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The Help America Vote Act of 2002 (HAVA): Overview and Ongoing Role in Election Administration Policy

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SUMMARY

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The Help America Vote Act of 2002 (HAVA): Overview and Ongoing Role in Election Administration Policy

The Help America Vote Act of 2002 (HAVA) was enacted in response to issues with the administration of the 2000 elections. The highest-profile problems in 2000 were in Florida—where issues with the vote count delayed the resolution of the presidential race for weeks—but post-election hearings and reports identified problems with various aspects of election administration across multiple states.

Congress's response to those findings, in HAVA, spanned a correspondingly wide range of elections topics. It took three main approaches to the issues. First, it set requirements for the administration of federal elections. Some states and localities had adopted policies or technologies before the 2000 elections that may have helped them avoid problems faced by other jurisdictions in 2000, and policy solutions were proposed in post-2000 hearings and reports. HAVA was designed, in part, to standardize use of some of those policies and technologies in federal elections. Title III of the act set new federal requirements for voting systems, provisional voting, voting information, statewide voter registration databases, voter identification, and the federal mail voter registration form created by the National Voter Registration Act of 1993 (NVRA).

Second, HAVA authorized the first major federal grant programs for elections. Complying with HAVA's title III requirements involved significant financial investments for many states and localities. There were also other post-2000 adjustments to election processes—not addressed by the HAVA requirements—that states and localities wanted or needed to make. Congress authorized a pair of general grant programs in HAVA to help states meet the act's requirements and make general improvements to the administration of federal elections. HAVA also authorized more specialized grant programs to facilitate or incentivize action on voting technology, disability access, youth voter participation, and poll worker recruitment.

Third, HAVA provided for creation of the election administration-dedicated U.S. Election Assistance Commission (EAC). Federal agency support for general election administration was provided in 2000 by a small office at the Federal Election Commission (FEC) known as the Office of Election Administration (OEA). The scope of the issues with the conduct of the 2000 elections prompted calls for an expanded federal agency role in elections issues. Some proposed assigning any new responsibilities to the existing OEA, while others wanted to create a new agency that would be fully dedicated to election administration. There was also debate about whether a new elections agency should have the power to issue regulations. Congress struck a balance in HAVA by providing for a new agency, the EAC, but positioning it as a support agency.

HAVA and the agency it created have continued to play a central role in congressional engagement with election administration issues since the act's enactment in 2002. Congress responded to foreign interference in the 2016 elections and the emergence of the Coronavirus Disease 2019 (COVID-19) pandemic in the 2020 election cycle, for example, with new funding for one of HAVA's grant programs. Legislation has also been introduced to revisit HAVA or the EAC or to extend them to new aspects of election administration.

The ongoing role of HAVA is partly a result of two distinctive features of the act. HAVA was (1) more wide-ranging in the topics it aimed to address than elections measures Congress had tended to approve in the recent past, with (2) a greater emphasis on federal assistance for states and localities. Other recent federal election laws had tended to focus on particular aspects of election administration or ensuring access to the electoral process for particular groups of voters and on setting requirements. HAVA, by contrast, spans multiple issues and voter groups and pairs its requirements with grant programs and the assistance-oriented EAC. Those features have made HAVA and the EAC common vehicles for congressional proposals to set new requirements for the administration of federal elections or provide new federal support for election administration.

Ongoing engagement with HAVA can also be traced, in part, to interest in revisiting the act. There was broad agreement during the HAVA debate that Congress should consider a legislative response to the problems with the administration of the 2000 elections but disagreement about exactly what that legislative response should look like. Compromises struck in HAVA did not necessarily resolve the underlying disagreements, and new developments have emerged since 2002—both due to HAVA and independently of it—that have changed the election administration landscape. As a result, some Members have proposed revisiting HAVA's treatment of particular elections issues or the structure of the act or the agency it created.

Contents

Introduction 1
Note on Terminology 1
Overview of Major Provisions 2
Requirements 2
Grant Programs 7
U.S. Election Assistance Commission (EAC) 12
Ongoing Role in Election Administration Policy 15
Proposals to Revisit HAVA or the EAC 15
Proposals to Extend HAVA or the EAC 18
Potential Considerations for Congress 19

Tables

Table 1. Requirements for Federal Elections Established by Title III of HAVA 4
Table 2. Funding Authorized and Appropriated for HAVA Grant Programs 9

Table A-1. Major Provisions of HAVA by Issue 22
Table B-1. HAVA Amendments to Military and Overseas Voting Processes 27
Table C-1. Timeline of Congressional Deliberations on Election Administration 29

Appendixes

Appendix A. Major Provisions of HAVA by Issue 22
Appendix B. HAVA Amendments to Military and Overseas Voting Processes 27
Appendix C. Timeline of Congressional Deliberations on Election Administration 29

Contacts

Author Information 30

Introduction

The Help America Vote Act of 2002 (HAVA; P.L. 107-252; 52 U.S.C. §§20901-21145) was enacted in response to issues with the administration of the 2000 elections. The highest-profile problems in 2000 were in Florida—where issues with the vote count delayed the resolution of the presidential race for weeks—but post-election hearings and reports identified problems with various aspects of election administration across multiple states.[1]

Congress's response to those findings, in HAVA, spanned a correspondingly wide range of elections topics, from voting systems to voter identification to the accessibility of the electoral process to individuals with disabilities. HAVA took three main approaches to the issues: (1) setting requirements for the administration of federal elections, (2) authorizing the first major federal grant programs for elections, and (3) providing for creation of the election administration-dedicated U.S. Election Assistance Commission (EAC).

HAVA and the agency it created have continued to play a central role in congressional engagement with election administration issues since the act's enactment in 2002. Congress responded to foreign interference in the 2016 elections and the emergence of the Coronavirus Disease 2019 (COVID-19) pandemic in the 2020 election cycle, for example, with new funding for one of HAVA's grant programs.[2] Legislation has also been introduced to revisit HAVA or the EAC or to extend them to encompass new aspects of election administration.

This report provides an overview of HAVA and the ongoing role the act has played in policy discussions about election administration. It starts by describing major provisions of HAVA and then summarizes proposals to revisit or extend the act or the agency it created. The report closes by briefly introducing some considerations that might be relevant to discussions of any future role for HAVA in federal policymaking on election administration.

Note on Terminology

HAVA defines "state" as including the 50 states, the District of Columbia (DC), American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands.[3] Proposals have been offered to expand the definition to include the Commonwealth of the Northern Mariana Islands (CNMI), but none of those proposals has been enacted as of this writing.[4]

This report generally follows HAVA's usage of the term. Where the narrower meaning of "state" is intended, the report uses the phrase "the 50 states."

[1] See, for example, R. Michael Alvarez et al., *Voting—What Is, What Could Be*, Caltech/MIT Voting Technology Project, July 2001, at https://vote.caltech.edu/reports/1; The National Commission on Federal Election Reform, *To Assure Pride and Confidence in the Electoral Process*, August 2001, at https://www.verifiedvoting.org/wp-content/uploads/2012/10/NCFER_2001.pdf; and U.S. Government Accountability Office (GAO), *Elections: Perspectives on Activities and Challenges Across the Nation*, GAO-02-3, October 2001, at https://www.gao.gov/new.items/d023.pdf.

