



November 30, 2001

Summary of the Democrat Election Reform Bills (H.R. 1170—The Equal Protection of Voting Rights Act) (S. 565—The Equal Protection of Voting Rights Act)

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H.R. 1170—The Equal Protection of Voting Rights Act **Rep. John Conyers (D-MI)**

Major provisions

- Establishes new mandates for voting systems for federal, state, and local elections, including notifying voters of multiple voting for a single office and of undervoting before a ballot is cast.
- Mandates provisional voting for federal, state, and local elections
- Mandates the provision of sample ballots (in advance via mail and newspaper publication and on election days at polling places)
- Establishes a new multi-billion-dollar grant program through which states can get funds (80-90% federal share) to implement new voter registration procedures, improve voting equipment, facilitate polling place access, and educate voters
- Establishes the Commission on Voting Rights and Procedures to conduct a detailed study of and make recommendations on numerous voting-related issues

Comprehensive summary:

Requirements for Voting Rights in Federal Elections

- Mandates that each voting system used in a federal election meet six requirements:
 1. Permits the voter to verify votes and correct errors before the ballot is cast
 2. Notifies the voter of multiple candidate selection for a single office and allows the voter to correct such selection before the ballot is cast
 3. Notifies the voter of undervoting (voting for fewer than the number of candidates for which votes may be cast) and allows the voter to correct undervoting before the ballot is cast
 4. Produces a record for each ballot cast that could be audited
 5. Provides access for the handicapped and “other individuals with special needs” (including private and independent access for visually impaired people), and

provides “alternative language accessibility” for people with “limited proficiency” in English

6. Has an error rate “as close to zero as practicable when the system is properly used.”
- Mandates provisional voting:
 - If a person who claims to be eligible to vote at a polling place does not appear on the official list of registered voters for such polling place, the person could cast a vote and affirm in writing eligibility to vote at that polling place.
 - A state or local election official would then have to verify the claim of eligibility and count the vote (if eligibility is indeed verified).
 - A state or local election official would then have to notify the claimant of the outcome and treatment of the person’s vote.
 - Mandates mailings to voters, featuring:
 - a sample ballot
 - information regarding the date of the election and polling place hours
 - instructions on how to cast a vote on the ballot
 - general information on voting rights
 - Mandates the publication in a geographically applicable newspaper (not less than ten days before the election) and posting at each polling place on the date of the election of a sample ballot
 - Requires that the above bullet points be fully implemented in time for the general (federal) election in 2004.
 - Grants authority to the Attorney General to make regulations and bring civil actions to enforce the above requirements. The Office of Civil Rights of the Department of Justice would be charged with creating the technical specifications for the voting system requirements and the provisional voting and sample ballot guidelines.

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- Authorizes appropriations of “**such sums as may be necessary**” for the Attorney General to make payments to states for reimbursements related to the above requirements for federal elections.

Requirements for Voting Rights in State and Local Elections

- Mandates the identical voting system, provisional voting, sample ballot, and regulatory requirements as for federal elections, detailed above.

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- Authorizes appropriations of “**such sums as may be necessary**” for the Attorney General to make payments to states for reimbursements related to the requirements for state and local elections.

Early Bird and Good Citizen Grant Program

- Establishes the “Early Bird and Good Citizen Grant Program.”
- Under the Program, the Attorney General would make auditable grants to states and localities to pay the federal share (80-90%, as explained below) of the costs of the following activities:
 - Improving, acquiring, or replacing voting equipment or technology
 - Improving the accessibility of polling places to the handicapped, the visually impaired, and other people “with special needs”
 - Assisting voters with limited proficiency in English
 - Implementing new election administration procedures (“such as ‘same-day’ voter registration”) to increase voter participation
 - Educating voters on voting procedures, rights, and technology
 - Training election personnel
- No state could get funds under this Program unless it **submits a plan** (to the Attorney General) promising:
 - “uniform and nondiscriminatory” standards to meet the requirements for voting systems, provisional voting, and sample ballots described above
 - accurate voter registration records (including assurances against legally registered voters being removed during efforts to purge illegally registered voters)
 - ease and convenience of voting for all voters (including “non-intimidation and nondiscrimination”)
 - private and independent access for the visually impaired and voters “with special needs”
 - compliance with all applicable election laws (like the Voting Rights Act of 1965)
 - “meaningful” opportunities for overseas and absent military voters to vote
 - voter education programs
 - an effective method of notifying voters at polling places on election day of basic voting procedures
 - “a timetable for meeting the elements of the plan”
 - payment of the non-federal share (10-20%) of the costs.
- Allows localities to apply for grant money under this program, as long as doing so does not duplicate the efforts of the state
- Sets the federal share of costs for allowable activities at either 80% (for grant applications filed on or after March 1, 2002) or 90% (for grant applications filed before March 1, 2002).
- Requires each grant recipient to report to the Attorney General any information regarding this bill deemed appropriate by the Attorney General and on a timetable determined by the Attorney General.
- Directs the Attorney General to report annually to Congress and the President on the activities funded by this grant program.

