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The U.S. Election Assistance Commission: An Overview

The 2000 presidential election exposed weaknesses in state election systems. Congress responded with the Help America Vote Act of 2002 (HAVA; P.L. 107-252). Among other changes, such as setting certain national requirements for election administration, HAVA created a federal agency to help states, territories, and localities administer federal elections: the U.S. Election Assistance Commission (EAC).

Proposals have since been introduced both to terminate the EAC and to extend or expand it. Most recently, the agency has taken on new roles as part of the federal response to attempted foreign interference in the 2016 elections.

Duties

States, territories, and localities have traditionally had primary responsibility for administering elections. Some were concerned that creating a federal election administration agency would shift that balance.

Congress responded by restricting the EAC’s ability to *compel* state, territorial, or local action. The EAC is not charged with enforcing HAVA’s national requirements, and its rulemaking authority is limited to the federal mail-based voter registration form established by the National Voter Registration Act of 1993 (P.L. 103-31).

Most of the EAC’s duties are aimed instead at *incentivizing* action via funding or *facilitating* action by collecting and sharing information. HAVA assigned the agency a number of responsibilities, including

- administering formula payments to states, territories, and the District of Columbia (D.C.) to make general improvements to election administration, replace lever and punch card voting systems, and comply with HAVA’s national requirements;
- awarding grants for youth voter participation initiatives and voting technology research and pilot programs;
- testing and certifying voting systems;
- accrediting voting system testing laboratories;
- adopting voluntary voting system guidelines (VVSG) and voluntary guidance for complying with HAVA’s national requirements;
- collecting and sharing data and best practices; and
- conducting election administration research.

The EAC has also taken on new roles in response to foreign election interference efforts. According to the U.S. Intelligence Community, Russian hackers targeted state election systems in 2016. The U.S. Department of Homeland Security (DHS) responded in January 2017 by designating election systems as critical infrastructure.

The EAC has helped establish the new Election Infrastructure Subsector (EIS). For example, it has served as an intermediary between DHS and state and local election officials, helped launch the EIS’s Government and Sector Coordinating Councils, and participated in EIS training exercises. For more on the EIS, see CRS In Focus IF10677, *The Designation of Election Systems as Critical Infrastructure*, by Eric A. Fischer.

Structure

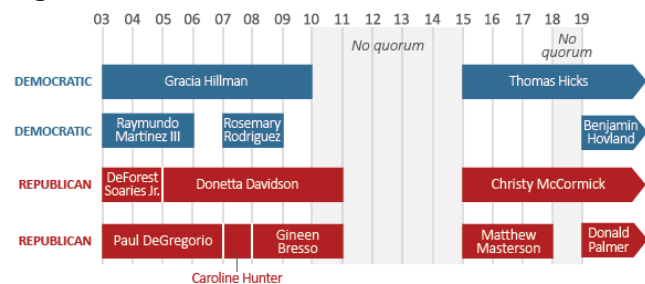
The EAC consists of a four-member Commission, an Office of Inspector General (OIG), and a staff, assisted by three advisory bodies: a Standards Board, a Board of Advisors, and a Technical Guidelines Development Committee.

The Standards Board and Board of Advisors review proposed voluntary guidance, including the VVSG, and consult on tasks like research and long-term planning. The Technical Guidelines Development Committee, which includes representatives of the two boards and is chaired by the Director of the National Institute of Standards and Technology (NIST), helps develop the VVSG.

The members of the Commission, who are required to have elections experience or expertise, are recommended by congressional leaders, nominated by the President, and subject to Senate confirmation. No more than two of the four may be affiliated with the same political party, and each may serve up to two four-year terms.

HAVA mandates a three-vote majority for actions that require Commission approval, such as adopting the VVSG. The EAC lacked that policymaking quorum from December 2010 to January 2015 and again for just over 10 months following the departure of Commissioner Matthew Masterson in March 2018; see **Figure 1** for details.

Figure 1. EAC Commissioner Terms of Service



Source: CRS, based on data from the EAC and Congress.gov.

In 2018, President Donald Trump nominated Donald Palmer to succeed Commissioner Masterson and Benjamin Hovland to the seat vacated by Commissioner Rosemary Rodriguez in 2009. Both nominees were confirmed by the

Senate in January 2019 and took office in February 2019, restoring the Commission's quorum.