[2] P.L. 115-141; P.L. 116-93; and P.L. 116-136.

[3] 52 U.S.C. §21141.

[4] See, for example, the For the People Act of 2021 (H.R. 1/S. 1/S. 2093) and the Voter Empowerment Act of 2021 (H.R. 2358/S. 954).

Overview of Major Provisions

A defining image of the 2000 elections was a picture of a member of a Florida county canvassing board inspecting a punch card ballot with a magnifying glass.[5] Florida's closely contested race would decide the 2000 presidential election. One of the issues highlighted by litigation and recounts in the state was the challenge of interpreting incompletely punched "hanging chads" and "dimpled chads" left by the punch card voting machines used in some Florida counties.[6]

Hearings and reporting on the 2000 elections emphasized, however, that the election administration problems in 2000 were not limited to Florida or to punch card voting machines.[7] Those investigations identified other issues with voting systems. The lever voting machines used in some jurisdictions in 2000 could jam, for example, and did not produce paper trails that could be used to reconstruct votes cast on a jammed machine.[8] Confusing ballot designs contributed to high rates of "overvoting"—or making multiple selections for a single office—in some counties.[9]

Problems were also reported with other aspects of the administration of the 2000 elections. Eligible voters who had been erroneously removed from the voter registration rolls were turned away from the polls in some states, for example.[10] Representatives of military and overseas citizens and of individuals with disabilities and older individuals reported particular obstacles to registration and voting by members of those groups.[11]

Congress took three main approaches, in HAVA, to responding to issues highlighted by the 2000 elections. The major provisions of the act can be grouped into provisions related to (1) setting requirements for the administration of federal elections, (2) authorizing elections grant programs, and (3) expanding agency support for election administration through creation of the EAC.[12]

Requirements

Some states and localities had adopted policies or technologies before the 2000 elections that may have helped them avoid problems faced by other jurisdictions in 2000. Voting systems that alerted voters to multiple selections for a single office reportedly reduced overvoting in some cases, for example, and statewide voter registration databases may have helped election officials in some

[5] See, for example, Robert Rosenberg, "'I Had to Examine Every Disputed Ballot': George W Bush v Al Gore, Florida, 2000," *The Guardian*, July 1, 2016, at https://www.theguardian.com/artanddesign/2016/jul/01/disputed-ballot-george-w-bush-al-gore-florida-recount-2000.

[6] See, for example, Samantha Levine, "Hanging Chads: As the Florida Recount Implodes, the Supreme Court Decides Bush v. Gore," January 17, 2008, at https://www.usnews.com/news/articles/2008/01/17/the-legacy-of-hanging-chads.

[7] See, for example, The National Commission on Federal Election Reform, *To Assure Pride and Confidence in the Electoral Process*, p. 18; and GAO, *Elections: Perspectives on Activities and Challenges Across the Nation*, pp. 24-25.

[8] See, for example, R. Michael Alvarez et al., *Voting—What Is, What Could Be*, p. 6.

[9] See, for example, Alan Agresti and Brett Presnell, "Misvotes, Undervotes and Overvotes: The 2000 Presidential Election in Florida," *Statistical Science*, vol. 17, no. 4 (2002), pp. 438-439.

[10] See, for example, U.S. Commission on Civil Rights, *Voting Irregularities in Florida During the 2000 Presidential Election*, June 2001, at https://www.usccr.gov/pubs/vote2000/report/main.htm; and U.S. Congress, Senate Committee on Governmental Affairs, *Federal Election Practices and Procedures*, 107th Cong., 1st sess., May 3, 2001.

[11] See, for example, U.S. Congress, House Committee on Armed Services, Subcommittee on Military Personnel, *Department of Defense Voting Assistance and Military Absentee Ballot Issues*, 107th Cong., 1st sess., May 9, 2001 (Washington: GPO, 2001); and U.S. Congress, Senate Committee on Rules and Administration, *Election Reform*, hearing, 107th Cong., 1st sess., March 14, 2001, S.Hrg. 107-1036 (Washington, DC: GPO, 2003).

[12] The following three subsections of this report provide an overview of major provisions of the act by type of provision. For an overview of major provisions of HAVA by issue, see **Appendix A**.

states maintain more accurate voter rolls.[13] Provisional voting policies, which enabled voters whose eligibility was challenged at the polls to cast a provisional ballot, may have helped mitigate some of the effects of voter registration list maintenance errors.[14]

Policy solutions were also proposed in post-2000 hearings and reports. Technology experts suggested setting national standards for voting system auditability, for example, and the U.S. Department of Defense's (DOD's) Federal Voting Assistance Program (FVAP), among others, proposed changes to military and overseas voting.[15]

HAVA was designed, in part, to standardize use of some of those policies and technologies in federal elections. Title VII of the act amended existing law to incorporate some proposed revisions to military and overseas voting, and title III set national requirements for additional aspects of the administration of federal elections. The title III requirements are briefly summarized below. For details of those requirements and the title VII provisions, respectively, see **Table 1** and **Appendix B**.[16]

- **Voting Systems.** Require each state to set uniform standards for what counts as a vote on each type of voting system it uses, and require voting systems to offer voters the opportunity to check and correct their ballots; notify voters about overvoting; produce a manually auditable permanent paper record; be accessible to individuals with disabilities; satisfy alternative language requirements of the Voting Rights Act of 1965 (VRA; P.L. 89-110), as amended; and comply with specified error rate standards.
- **Provisional Voting.** Require election officials to permit certain voters, including voters whose names do not appear on the voter rolls, to cast a provisional ballot; count provisional ballots cast by voters who are found to be eligible under state law to vote; and provide voters with specified options for checking the status of their provisional ballots.
- **Voting Information.** Require election officials to post the following information at the polls: a sample ballot, the date of the election, polling place hours, instructions for voting, instructions about HAVA's requirements for mail registrants and first-time voters, and general information about voting rights and prohibitions on fraud and misrepresentation.
  *(Section continues following **Table 1**.)*

[13] See, for example, U.S. Congress, Senate Committee on Commerce, Science, and Transportation, *S. 368 and Election Reform*, 107th Cong., 1st sess., May 8, 2001 (Washington, DC: GPO, 2001), pp. 40-41; and Electionline, *Election Reform: What's Changed, What Hasn't and Why, 2000-2006*, February 2006, p. 19, at https://www.pewtrusts.org/-/media/legacy/uploadedfiles/wwwpewtrustsorg/reports/election_reform/electionline022006pdf.pdf.

[14] See, for example, U.S. Congress, House Committee on House Administration, *Help America Vote Act of 2001*, report to accompany H.R. 3295, 107th Cong., 1st sess., December 10, 2001, H.Rept. 107-329 (Washington, DC: GPO, 2001), pp. 37-39; and Electionline, *Election Reform: What's Changed, What Hasn't and Why, 2000-2006*, p. 32. For more on voter registration list maintenance, see CRS Report R46943, *Voter Registration Records and List Maintenance for Federal Elections*, by Sarah J. Eckman.