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- Authorizes appropriations of **\$700 million** for FY2002 and “**such amounts as necessary**” for each of fiscal years 2003, 2004, 2005, and 2006 to the Justice Department for administration (not more than 1% of appropriated funds) and the awarding of grants

under the Early Bird and Good Citizen Grant Program. The bill also authorizes FY2001 supplemental appropriations of **“such sums as the Department of Justice considers necessary”** for the grant program.

Commission on Voting Rights and Procedures

- Establishes the twelve-member Commission on Voting Rights and Procedures
 - Grants subpoena powers to the Commission (for hearings)
 - Directs the Commission to conduct a detailed study of and make recommendations on numerous voting-related issues (such as ballot access, polling-place access, voter registration, voting technology, voter education, military voting rights, voter intimidation—“both real and perceived,” the desirability of holding elections on holidays, and the desirability of modifying polling-place hours)
 - Directs the Commission to study and recommend “how the federal government can, on a permanent basis, best provide ongoing assistance to state and local authorities to improve the administration of elections, and whether an existing or a new federal agency should provide such assistance”
 - Requires the Commission to submit a final report not later than one year after this bill’s enactment. The Commission would terminate 45 days after submission of the final report.
 - Compensates commissioners who are not federal employees or officers at level IV of the Executive Schedule.
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- Authorizes appropriations of **“such sums as may be necessary”** for the Commission.

Antitrust Exemption

- Exempts from antitrust laws the sharing of any information, research, or data relating to the development or sale of voting systems and related products that is carried out in compliance with the new voting system requirements (described on page 1 of this summary)

Severability

- Maintains that if any provision of this bill is deemed unconstitutional that the remaining provisions would not be affected.

Findings

The bill contains thirteen findings, the following of which are noteworthy:

- “There is overwhelming evidence that disparate procedures and antiquated machinery are potentially resulting in the disenfranchisement of millions of voters.”
- “There is overwhelming evidence that disparate procedures and antiquated machinery have a disproportionate racial impact.”
- “Congress has an obligation to ensure that the necessary resources are available to States and localities to ensure the equal protection of voting rights and to ensure the integrity of and full participation of all Americans in the democratic elections process.”

S. 565—The Equal Protection of Voting Rights Act **Sen. Christopher Dodd (D-CT)**

S. 565 is essentially the same as H.R. 1170, with the following exceptions.

Provisions in S. 565 not in H.R. 1170

- S. 565 would allow states and localities to use funds under the grant program to implement the voting system, provisional voting, or sample ballot requirements. The federal share for expenses to meet these requirements would be 100%. H.R. 1170 would authorize separate appropriations outside the grant program for such expenses.
- S. 565 would authorize “such sums as may be necessary” to the Justice Department in FY2002 for the grant program. H.R. 1170 would cap the FY2002 authorizations at \$700 million.
- S. 565 would authorize “such sums as may be necessary” in each of fiscal years 2002 through 2006 to the Federal Election Commission (FEC) for the grant program. H.R. 1170 would not authorize any appropriations to the FEC.
- S. 565 would authorize FY2001 supplemental appropriations of “such sums as the...Federal Election Commission” deems necessary for the grant program. H.R. 1170 would authorize no FY2001 supplemental appropriations to the FEC.
- S. 565 would require an error rate in voting systems not in excess of “the error rate standards as established in the national Voting System Standards issued and maintained by the Office of Election Administration of the Federal Election Commission.” H.R. 1170 would require an error rate “as close to zero as practicable when the system is properly used.”
- S. 565 would direct the FEC’s Office of Election Administration to develop technical specifications with respect to the voting system requirements. H.R. 1170 would give this responsibility to the Department of Justice.

Provisions in H.R. 1170 but NOT in S. 565

- S. 565 contains no antitrust exemption.
- S. 565 contains no severability provision.
- S. 565 does not have the two “overwhelming evidence” findings in H.R. 1170.