



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

November 27, 2001

S. 565

Equal Protection of Voting Rights Act of 2001

*As ordered reported by the Senate Committee on Rules and Administration
on August 2, 2001*

SUMMARY

S. 565 would authorize such sums as necessary for fiscal years 2002 through 2006 for the Department of Justice (DOJ), in consultation with the Federal Election Commission (FEC), to make grants to states and localities to improve voting technology and election administration. The bill also would establish the Commission on Voting Rights and Procedures to study and prepare a report on issues related to election administration.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 565 would cost about \$3 billion over the 2002-2006 period, mostly for grants to states and localities to upgrade voting technology. This legislation could affect direct spending and receipts, so pay-as-you-go procedures would apply; however, CBO estimates that any such effects would be less than \$500,000 annually.

Title I of the bill contains both an intergovernmental and a private-sector mandate as defined by the Unfunded Mandates Reform Act (UMRA), however, CBO estimates that the costs of the mandate would be well below the relevant thresholds established by UMRA (\$56 million for intergovernmental mandates and \$113 million for private-sector mandates in 2001, adjusted annually for inflation). Title II would benefit state and local governments by providing grants to improve voting technology and administration. Section 4 of UMRA excludes from the application of that act any legislative provisions that enforce the constitutional rights of individuals. CBO has determined that title III of the bill would fall within that exclusion.

MAJOR PROVISIONS

For voting systems and technology used in federal elections in 2004 and thereafter, S. 565 would establish general requirements relating to the capability of voters to correct errors while voting, full participation of disabled voters, overall error rates, and other criteria. The bill would direct the FEC to establish technical specifications for voting equipment to comply with these criteria. The bill also would establish the Commission on Voting Rights and Procedures to study and prepare a report on voting systems and technology, design of ballots, access to polling places, and other issues related to election administration. S. 565 would authorize such sums as necessary for DOJ to make grants to states and localities to cover the full costs of complying with these requirements.

S. 565 also would authorize such sums as necessary for DOJ to make grants to states and localities to cover the costs of:

- Implementing procedures to accept the votes of persons whose names do not appear on voter registration lists, pending subsequent review; and
- Mailing certain materials to registered voters before federal elections.

In addition, the bill would authorize such sums as necessary for DOJ to make grants to states and localities to cover 80 to 90 percent of the costs of:

- Upgrading voting systems and technology beyond the requirements mentioned above;
- Establishing voter education programs;
- Providing “same day” voter registration;
- Training election personnel; and
- Implementing recommendations of the Commission on Voting Rights and Procedures.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 565 is shown in the following table. The costs of this legislation fall within budget functions 800 (general government) and 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars				
	2002	2003	2004	2005	2006
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ^a					
Grants to States and Localities					
Estimated Authorization Level	0	2,404	212	268	205
Estimated Outlays	0	1,563	1,054	268	205
Administrative Costs to DOJ and FEC					
Estimated Authorization Level	12	12	2	3	2
Estimated Outlays	12	12	2	3	2
Commission on Voting Rights and Procedures					
Estimated Authorization Level	b	0	0	0	0
Estimated Outlays	b	b	0	0	0
Total					
Estimated Authorization Level	12	2,416	214	271	207
Estimated Outlays	12	1,575	1,056	271	207

a. In addition to the discretionary costs, enacting S. 565 could affect direct spending and receipts, but CBO estimates that any such effects would be less than \$500,000 annually.

b. Less than \$500,000.

BASIS OF ESTIMATE

CBO estimates that implementing the legislation would cost about \$3 billion over the 2002-2006 period, with most of those funds going to states and localities to upgrade voting technology. For this estimate, CBO assumes that S. 565 will be enacted by the end of calendar year 2001, and that the necessary amounts will be appropriated for each year. We assume that states and localities will apply for grants to upgrade voting systems and technology during 2002 and appropriations for these grants will be made at the start of fiscal year 2003, with outlays occurring in 2003 and 2004—as the voting equipment industry produces the machines.

Grants to States and Localities

Grants could be used for many purposes, but most would be used by recipients to purchase new voting equipment to meet the technological requirements of the bill. CBO estimates that grants to improve voting equipment and technology would total \$2.4 billion and would be

made during fiscal years 2003 and 2004. Other grants would be used to help pay for mailings to voters, provisional voting procedures, voter education programs, voter registration procedures, and training for election workers.

Required upgrades in voting equipment. Based on information from local election officials, CBO expects that most jurisdictions would upgrade to electronic voting devices, which cost about \$4,000 per unit (excluding software costs) and are currently used in about 10 percent of the roughly 200,000 voting sites across the country. CBO estimates that the federal government would distribute about \$1.2 billion in grants over the 2003-2004 period to cover the full costs of about 300,000 electronic voting devices (each polling site would need at least one device to satisfy the bill's requirements). We expect that a much smaller number of jurisdictions would upgrade to optical scan technology, which would cost about \$6,000 per unit (excluding software costs). CBO estimates that the federal government would distribute about \$75 million in grants over the 2003-2004 period to cover the full costs of about 13,000 optical scan machines.