[15] See, for example, R. Michael Alvarez et al., *Voting—What Is, What Could Be*, p. 24; Democratic Caucus Special Committee on Election Reform, *Revitalizing Our Nation's Election System*, pp. 79-80, at https://web.archive.org/web/20011108222052/http:/housedemocrats.house.gov/documents/electionreformreport.pdf; The National Commission on Federal Election Reform, *To Assure Pride and Confidence in the Electoral Process*, pp. 42-43; and U.S. Congress, House Committee on Armed Services, Subcommittee on Military Personnel, *Department of Defense Voting Assistance and Military Absentee Ballot Issues*.

[16] For more on military and overseas voting in general, see CRS In Focus IF11642, *Absentee Voting for Uniformed Services and Overseas Citizens: Roles and Process, In Brief*, by R. Sam Garrett; and CRS Report RS20764, *The Uniformed and Overseas Citizens Absentee Voting Act: Overview and Issues*, by R. Sam Garrett.

Table 1. Requirements for Federal Elections Established by Title III of HAVA

	Effective Date	Requirements
Voting Systems 52 U.S.C. §21081	January 1, 2006	Require voting systems to permit voters privately and independently to verify and change or correct their ballots before they are cast and counted; notify voters who have selected more than one candidate for a single office that they have overvoted, inform them of the effects of overvoting, and provide an opportunity to correct the ballot before it is cast and counted;[a] produce a manually auditable permanent paper record that is available as an official record for recounts, and permit voters to change or correct their ballots before the manually auditable permanent paper record is produced; be accessible to individuals with disabilities in a manner that provides them the same opportunity for access and participation as other voters, through use of at least one direct recording electronic (DRE) voting system or other accessible voting system at each polling place;[b] provide alternative language accessibility as required by Section 203 of the Voting Rights Act of 1965 (VRA), as amended; and comply with the error rate standards established by Section 3.2.1 of the Federal Election Commission's (FEC's) 1990 Voting Systems Standards. Require each state to adopt uniform and nondiscriminatory standards for what constitutes and will be counted as a vote for each type of voting system it uses.
Provisional Voting[c] 52 U.S.C. §§21082(a),(c)	January 1, 2004	Require individuals who do not appear on the official list of eligible voters or whose eligibility to vote is otherwise challenged by an election official to be permitted to cast a provisional ballot if they provide written affirmation that they are registered in the jurisdiction and eligible to vote in the election. Require election officials to notify eligible individuals that they may cast a provisional ballot; transmit provisional ballots to the appropriate officials for prompt verification; count provisional ballots cast by individuals they find to be eligible under state law to vote; establish a free access system individuals can use to check the status of their provisional ballots; provide individuals who cast provisional ballots with written information about the free access system; and establish and maintain procedures to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system. Require individuals who vote during certain extended polling place hours to cast provisional rather than regular ballots, and require those ballots to be held apart from other provisional ballots.[d]
Voting Information 52 U.S.C. §21082(b)	January 1, 2004	Require election officials to post the following information at the polls: a sample ballot; information about the date of the election and polling place hours; instructions for how to vote, including how to cast a vote and a provisional ballot; instructions about HAVA's requirements for mail-in registrants and first-time voters; general information about federal and state voting rights, including information about the right to cast a provisional ballot and how to report violations of voting rights; and general information about federal and state prohibitions on fraud and misrepresentation.

	Effective Date	Requirements
Statewide Voter Registration Databases[e] 52 U.S.C. §21083(a)	January 1, 2004[f]	Require states to implement a single, uniform, official, centralized, interactive computerized statewide voter registration list that is defined, maintained, and administered at the state level; includes the name and registration information of all registered voters in the state; assigns each registered voter a unique identifier; and can be immediately electronically accessed by any election official in the state. Require coordination of the statewide voter registration list with other agency databases in the state. Require voter registration information obtained by local election officials to be electronically entered into the list on an expedited basis, and require chief state election officials to provide any support required to facilitate expeditious entry of such information. Require election officials to comply with provisions of the National Voter Registration Act of 1993 (NVRA) when removing individuals from the list and coordinate the list with state agency records on felony status and death for purposes of removing ineligible voters from the list.[g] Require list maintenance under the above provisions to be conducted in a manner that ensures that the name of each registered voter appears in the computerized list, only voters who are not registered or are ineligible to vote are removed from the list, and duplicate names are removed from the list. Require state or local officials to provide adequate technological security measures to prevent unauthorized access to the statewide voter registration list. Require provisions to ensure that voter registration records are accurate and regularly updated, including reasonable efforts to remove registrants who are not eligible to vote and safeguards against erroneous removal of eligible voters. Require voter registration applicants who have a current and valid driver's license number or Social Security number to provide the license number or the last four digits of the Social Security number with their registration applications, and require states to verify the information applicants provide. Require states to assign unique identifying numbers to voter registration applicants who have not been issued a current and valid license or Social Security number. Require the official responsible for the state motor vehicle authority of each state to enter into data matching agreements with the chief state election official of the state and the Commissioner of Social Security for purposes of verifying the accuracy of information provided on voter registration applications.[h]
Voter Identification 52 U.S.C. §21083(b)(1)-(3)	January 1, 2004[i]	Require individuals who registered by mail, have not previously voted in a federal election in the state, and do not meet certain conditions to present one of a specified list of types of identification at the polls (if voting in person) or include a copy of such identification with their ballot (if voting by mail).[j] Require individuals who fail to meet the voter identification requirement to be permitted to cast a provisional ballot or have their mail ballot counted as a provisional ballot.

	Effective Date	Requirements
Federal Mail Voter Registration Form 52 U.S.C. §21083(b)(4)	January 1, 2004[i]	Require the federal mail voter registration form to include questions about citizenship status and age and boxes for applicants to check in response, a statement that voters who check "no" in response to either of the questions should not complete the form, and a statement informing applicants who are registering for the first time by mail that identification information must be submitted with the registration form to avoid additional identification requirements when voting for the first time. Require registrars to notify individuals who fail to answer the citizenship question that they did not answer the question and provide them with an opportunity to complete the form.

Source: CRS, based on review of the *U.S. Code*.

