

**ANALYSIS OF THE EFFECTS ON STATE AND LOCAL GOVERNMENTS
OF H.R. 3295, THE MARTIN LUTHER KING JR.
VOTING RIGHTS ACT OF 2001, AS PASSED BY THE SENATE**

SUMMARY

Title I of H.R. 3295 would place a number of new requirements on state and local governments in their role as election administrators. Specifically, the act would:

- Set new standards for voting systems;
- Require each state to develop a computerized database of all registered voters in the state; and
- Require local election jurisdictions to develop procedures for provisional voting.

This analysis presents the Congressional Budget Office's estimates of the cost of each of these requirements. Our analysis is based on a review of the existing literature on election reform and on discussions with election officials at both the state and local level in 14 states.

Depending on how the voting system requirements in H.R. 3295 are interpreted, CBO estimates that the costs to state and local governments of complying with the major requirements of title I of the act would range from \$1.7 billion to \$3.5 billion over the next several years. We expect that most of the costs would be incurred over the next five years because of constraints posed by state procurement systems, as well as the magnitude of the effort. The estimated costs are summarized in the following table.

Because the act would require almost every voting jurisdiction in the country to change some facet of its procedures for casting and counting votes, CBO expects that other significant costs also would arise from such a large-scale reorganization. Those costs include technical support, training and education, and software upgrades; while we cannot estimate their magnitude, we discuss them in the "Other Costs" section below.

SUMMARY OF COSTS FOR H.R. 3295, AS PASSED BY THE SENATE ON APRIL 11, 2002
(In millions of dollars, over the 2003-2007 period)

	One-Time Costs ^a		Ongoing Costs ^b (per year)	Total Costs, 2003-2007	
	Lower Estimate	Upper Estimate		Lower Estimate	Upper Estimate
Voting Technology					
Systems	770	2,500	n.a.	770	2,500
Software	<u>500</u>	<u>500</u>	n.a.	<u>500</u>	<u>500</u>
Subtotal	1,270	3,000	n.a.	1,270	3,000
Statewide Database					
Development/Implementation	160	190	n.a.	160	190
Operating	<u>n.a.</u>	<u>n.a.</u>	<u>30</u>	<u>150</u>	<u>150</u>
Subtotal	160	190	30	310	340
Provisional Voting	n.a.	n.a.	25	125	125
Other Costs	c	c	c	c	c
Total (not including "other costs")	<u>1,430</u>	<u>3,190</u>	<u>55</u>	<u>1,705</u>	<u>3,465</u>

NOTE: n.a.= not applicable.

- a. CBO expects that the estimated costs for one-time expenses for voting technology and database development would be incurred over a period of several years, with most of those costs incurred within five years of enactment of H.R. 3295.
- b. Operating expenses for the statewide database and provisional voting would reoccur each year.
- c. CBO cannot estimate other costs because of uncertainties about how provisions of the act would be interpreted and because of the wide range of possible responses by state and local governments. Such costs, however, could be significant.

H.R. 3295 would authorize several grant programs to reimburse state and local governments for the costs they incur in complying with the requirements of the act. Specifically, title II would authorize the appropriation of \$3 billion over fiscal years 2003 through 2006, and for each fiscal year thereafter, such sums as may be necessary to implement the voting system, database, and provisional voting requirements. The act would authorize the appropriation of an additional \$400 million in fiscal year 2003 for incentive grants to, among other things, improve voting systems and technology and to improve voter education programs.

The act does not specifically limit the types of costs that would be eligible for reimbursement through federal grants, so we cannot estimate how much of the costs discussed below would fall on state and local governments. We believe, however, that most, if not all of those costs, could be eligible for federal reimbursement. Accordingly, the net costs to state and local governments of complying with the requirements of title I would be much less than the total costs that CBO estimates, assuming that the act's authorized amounts are appropriated.

VOTING SYSTEM COSTS

H.R. 3295 would require voting systems used in federal elections to:

- Permit voters to verify the votes selected before the ballot is cast;
- Provide the voter an opportunity to change the ballot or correct an error before the ballot is cast;
- Notify the voter if more than one candidate is selected for a single office and provide an opportunity to change the ballot before it is cast;
- Produce a permanent paper record with a manual audit capacity;
- Be accessible for individuals with disabilities in a manner that provides the same opportunity for access and participation as for other voters; and
- Provide alternative language accessibility if certain population and literacy tests are met.

Based on information from state and local election officials, CBO expects that most jurisdictions initially would install at least one direct recording electronic (DRE) system in each polling place to meet both the technology and accessibility requirements of this section. Currently, DRE systems, which cost about \$4,000 per unit (excluding software costs), are installed in about 10 percent of the approximately 200,000 polling places around the country. CBO estimates that the cost of installing one DRE machine in every polling place not currently equipped with such technology would be about \$770 million and would likely take five years to fully implement. That estimate represents a reasonable "lower estimate" of the likely costs for new systems.

A number of the election officials we surveyed noted that managing several types of voting systems within one polling place would place additional burdens on the process to tabulate votes and certify the election, and that local election jurisdictions would tend to converge on using a single voting technology, DRE, to eliminate this administrative burden. If local election districts would install one DRE system for every 250 voters (the ratio generally suggested by system vendors), voting equipment costs would increase to \$2.5 billion—a possible “upper estimate,” as an alternative to the lower estimate provided above.

Each jurisdiction also would need software to operate the electronic voting devices and to compile voting results. Based on a recent report by the General Accounting Office, CBO expects that each of the approximately 10,000 political jurisdictions (cities, counties, townships, etc.) in the United States would require software that would cost, on average, \$50,000. Thus, CBO estimates that software costs would total \$500 million.