Optional upgrades in voting equipment. In addition, states and localities could apply for federal grants to upgrade their voting technology beyond the bill's requirements, but they would have to pay 10-to-20 percent of any such costs. We expect over 80 percent of voting jurisdictions would apply for grants to upgrade voting equipment. Based on information from election officials, CBO expects that requests for funds for these optional upgrades would cost \$540 million to purchase another 170,000 electronic voting devices. We expect other jurisdictions would choose to implement optical scan machines which would cost the federal government about \$90 million to help fund about 17,000 optical scan devices.

Software. Each jurisdiction would need software to operate the electronic voting devices and optical scan machines and to compile voting results. Based on a recent report by the General Accounting Office, CBO expects that each of the roughly 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 grants for software would total \$500 million.

Mailings. Grants could also be used to cover the full cost of the mailings to registered voters for the primary and general federal elections in 2004 and 2006 that would be required under the bill. There are about 150 million registered voters, and postage, printing, and administrative costs for each such mailing would total about \$1 per item. We estimate that grants for this purpose would cost \$150 million annually over the 2004-2006 period.

Provisional voting. In addition, grants could be used by states and localities to cover the full costs of implementing procedures in federal elections to accept the votes of persons whose

names do not appear on voter registration lists—pending subsequent review to determine whether such persons are eligible to vote. Based on the experience of the states that currently permit such “provisional voting,” CBO estimates that about 3 million voters across the United States would be affected. We expect that election workers earning about \$15 per hour would have to spend, on average, 15 minutes to resolve each case. Thus, we estimate this provision would cost about \$13 million in fiscal year 2005 (i.e., for the elections in November 2004).

Voter education. CBO expects that states and localities would attempt to educate voters about the new voting technology that would be implemented under S. 565. Based on recent voter education efforts in some states, we estimate that most jurisdictions would spend about \$1 per voter for this effort. Under the bill’s provisions, states and localities would have to cover 10-to-20 percent of these costs. About 150 million Americans will be registered to vote in the 2004 election, so CBO estimates that voter education efforts for that election would cost the federal government about \$130 million over the 2004-2005 period. To prepare for the 2006 mid-term elections (for which turnout is expected to be about 25 percent lower than the general election), we expect voter education to cost about \$32 million in fiscal year 2006 (and another \$65 million in fiscal year 2007).

New registration procedures. States and localities could also use federal grants to cover 80 percent to 90 percent of the costs of establishing “same-day” registration procedures that would allow voters to register and vote on election day (very few states now permit this). Based on information from election officials, CBO estimates that implementing these procedures would require, on average, one additional worker for each polling site, at a cost of about \$100 for wages and overhead. Assuming that these procedures are implemented at half of the nation’s 200,000 polling sites, costs to the federal government would be about \$9 million in fiscal year 2005 (to handle the election in November 2004).

Training. Under S. 565, states and localities also could use grants to cover 80-to-90 percent of the costs to train election workers. Currently, most jurisdictions spend about \$25 per worker on training. With an estimated 1.4 million election workers nationwide, the federal cost for this activity would total about \$30 million every two years.

Administrative Costs to DOJ and FEC

S. 565 would limit administrative expenses to no more than 1 percent of the total grants disbursed under the bill. Thus, we estimate that DOJ would spend \$31 million over the 2002-2006 period to administer this program. Based on information from FEC, CBO estimates that it would cost that agency about \$400,000 to establish specifications for national voting systems.

Commission on Voting Rights and Procedures

The commission would be composed of 12 members appointed by the Congress and the President. Within one year of the bill's enactment, the commission would prepare a report recommending improvements to voting and election administration. CBO estimates that the commission would spend a total of about \$500,000 over the 2002-2003 period, mostly for staff salaries.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act specifies pay-as-you-go procedures for legislation affecting direct spending and receipts. S. 565 would affect direct spending and revenues because the Commission on Voting Rights and Procedures could accept and spend contributed funds. CBO estimates that any revenues from contributions and subsequent direct spending would be less than \$500,000 annually, and would offset each other.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

Title I would establish a 12-member commission, the Commission on Voting Rights and Procedures, to study election technology, election administration, and the implementation of certain federal election laws. In addition, title I would require state or local governments and entities in the private sector, if subpoenaed, to provide testimony and evidence related to matters the election commission would be empowered to study. Such a requirement would be both an intergovernmental and a private-sector mandate as defined by UMRA. CBO expects that the commission would rely on information already publicly available, exercising its subpoena power sparingly. Consequently, CBO estimates that the costs of complying with the mandate would fall well below the relevant thresholds established by UMRA (\$56 million for intergovernmental mandates and \$113 million for private-sector mandates in 2001, adjusted annually for inflation).

Title II would benefit state and local governments by authorizing grants to improve voting equipment and technology and to implement new election administration procedures. Participating state and local governments would be required to contribute up to 20 percent of the cost of activities authorized under the grant program. Such costs would be incurred voluntarily as a condition of federal assistance.

Section 4 of UMRA excludes from the application of that act any legislative provisions that enforce the constitutional rights of individuals. CBO has determined that the provisions of title III of S. 565 would fall within that exclusion because they would enforce an individual's right to vote and to have that vote counted.

ESTIMATE PREPARED BY:

Federal Costs: Mark Grabowicz

Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins

Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

Peter H. Fontaine

Deputy Assistant Director for Budget Analysis