Notes: The requirements in this table apply to elections for federal office. The voting systems standards, for example, are for systems used in federal elections.

a. Jurisdictions that use paper ballot, punch card, or central count voting systems can meet this requirement by creating a voter education program that informs voters of the effects of overvoting and providing voters with instructions for correcting overvotes before their ballots are cast and counted.

b. Voting systems purchased with requirements payments made available on or after January 1, 2007, are required to meet HAVA's standards for disability access.

c. States that had not required voter registration on and since August 1, 1994, or that had permitted same-day registration on or since August 1, 1994, could use their existing voter registration procedures to satisfy HAVA's provisional voting requirements.

d. HAVA also required individuals who do not meet its voter identification requirement to be allowed to vote a provisional ballot. For more on that requirement, see the "Voter Identification" section of this table.

e. HAVA's statewide voter registration database requirements do not apply to North Dakota, which does not require voter registration.

f. HAVA provided for this deadline to be extended to January 1, 2006, for states or jurisdictions that certified to the U.S. Election Assistance Commission (EAC) by January 1, 2004, that they would not meet the original deadline for good cause.

g. HAVA indicates that states that had not required voter registration on and since August 1, 1994, or that had permitted same-day registration on and since August 1, 1994, should follow their state laws for removing ineligible voters from their voter registration lists rather than the HAVA requirements.

h. Compliance with this requirement and the above two requirements is optional for states that are permitted to use Social Security numbers—and that provide for use of Social Security numbers—on voter registration applications in accordance with Section 7 of the Privacy Act of 1974 (P.L. 93-579).

i. HAVA indicates that these requirements apply to any individual who registers on or after January 1, 2003.

j. The relevant conditions are: (1) registering to vote by mail under Section 6 of the NVRA and submitting a copy of acceptable identification with the registration; (2) registering to vote by mail under Section 6 of the NVRA, submitting a driver's license number or at least the last four digits of a Social Security number with the registration, and having the submitted information matched by an election official to an existing state identification record with the same number, name, and date of birth; or (3) being entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA) or to vote other than in person under the Voting Accessibility for the Elderly and Handicapped Act of 1984 (VAEHA; P.L. 98-435) or any other federal law.

- **Statewide Voter Registration Databases.** Require states to implement centralized, computerized statewide voter registration lists and follow specified procedures for maintaining them.[17]
- **Voter Identification**. Require certain first-time voters who register by mail to provide one of a specified list of types of identification in order to vote a regular ballot.
- **Federal Mail Voter Registration Form.** Require questions about citizenship and age and statements about the new questions and HAVA's voter ID requirement to be added to the federal mail voter registration form established by the National Voter Registration Act of 1993 (NVRA; P.L. 103-31), and require election officials to offer voters who fail to answer the citizenship question an opportunity to complete the form.

HAVA left decisions about how to implement—and, to a certain extent, enforce—its title III requirements to the states. The act directs the EAC to issue voluntary guidance for implementing the title III requirements but leaves states discretion over exactly how to meet them.[18] It assigns federal enforcement of the requirements to the U.S. Department of Justice (DOJ) but routes action by individual voters on violations through state-based administrative complaint procedures[19] rather than an explicit private right of action.[20]

Grant Programs

Complying with HAVA's title III requirements involved significant financial investments for many states and localities. There were also other post-2000 adjustments to election processes—not addressed by the HAVA requirements—that states and localities wanted or needed to make. Congress accounted for both cases, in HAVA, with a pair of general grant programs that were designed to help states meet HAVA's title III requirements and make general improvements to the administration of federal elections.

HAVA also authorized grant programs to facilitate or incentivize action on specific issues or policy proposals, such as replacing lever and punch card voting systems. Those more specialized grant programs included programs related to voting technology, disability access, youth voter participation, and poll worker recruitment.

Each of the grant programs authorized by HAVA is summarized below. Information about the funding Congress has authorized and appropriated for each program to date is available in **Table 2**. For more on federal elections grant programs in general, see CRS Report R46646, *Election Administration: Federal Grant Funding for States and Localities*, by Karen L. Shanton.

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[17] For more on voter registration list maintenance, see CRS Report R46943, *Voter Registration Records and List Maintenance for Federal Elections*, by Sarah J. Eckman.

[18] 52 U.S.C. §§21101-21102 and 52 U.S.C. §21085.

[19] 52 U.S.C. §§21111-21112. HAVA requires states that receive funding under any of its grant programs to establish a state-based administrative complaint procedure. That requirement applies to all states in practice because all have received HAVA funding.

[20] Unlike some other federal statutes, such as the National Voter Registration Act of 1993 (NVRA), HAVA does not provide for an explicit private right to sue for violations of its requirements. The question of whether there is a private right of action for any of HAVA's title III requirements on other grounds has been the subject of litigation and academic debate. For a discussion of that issue, see Daniel P. Tokaji, "Public Rights and Private Rights of Action: The Enforcement of Federal Election Laws," *Indiana Law Review*, vol. 44, no. 113 (2010).

- **Requirements Payments Program.** Grants to states for meeting federal election administration requirements. Administered by the EAC. States are required to provide a match for funds they receive under this program and a state plan for use of the funds.[21] Funding was initially authorized for this grant program primarily for helping states comply with HAVA's title III requirements.[22] The Military and Overseas Voter Empowerment (MOVE) Act of 2009 amended HAVA to authorize additional funding for the program to help states meet new requirements established by the MOVE Act for military and overseas voting.[23]
- **General Improvements Grant Program.** Grants to states for making general improvements to the administration of federal elections.[24] Administered by the U.S. General Services Administration (GSA) and the EAC.[25]
- **Lever and Punch Card Voting System Replacement Grant Program.** Grants to states that used lever or punch card voting systems in the November 2000 election for replacing those systems. Administered by GSA and the EAC. States that accepted funding under this grant program were required to either replace all of their lever and punch card voting systems by a deadline specified by the act or repay a portion of the funds they received.[26]
- **Voting Technology Improvements Research Grant Program.** Grants for researching and developing improvements to the quality, reliability, accuracy, accessibility, affordability, and security of election systems. Administered by the EAC with support from the National Institute of Standards and Technology (NIST).[27]

[21] 52 U.S.C. §21003. The match amount is "5 percent of the total amount to be spent for [activities for which the requirements payment is made] (taking into account the requirements payment and the amount spent by the State)."

[22] 52 U.S.C. §21001. States could also use requirements payments for more general improvements to the administration of federal elections if they had already met the title III requirements or limited their spending on such activities to a specified amount.

[23] 52 U.S.C. §21001. The MOVE Act was enacted as Subtitle H of Title V of the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84).

[24] HAVA lists some examples of permissible uses of this grant funding. The listed uses are: complying with HAVA's title III requirements; improving the administration of federal elections; educating voters about voting procedures, rights, and technology; training election officials and volunteers; developing the state plan for requirements payments; improving, acquiring, or modifying voting systems and technology and vote casting and counting methods; improving polling place accessibility and quantity; and establishing toll-free hotlines for reporting voting fraud and rights violations and accessing election information (52 U.S.C. §20901).

[25] HAVA assigned initial responsibility for administering the general improvements and lever and punch card voting system replacement grant programs to the U.S. General Services Administration (GSA) but authority for overseeing audits and repayments of the funds to the EAC (52 U.S.C. §§20901-20906 and 52 U.S.C. §21142). The EAC was also charged with administering the funding Congress appropriated under the general improvements grant program for FY2018 and FY2020 (P.L. 115-141; P.L. 116-93; and P.L. 116-136).

[26] 52 U.S.C. §20902. The deadline for replacing voting systems was originally the regularly scheduled federal general election in November 2004, with an optional waiver to the first federal election after January 1, 2006. Congress extended the waiver deadline twice (P.L. 110-28 and P.L. 111-8). The final deadline was the first federal election after November 1, 2010.

[27] HAVA charged NIST with recommending topics for projects funded under this grant program and the voting technology pilot program grant program as well as reviewing grant applications for both grant programs and, on EAC request, monitoring grant activities (52 U.S.C. §21041 and 52 U.S.C. §21051).