Table 1. Proposed and Enacted Funding for EAC Operations from FY2007 to FY2019 (nominal \$, in millions)
Figures for the House and Senate reflect chamber-passed, committee-reported, or other proposed levels, as indicated

	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Enacted	11.3	13.1	12.9	13.4	13.1	8.8	8.8	8.1	8.1	8.1	8.2	8.6	-
President	12.0	12.2	12.7	13.3	13.6	10.5	8.8	8.3	8.1	8.1	8.3	7.7	7.7
Senate*	12.1	12.2	12.7	13.3	13.6	11.5	8.8	8.3	<i>8.1</i>	8.1	8.1	7.7	7.7
House*	12.2	12.2	12.9	13.4	12.7	5.2	4.4	0.0	0.0	4.8	4.9	5.5	8.6

Source: CRS, based on data from the President's budget requests and appropriations bills, drafts, and reports.

Notes: Figures are from appropriations for EAC salaries and expenses, including funds designated for the OIG. They are rounded and do not reflect rescissions, sequestration reductions, or funds designated for NIST, mock election grants, or the Help America Vote College Program.

* Figures for the House and Senate indicate the latest chamber-specific action: bold for a chamber-passed bill, regular text for a committee-reported measure, and italics for the Senate subcommittee bill in FY2015 and the Senate committee chairman's draft in FY2018.

Funding

The EAC has received funding for operational expenses, such as staff salaries, and for the payments and grants it administers. The majority of its funding to date has been for formula payments to states, territories, and D.C.

HAVA authorized \$3.65 billion for formula payments. Congress appropriated close to \$3 billion of that total—\$650 million for the U.S. General Services Administration to distribute while the EAC was being set up and the rest to the EAC—in the first two fiscal years after HAVA was enacted. It appropriated another \$285 million to the EAC for formula payments between FY2008 and FY2010.

Almost 90% of the HAVA funding for formula payments had been appropriated by the end of FY2010. Citing the distribution of most of that funding, as well as concerns about the EAC's efficiency and effectiveness, the House Appropriations Committee recommended reducing the President's FY2012 request for EAC operations by 50%.

The Committee recommended similar or more substantial cuts in subsequent years. The House approved some of the Committee's recommendations, although the enacted appropriations bills have hewed more closely to Presidential and Senate proposals; see **Table 1** for details.

Congress appropriated additional funding to the EAC for HAVA formula payments in March 2018, following the reports of 2016 foreign interference efforts. According to the explanatory statement accompanying the bill, Congress intended the \$380 million appropriation to be used to help secure elections. For more on this funding, see CRS In Focus IF10925, *State Election Reform Payments: FY2018 Appropriations*, by Karen L. Shanton.

In the following funding cycle—for FY2019—the House Appropriations Committee recommended increasing funding for EAC operations above the President's budget request. The FY2019 appropriations bill had not yet been enacted as of this writing, but the House-passed bill reflects the Committee's recommendation and the Senate-passed bill matches the President's request.

Legislative Activity

HAVA authorized funding for EAC operations for three years but provided for Commissioners to serve up to eight and did not include a sunset provision for the agency. That has left room for debate about how permanent the EAC should be.

Some say that the duties the EAC performs are essential to assuring fair and accurate elections and that they could not be carried out as effectively by other agencies. Emphasizing that the EAC is the only federal agency dedicated to helping states, territories, and localities administer elections, they have called for it to be officially reauthorized. In some cases, they have also proposed expanding its duties or authority. Such proposals have ranged from adding new versions of its existing responsibilities, such as administering new grants, to making more extensive changes, such as striking the limit on rulemaking.

Others have viewed the agency as more temporary. Legislation to terminate the EAC was introduced in each Congress from the 112th through the 115th. When legislation to terminate the EAC was first introduced, the agency had distributed most of the formula payments HAVA authorized it to administer and completed much of the research HAVA assigned it to conduct. The previous year, the National Association of Secretaries of State—which represents many states' top election officials—had also renewed a resolution calling for the EAC's elimination. As a result, some Members of Congress stated in the 112th Congress that the agency had outlived its usefulness and should be disbanded, with any outstanding duties transferred to other entities.

The 115th Congress saw legislative activity on both sides of the debate. Legislation to terminate the EAC was reintroduced in January 2017. There were also proposals to extend or expand the agency, including bills that would direct it to award grants for post-election audits and to form an election cybersecurity advisory panel. None of that legislation was enacted.

For more on the EAC, see CRS Report RS20898, *The Help America Vote Act and Election Administration: Overview*

and Selected Issues for the 2016 Election, by Arthur L. Burris and Eric A. Fischer.

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