit the sale of alcohol on Election Day.[38] States abandoned the policy over time, and South Carolina lifted the nation's last statewide Election Day liquor ban in 2014.[39]

[30] Orr, *Ritual and Rhythm in Electoral Systems*, p. 39.

[31] Mary Lynn F. Jones, "Election Day," in *Encyclopedia of American Political Parties and Elections*, eds. Larry J. Sabato and Howard R. Ernst, 2nd ed. (Facts on File, 2014), p. 120.

[32] CRS Report R45302, *Federal Role in U.S. Campaigns and Elections: An Overview*, by R. Sam Garrett.

[33] CRS Report RL30527, *Presidential Elections in the United States: A Primer*, by Kevin J. Coleman, Joseph E. Cantor, and Thomas H. Neale.

[34] Adam Kuckuk, "For an Odd Year, 2025 Packs Big Elections," National Conference of State Legislatures, September 23, 2025, https://www.ncsl.org/state-legislatures-news/details/for-an-odd-year-2025-packs-big-elections.

[35] Sarah F. Anzia, "Election Timing and the Electoral Influence of Interest Groups," *Journal of Politics*, vol. 72, no. 3 (May 2011), pp. 412-427.

[36] CRS Legal Sidebar LSB10425, *Postponing Federal Elections and the COVID-19 Pandemic: Legal Considerations*, by Jacob D. Shelly, p. 2.

[37] CRS Legal Sidebar LSB11067, *The Twenty-First Amendment and the End of Prohibition, Part 3: Drafting and State Ratification*, by Brandon J. Murrill.

[38] National Research Council, *Alcohol and Public Policy: Beyond the Shadow of Prohibition* (National Academies Press, 1981), p. 173.

[39] Cassie Cope, "SC to Permit Sales of Liquor for First Time on Election Day," *The State*, November 3, 2014, https://www.thestate.com/news/local/article13908065.html.

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