- **Voting Technology Pilot Program Grant Program.** Grants for conducting pilot programs to test new voting technologies and implement them on a trial basis. Administered by the EAC with support from NIST.
- **Polling Place Accessibility Grant Program.** Grants to states and localities for improving the accessibility of polling places and sharing information about polling place accessibility. Administered by the U.S. Department of Health and Human Services (HHS).[28]
- **Protection and Advocacy (P&A) System Grant Program.** Grants to P&A systems—state-level systems charged with empowering and advocating for individuals with disabilities—for conducting activities related to electoral access. Administered by HHS.
- **Mock Elections Grant Program.** Grants for conducting voter education activities for students and their parents. Administered by the EAC.
- **Help America Vote College Program.** Grant-making, among other program activities, for encouraging students at institutions of higher education to serve as poll workers and election officials to use their services. Administered by the EAC. HAVA also authorized creation of a Help America Vote Foundation to perform a similar function for secondary school students, although the act's description of the foundation does not explicitly list grant-making among its activities.[29]

Table 2. Funding Authorized and Appropriated for HAVA Grant Programs

(as of the publication date of this report)

Grant Program	Amounts Authorized by HAVA[a]	Amounts Appropriated
Requirements payments program 52 U.S.C. §§21001-21008	FY2003: $1.4 billion FY2004: $1.0 billion FY2005: $600.0 million FY2010 and subsequent fiscal years: Such sums as may be necessary[b]	FY2003: $830.0 million FY2004: $1.5 billion[c] FY2008: $115.0 million FY2009: $100.0 million FY2010: $70.0 million FY2011: [d]
General improvements grant program 52 U.S.C. §§20901, 20903-20906 Lever and punch card voting system replacement grant program 52 U.S.C. §§20902-20906	$650.0 million (to be divided evenly between the two grant programs)	FY2003: $650.0 million (for combination of general improvements grant program and lever and punch card voting system replacement grant program)[e] FY2018: $380.0 million (for general improvements grant program)[f] FY2020: $825.0 million (for general improvements grant program)[f,g]

[28] As authorized, HAVA's polling place accessibility grant program was available to localities. However, the appropriations acts that have funded the program have limited grant funds to states. See, for example, P.L. 108-7.

[29] President George W. Bush named nominees to the Help America Vote Foundation's board of directors on July 9, 2004. The White House, "Personnel Announcement," press release, July 9, 2004, at https://georgewbush-whitehouse.archives.gov/news/releases/2004/07/text/20040709-6.html. CRS has not been able to locate additional information about activities of the foundation.

Grant Program	Amounts Authorized by HAVA[a]	Amounts Appropriated
Voting technology improvements research grant program 52 U.S.C. §§21041-21043	FY2003: $20.0 million	FY2009: $5.0 million FY2010: $3.0 million
Voting technology pilot program grant program 52 U.S.C. §§21051-21053	FY2003: $10.0 million	FY2009: $1.0 million FY2010: $2.0 million
Polling place accessibility grant program 52 U.S.C. §§21021-21025	FY2003: $50.0 million FY2004: $25.0 million FY2005: $25.0 million	FY2003: $13.0 million FY2004: $10.0 million FY2005: $10.0 million FY2006: $11.0 million FY2007: [h] FY2008: $12.4 million FY2009: $12.2 million FY2010: $12.2 million FY2011: [h] FY2014-FY2021: [i]
Protection and advocacy (P&A) system grant program 52 U.S.C. §§21061-21062	FY2003: $10.0 million FY2004: $10.0 million FY2005: $10.0 million FY2006: $10.0 million Subsequent fiscal years: Such sums as may be necessary	FY2003: $2.0 million FY2004: $5.0 million FY2005: $5.0 million FY2006: $4.9 million FY2007: [h] FY2008: $5.4 million FY2009: $5.3 million FY2010: $5.3 million FY2011: [h] FY2012: $5.2 million FY2013: $5.2 million FY2014-FY2021: [i]
Mock elections grant program 52 U.S.C. §§21071-21072	FY2003: $200,000 Subsequent six fiscal years: Such sums as may be necessary	FY2004: $200,000[j] FY2005: $200,000[j] FY2008: $200,000 FY2009: $300,000 FY2010: $300,000
Help America Vote College Program[k] 52 U.S.C. §§21121-21123	FY2003: $5.0 million Subsequent fiscal years: Such sums as may be necessary	FY2003: $1.5 million FY2004: $750,000[j] FY2005: $200,000[j] FY2006: [l] FY2008: $750,000[j] FY2009: $750,000 FY2010: $750,000

Source: CRS, based on review of the *U.S. Code* and relevant appropriations measures.

Notes: Figures are rounded and do not account for rescissions or sequestration reductions.

a. Authorized amounts are listed here as they are presented in statutory language.

b. Appropriations for the requirements payments program for FY2010 and subsequent fiscal years were authorized only for complying with requirements established by the Military and Overseas Voter Empowerment (MOVE) Act of 2009.

c. Report language accompanying the FY2004 appropriations act (H.Rept. 108-401; P.L. 108-199) indicated that $750,000 of this funding was for the Help America Vote Foundation, $750,000 was for the Help America Vote College Program, and $200,000 was for the National Student Parent Mock Election.

d. HAVA required states that had not replaced all of their lever and punch card voting systems by the relevant deadline to return some of the funds they received under this grant program and directed the U.S. Election Assistance Commission (EAC) to redistribute the returned funds as requirements payments. The EAC made some funding for requirements payments available for FY2011 from returned funds. EAC, *Memorandum Re: 2011 Requirements Payments Disbursements*, May 13, 2014, at https://www.eac.gov/sites/default/files/eac_assets/1/6/Instructions_for_Requesting_FY_2011_Requirements_Payments_Memo.2014.pdf.

e. The FY2003 appropriations resolution (P.L. 108-7) did not specify a distribution of appropriations between these two grant programs. It indicated that some of the funding—not to exceed $500,000—was to be available to the U.S. General Services Administration (GSA) for expenses associated with administering the funds.

f. The $380 million appropriated under this program for FY2018 was provided by the Consolidated Appropriations Act, 2018 (P.L. 115-141), and $425 million of the $825 million appropriated for FY2020 was provided by the Consolidated Appropriations Act, 2020 (P.L. 116-93). Explanatory statements accompanying those two appropriations acts listed some election security-specific purposes for which the funds may be used.

g. This figure includes $425 million from the Consolidated Appropriations Act, 2020, and $400 million from the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136). The CARES Act restricted use of its HAVA funds to preventing, preparing for, and responding to coronavirus, domestically and internationally, in the 2020 federal election cycle.

h. Appropriations for FY2007 and FY2011 for the HAVA grant programs administered by the U.S. Department of Health and Human Services (HHS) were included in general budget authority for the Administration for Children and Families' Children and Families Services programs. Information about the funding HHS reported awarding for grants for those fiscal years is available in congressional budget justifications from the Administration for Children and Families. Administration for Children and Families, *Archived Congressional Budget Justifications FY 2012-2004*, June 29, 2012, at https://www.acf.hhs.gov/archive/olab/resource/archived-congressional-budget-justifications-fy-2012-2004.