STATEWIDE VOTER DATABASE COSTS

Title I of H.R. 3295 also would require states to develop a computerized database that contains the name and registration information of every legally registered voter in the state. The list would be accessible to each state and local election official in the state and would be maintained under conditions that would prevent unauthorized access.

Currently, 10 states maintain a unified database of all registered voters in the state; 13 states maintain a collection of the individual county lists that local election districts can access and query. Another 13 states do not maintain any statewide database of registered voters.

Because the act’s language is not specific about the level of sophistication of the database, CBO cannot determine which states would comply with the act’s requirements without making any change to their current systems. Clearly, the 13 states without a database, and 14 other states that compile such information but do not make it available to local election officials would be required to implement a system that meets the requirements of the act.

Based on the experience of states such as Michigan and Georgia which have designed and installed statewide databases, CBO estimates that the cost to design and install such a system in at least 27 states would total \$160 million. If the states that merely collect and make available information from the counties were required to upgrade their systems, CBO estimates the costs would increase to \$190 million. We expect that states could take up to five years to design and implement the database systems.

States have estimated that maintaining and operating a database would cost between \$600,000 and \$1.5 million per year. CBO estimates that total operations and maintenance costs would total about \$30 million annually (\$150 million over the next five years) for states that would be required, as a result of the act, to develop and maintain a statewide database. We assume that operating costs incurred by states that have already developed a database would continue to be covered by those states and would not be a new cost stemming from enactment of H.R. 3295.

PROVISIONAL VOTING COSTS

Title I would allow individuals who appear at a polling place but do not appear on the list of registered voters to cast a special ballot if they declare their eligibility to vote in the jurisdiction. Local election districts would have to develop a procedure for allowing those individuals to cast a provisional ballot that would be counted only after the voter's eligibility to vote in the district had been verified.

Based on information from local election officials, CBO estimates that the total cost of verifying each provisional ballot would be about \$25 million per year (\$125 million over the next five years), mostly in additional labor costs to investigate each provisional ballot. Local jurisdictions also would incur costs to develop a free access system for voters to determine whether their provisional votes were counted. CBO cannot estimate the cost to establish such a system because the act's language is unclear about what method would be sufficient to provide that access. Currently, several states that already offer provisional balloting notify voters in writing regarding the outcome of their vote.

OTHER COSTS

As noted above, practically every election district would be affected by the requirements in this bill. Such a large-scale change in election administration procedures would likely cause state and local governments to incur additional costs that are not included above. Some of the types of costs that could arise include:

- *Technical support* to manage the increasing complexity of the voting systems. As electronic voting systems replace mechanical devices, election districts would need personnel, whether on staff or contracted, who can set up and perform maintenance on the systems;

- *Training* for election officials to program the systems for each election, for poll workers to operate the machinery on election day, and for the voters to use the new technology correctly;
- *Storage* for electronic units that would require a higher degree of environmental control (temperature, humidity, pest control);
- *Interim software upgrades* to bridge between multiple systems until one type of voting system is installed throughout an election district;
- *Initial population* of statewide database. States that have developed statewide databases noted that the process to initially populate the database using information from the local jurisdictions was time-consuming and complicated for election officials at both the state and local level; and
- *Ballot printing and translators* to meet new language accessibility requirements. New electronic voting systems have the capacity to present ballots in as many as 22 languages, but translators and multilingual poll workers would still be needed to assist voters in the process.

CBO cannot estimate these additional costs because decisions about such items generally rest with local election districts—where there is wide variation in expertise and capacity. For instance, smaller districts may share one or two contractors to provide support only on election day, while larger cities may have enough expertise on their current staff to cover their technology needs. Larger jurisdictions also may have easy access to environmentally controlled storage at little additional cost while smaller districts may have to rent storage.

GRANTS

Title II of H.R. 3295 would establish a grant program to pay for some (and perhaps most of) the costs incurred by state and local governments to implement the three requirements of title I (improving voting systems, offering provisional voting, and establishing a statewide database of voters). Those grants would cover 100 percent of eligible costs incurred after January 1, 2001, as well as payments made on multiyear contracts after that date. The act would authorize the appropriation of \$3 billion over fiscal years 2003 through 2006, and such sums as necessary in each subsequent fiscal year.

The act also would authorize an additional \$400 million in fiscal year 2003 for incentive grants to state and local governments to improve voting systems and technology, to improve

access to polling places, to implement new election procedures, to educate voters, to establish toll-free lines to report voter fraud, and to meet the requirements of title I of the act. Grants would cover 80 percent of the cost of eligible activities; participants in the grant program would be required provide the remaining 20 percent in matching funds.

H.R. 3295 does not specifically limit the types of costs that would be eligible under these programs, and while we cannot determine the extent to which the other costs discussed in the previous sections would be reimbursable under these grants, it appears that most of the costs would be eligible for federal reimbursement. Because such sums would be authorized for fiscal years after 2007, we expect that further development costs as well as ongoing operations and maintenance costs also would be eligible for reimbursement.

Because of the uncertainties in determining the total costs to comply with the act's requirements, CBO cannot estimate the net costs to state and local governments associated with H.R. 3295. Clearly, the legislation would authorize funding to cover a significant portion of the costs of complying with its requirements. It is possible that all costs could be covered, subject to appropriation of the necessary amounts. If, however, the grants do not extend beyond major hardware acquisition and software development, states could be responsible for significant costs.