i. Starting with the Consolidated Appropriations Act, 2014 (P.L. 113-76), appropriations for new funding for HAVA grant programs administered by HHS have been included in general budget authority for the Administration for Community Living's Aging and Disability Services programs. The appropriations acts reference both the polling place accessibility grant program and the P&A system grant program, but, according to HHS, only the P&A system grant program has been funded during that period. The specific totals HHS has reported awarding for P&A system grants each year are available from the Administration for Community Living at https://acl.gov/about-acl/help-america-vote-act-hava.

j. These figures are from report language rather than appropriations bill text. The report language indicated that these amounts were to be appropriated from funds provided to an EAC account: the Election Reform Programs account for FY2004 and the Salaries and Expenses account for FY2005 and FY2008.

k. The amounts listed here are for the Help America Vote College Program as a whole. Grant-making is one of a number of activities, including developing materials and sponsoring seminars and workshops, that HAVA authorizes the EAC to conduct as part of the program (52 U.S.C. §21122).

l. The joint explanatory statement accompanying the FY2006 appropriations act (H.Rept. 109-307; P.L. 109-115) stated that the conferees encouraged the EAC to apply $250,000 of the funding it received for Salaries and Expenses to the Help America Vote College Program.

To help ensure that grant funds are used as intended, HAVA provides for funding audits and repayments. The act gives the agencies that are charged with administering its grant programs general authority to audit their grantees and provides for regular audits of requirements payments and special audits of any HAVA funding on a vote of the Commissioners of the EAC.[30] Grantees

[30] As enacted, HAVA also required an audit by the Comptroller General of all HAVA funds at least once during the

who are found to be out of compliance with the terms of their grant programs or to have received excess payments are required to repay corresponding portions of the grant funds they received.[31]

U.S. Election Assistance Commission (EAC)

Federal agency support for general election administration was provided in 2000 by a small office at the Federal Election Commission (FEC) known as the Office of Election Administration (OEA).[32] The scope of the issues with the administration of the 2000 elections prompted calls for an expanded federal agency role in elections issues.

Some proposed assigning any new responsibilities to the existing OEA, while others wanted to create a new agency that would be fully dedicated to election administration.[33] There was also debate among Members about whether a new elections agency should have the power to issue regulations.[34]

Congress struck a balance in HAVA by providing for a new agency, the EAC, but positioning it as a support agency.[35] The EAC's rulemaking authority is explicitly limited by the act to regulations about two responsibilities it inherited from the FEC—maintaining the federal mail voter registration form established by the NVRA and reporting to Congress on the impact of the NVRA on the administration of federal elections[36]—and its other duties are assistance-oriented. Those duties include the following:

- **Grant Programs.** The EAC has been charged with administering most of the grant programs authorized by HAVA, as well as other grant funding Congress has provided for conducting election data collection pilot programs.[37] The agency's grants administration responsibilities have included dispersing funds to grantees, responding to inquiries about use of the funds, collecting and reconciling required grant reporting, negotiating indirect cost rates, and auditing grant spending.[38]

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lifetime of the corresponding grant program. That provision was repealed by the Government Reports Elimination Act of 2014 (P.L. 113-188).

[31] 52 U.S.C. §21142. Information about audits of HAVA funds conducted by the EAC is available on the agency's website at https://www.eac.gov/inspector-general/hava-fund-audits.

[32] EAC, *History of the National Clearinghouse on Election Administration*, at https://www.eac.gov/assets/1/28/History%20of%20the%20National%20Clearinghouse%20on%20Election%20Administration.pdf. Support for military and overseas voting was provided at the time—and continues to be provided—by DOD's FVAP. For more on FVAP, see CRS In Focus IF11642, *Absentee Voting for Uniformed Services and Overseas Citizens: Roles and Process, In Brief*, by R. Sam Garrett; and CRS Report RS20764, *The Uniformed and Overseas Citizens Absentee Voting Act: Overview and Issues*, by R. Sam Garrett.

[33] See, for example, U.S. Congress, House Committee on the Judiciary, *Help America Vote Act of 2001*, 107th Cong., 1st sess., December 5, 2001, pp. 6-7; and The National Commission on Federal Election Reform, *To Assure Pride and Confidence in the Electoral Process*, pp. 71-72.

[34] See, for example, Daniel J. Palazzolo and Fiona R. McCarthy, "State and Local Government Organizations and the Formation of the Help America Vote Act," *Publius*, vol. 35, no. 4 (Fall 2005), p. 533; and Sarah F. Liebschutz and Daniel J. Palazzolo, "HAVA and the States," *Publius*, vol. 35, no. 4 (Autumn 2005), p. 505.

[35] See, for example, U.S. Congress, House Committee on House Administration, *Mark up of H.R. 3295, the Help America Vote Act of 2001*, 107th Cong., 1st sess., November 15, 2001 (Washington, DC: GPO, 2003), p. 2.

[36] 52 U.S.C. §20929.

[37] 52 U.S.C. §20981 note. For more on the election data collection grant program, see CRS Report R46646, *Election Administration: Federal Grant Funding for States and Localities*, by Karen L. Shanton.

[38] See, for example, EAC, *Grants Management and Oversight*, at https://www.eac.gov/payments-and-grants/grants-

- **Voluntary Voting System Guidelines (VVSG).** The FEC issued the first voluntary federal guidelines for voting systems in 1990, and the National Association of State Election Directors (NASED) developed a program to test and qualify systems to the guidelines.[39] HAVA reassigned both sets of tasks to the EAC. The EAC—with assistance from NIST and the EAC advisory bodies described below—is responsible for developing the VVSG and providing for testing and certification of voting systems to them.[40] The agency's Commissioners, who vote on adoption of the VVSG, have adopted three versions of the guidelines to date: VVSG 1.0 in 2005, VVSG 1.1 in 2015, and VVSG 2.0 in 2021.[41]
- **Voluntary Guidance.** HAVA left discretion over how to meet its title III requirements to the states but directed the EAC to offer voluntary guidance. It charged the agency with issuing guidance for implementing the voting systems standards by January 1, 2004, and the other title III requirements by October 1, 2003.[42]
- **Research.** HAVA grants the EAC broad authority to conduct research and issue best practices on elections topics.[43] It also directed the agency to produce studies on the following topics: facilitating military and overseas voting (in consultation with DOD); human factor research (in consultation with NIST); mail registration and use of Social Security information; electronic voting and the electoral process; and free absentee ballot postage [in consultation with the United States Postal Service (USPS)].[44]
- **Help America Vote College Program.** HAVA charged the EAC with establishing and overseeing a program to encourage students at institutions of higher education to serve as poll workers and election officials to use their services. In addition to the grant-making described in the "Grant Programs" section of this report, the agency is authorized to conduct activities like

management-and-oversight.

[39] Federal Election Commission (FEC), *Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems*, January 1990, at https://www.eac.gov/sites/default/files/eac_assets/1/28/FEC_1990_Voting_System_Standards1.pdf; EAC, *Voluntary Voting System Guidelines*, at https://www.eac.gov/voting-equipment/voluntary-voting-system-guidelines/; and U.S. Congress, House Committee on Science, *Voting Technology Standards Act of 2001*, report to accompany H.R. 2275, 107th Cong., 1st sess., October 31, 2001, H.Rept. 107-263 (Washington, DC: GPO, 2001).

[40] 52 U.S.C. §20922; 52 U.S.C. §§20961-20962; and 52 U.S.C. §20971.

[41] EAC, *Voluntary Voting System Guidelines*. For more on the adoption of VVSG 2.0, see CRS Insight IN11592, *Voluntary Voting System Guidelines (VVSG): An Overview*, by Karen L. Shanton.

[42] 52 U.S.C. §§21101-21102. Delays in establishing the EAC prevented it from meeting those statutory deadlines. Nominees for the Commission were not confirmed to their seats until December 9, 2003.

[43] The agency produces parts of its biennial Election Administration and Voting Survey (EAVS) under this authority. The EAVS includes general research on election administration data and policies, in addition to congressionally mandated reporting on the NVRA that the EAC inherited from the FEC and on military and overseas voters that it conducts as part of a Memorandum of Understanding with FVAP. For more on the EAVS, see CRS In Focus IF11266, *The Election Administration and Voting Survey: Overview and 2018 Findings*, by Karen L. Shanton.

[44] 52 U.S.C. §§20982-20986. For studies the EAC has published on these and other topics, see EAC, *Other Topics*, https://www.eac.gov/research-and-data/other-topics; and EAC, *Archives - Other Topics*, https://www.eac.gov/research-and-data/archives-other-topics.

developing materials and sponsoring seminars and workshops as part of this program.[45]

The structure of the EAC also reflects its positioning as a support agency. The EAC's four-member Commission, Office of Inspector General, and professional staff are paired with three advisory bodies—described below—that are designed to play central roles in the direction and functioning of the agency. The memberships of those advisory bodies include state and local election officials and a range of other elections stakeholders.

- **Board of Advisors.** 35 members[46] representing a range of election administration stakeholders, including state and local officials, federal agencies, science and technology experts, and voters.[47] The Board of Advisors is responsible for reviewing voluntary guidance and draft VVSG before they are presented to the EAC's Commissioners for adoption; appointing a search committee in the event of a vacancy for Executive Director of the agency; and consulting on NIST's monitoring and review of voting system testing laboratories (VSTLs) and the EAC's research efforts, program goals, and long-term planning.[48]
- **Standards Board.** 110 members, with one state official and one local official from each of the 50 states, DC, American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands and a nine-member Executive Board chosen by the Standards Board from among its membership.[49] Like the Board of Advisors, the Standards Board or its Executive Board is responsible for reviewing voluntary guidance and draft VVSG before they are presented to the EAC's Commissioners for adoption; appointing a search committee in the event of a vacancy for Executive Director of the agency; and consulting on NIST's monitoring and review of VSTLs and the EAC's research efforts, program goals, and long-term planning.[50]
- **Technical Guidelines Development Committee (TGDC).** 15 members, with the Director of NIST as chair and 14 other members representing a range of election administration stakeholders, including state and local officials, individuals with

[45] The agency has tended to use the funding Congress has provided for this program for grant-making. For more on grant funding provided under the program, see CRS Report R46646, *Election Administration: Federal Grant Funding for States and Localities*, by Karen L. Shanton.

[46] The Board of Advisors initially had 37 members, but its membership was reduced to 35 with the 2016 merger of two of the organizations responsible for appointing members. The National Association of County Recorders, Election Officials and Clerks and the International Association of Clerks, Recorders, Election Officials and Treasurers merged to form the International Association of Government Officials. Doug Chapin, "Fewer Letters in the Alphabet Soup: NACRC, IACREOT to Merge," *Election Academy*, July 7, 2015, at http://editions.lib.umn.edu/electionacademy/2015/07/07/fewer-letters-in-the-alphabet-soup-nacrc-iacreot-to-merge/.

[47] The membership of the Board of Advisors includes the Director of FVAP; the chiefs or designees of the chiefs of DOJ's Office of Public Integrity and Civil Rights Division's Voting Section; four members representing science and technology professionals; eight members representing voter interests; and two members appointed by each of the National Governors Association, National Conference of State Legislatures, National Association of Secretaries of State, National Association of State Election Directors (NASED), National Association of Counties, United States Conference of Mayors, Election Center, United States Commission on Civil Rights, Architectural and Transportation Barriers Compliance (Access) Board, and International Association of Government Officials (52 U.S.C. §20944).

[48] 52 U.S.C. §20924; 52 U.S.C. §20942; 52 U.S.C. §20962; and 52 U.S.C. §20971.

[49] According to HAVA, the Standards Board members serving as local officials for the 50 states, Puerto Rico, and the U.S. Virgin Islands are to be selected by the local election officials of the corresponding state or territory. The members serving as local officials for DC, American Samoa, and Guam are to be selected according to a procedure established by the corresponding jurisdiction's chief election official (52 U.S.C. §20943).

[50] 52 U.S.C. §20924; 52 U.S.C. §20942; 52 U.S.C. §20962; and 52 U.S.C. §20971.

disabilities, and experts in science and technology.[51] The TGDC is responsible for assisting the Executive Director of the EAC with developing draft VVSG for consideration by the agency's Commissioners.[52]

For more on the duties and structure of the EAC, see CRS Report R45770, *The U.S. Election Assistance Commission: Overview and Selected Issues for Congress*, by Karen L. Shanton.

Ongoing Role in Election Administration Policy

No new federal election laws as multifaceted as HAVA have been enacted since 2002, as of this writing. Congress has also made only relatively minor changes to HAVA, extending the deadline for replacing voting systems under the act's lever and punch card voting system replacement grant program, authorizing new funding for the requirements payments program, eliminating one type of grant program audit, and revising provisions related to the contents and public notice of states' plans for requirements payments.[53]

New developments and continuing concerns have combined, however, to ensure ongoing congressional interest in election administration. The onset of the COVID-19 pandemic introduced novel challenges for administration of the 2020 elections, for example, and foreign interference in 2016 drew attention to the challenges of securing election systems. There have also been long-standing efforts among Members to ensure that eligible voters have access to the ballot or ineligible voters do not.

HAVA and the agency it created have played a role in much of that congressional activity. The EAC-administered HAVA funds that Congress provided in response to foreign interference in the 2016 election cycle and the COVID-19 pandemic in 2020 offer notable recent examples. Proposals have also been offered to revisit HAVA or the EAC or to extend them to new aspects of election administration.

Proposals to Revisit HAVA or the EAC

There was broad agreement among Members that Congress should consider a legislative response to the problems with the administration of the 2000 elections.[54] Members disagreed, however, about exactly what that legislative response should look like. The HAVA debate highlighted disagreements about which issues should be addressed in election administration legislation and how they should be addressed.[55]

The enacted legislation reflects compromises on some of those disagreements. Some of the act's provisions represent compromises about the treatment of particular elections issues. HAVA's requirement that certain first-time voters who register by mail provide identification was a

[51] In addition to the Director of NIST, the members of the TGDC include an equal number of members of the Access Board, Board of Advisors, and Standards Board; representatives of the American National Standards Institute and Institute of Electrical and Electronics Engineers; two representatives of NASED who are not members of the Board of Advisors or Standards Board; and other individuals with technical and scientific expertise relating to voting systems and equipment (52 U.S.C. §20961).

[52] 52 U.S.C. §§20961-20962.

[53] P.L. 110-28; P.L. 111-8; P.L. 111-84; P.L. 112-74; and P.L. 113-188.

[54] Close to 100 election administration bills were introduced between the November 2000 general election in the 106th Congress and the enactment of HAVA in the 107th Congress, according to a CRS review of data from Congress.gov.

[55] For a timeline of congressional deliberations on election administration between the 2000 general election and HAVA's enactment, see **Appendix C**.

compromise, for example, between Members who preferred a more expansive voter ID requirement and Members who opposed requiring any voters to show ID.[56]

Another compromise is built into the structure of the act. Some Members favored limiting federal involvement in the response to the 2000 elections to voluntary guidelines and grant programs, while others wanted a regulatory agency and binding national standards.[57] As noted in the "Overview of Major Provisions" section of this report, HAVA ended up setting some standards in its title III but leaving certain decisions about how to implement and enforce them to the states and creating a new federal agency but strictly limiting its regulatory authority and involving states and localities in its work.

The compromises struck in HAVA did not necessarily resolve the underlying disagreements that prompted them, however. New developments have also emerged since 2002—both due to and independently of HAVA—that have changed the election administration landscape.

As a result, some Members have proposed revisiting the act or the agency it created. Some of those post-HAVA proposals would revise the act's treatment of particular issues. Bills have been introduced, for example, to expand or limit voter identification requirements, establish standards for matching voter registration data, and set specifics for the manually auditable paper records voting systems produce.

The voter ID debate is often characterized as a debate about how to balance ensuring access to the ballot for eligible voters against preventing access by ineligible voters. Proponents of ID requirements argue that they help guard against voter fraud, while opponents say they can disenfranchise eligible voters. Disagreements about how to prioritize those two considerations persisted post-HAVA, and there have been proposals both to expand HAVA's ID requirement and to set federal limits on ID laws. Legislation has been introduced to require all voters to show ID, for example, as well as to require states to accept sworn written statements as ID or submit proposed ID laws for federal preclearance.[58]

HAVA directs certain officials to enter into agreements for purposes of verifying voter registration data.[59] As election law professor Daniel P. Tokaji has argued, however, the wording of the relevant provision leaves open questions about exactly how voter registration data matching should work and what the consequences of a failed match should be.[60] Those questions could have practical implications—different answers could affect who appears on the rolls and which ballots are counted[61]—and some Members have proposed offering more definitive guidance. Bills

[56] 52 U.S.C. §21083(b). See, for example, Sarah F. Liebschutz and Daniel J. Palazzolo, "HAVA and the States," pp. 501, 505; and Sen. Christopher Dodd, "Help America Vote Act of 2002—Conference Report," *Congressional Record*, vol. 148, part 136 (October 16, 2002), p. S20854.

[57] See, for example, Rep. Robert Ney, Comments, *Congressional Record*, vol. 147, part 172 (December 12, 2001), p. H9287; and Daniel J. Palazzolo and Fiona R. McCarthy, "State and Local Government Organizations and the Formation of the Help America Vote Act," p. 533.

[58] See, for example, the Promoting Election Integrity by Proving Voter Identity Act (117th Congress, S. 1130), the America Votes Act of 2021 (H.R. 1059), and the John R. Lewis Voting Rights Advancement Act of 2021 (H.R. 4/S. 4).

[59] 52 U.S.C. §21083.

[60] Daniel P. Tokaji, "Voter Registration and Institutional Reform: Lessons from a Historic Election," *Harvard Law and Policy Review Online*, vol. 3 (January 22, 2009). For more on voter registration data matching procedures, see CRS Report R46406, *Voter Registration: Recent Developments and Issues for Congress*, by Sarah J. Eckman.

[61] Daniel P. Tokaji, "Voter Registration and Institutional Reform: Lessons from a Historic Election."

have been introduced to prohibit rejecting registration applications solely on the basis of a failed match, for example, and to set or direct agencies to set standards for matching registration data.[62]

Voting systems used in federal elections are required, under HAVA, to produce manually auditable permanent paper records.[63] That requirement has been interpreted as permitting use of electronic voting machines that do not produce individual paper records that voters can verify.[64] Technology experts raised concerns about such machines during the HAVA debate, however, and subsequent events and reporting have drawn further attention to their potential for technical faults and security vulnerabilities.[65] Research since 2002 has also produced new options for auditing election results, such as risk-limiting audits.[66] Some Members have responded to such developments by proposing more specific requirements for audits and paper records. Legislation has been introduced to require voting systems to produce voter-verifiable paper records, for example, and to require, facilitate, or incentivize use of certain types of post-election audits.[67]

In addition to such proposals to revisit HAVA's treatment of particular elections issues, there have been proposals to revisit the structure of the act or the agency it created. Legislation has been offered to terminate the EAC or expand its authority, for example, and to revise HAVA's enforcement mechanisms.

The National Association of Secretaries of State (NASS) adopted in 2005—and renewed in 2010 and 2015—a resolution aimed at preventing the EAC from evolving into a regulatory agency.[68] That resolution, which asked Congress not to reauthorize or fund the agency, was one of the rationales cited for proposals to terminate the EAC in the 112th through 115th Congresses.[69] There

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[62] See, for example, the Count Every Vote Act of 2007 (H.R. 1381/S. 804), the Voting Opportunity and Technology Enhancement Rights Act of 2005 (H.R. 533/S. 17), and the Protection Against Wrongful Voter Purges Act (111th Congress, H.R. 3835).

[63] 52 U.S.C. §21081.

[64] See, for example, EAC, *EAC Advisory 2005-004: How to Determine if a Voting System is Compliant with Section 301(a) - A Gap Analysis Between 2002 Voting System Standards and the Requirements of Section 301(a)*, July 20, 2005, https://web.archive.org/web/20051225131913/http://www.eac.gov/docs/EAC%20Advisory%2005-004%20(%204%20page%20fit%20).pdf; and U.S. Congress, House Committee on House Administration, *Hearing on Oversight of HAVA Implementation*, 109th Cong., 1st sess., February 9, 2005 (Washington, DC: GPO, 2006).

[65] See, for example, U.S. Congress, House Committee on Science, *Improving Voting Technologies: The Role of Standards*, 107th Cong., 1st sess., May 22, 2001 (Washington, DC: GPO, 2001); Tadayoshi Kohno, Adam Stubblefield, Aviel D. Rubin, et al., "Analysis of an Electronic Voting System," *Johns Hopkins Information Security Institute Technical Report TR-2003-19*, July 23, 2003; Maryland Department of Legislative Services, *A Review of Issues Relating to the Diebold AccuVote-TS Voting System in Maryland*, January 2004; and The Pew Center on the States, *Back to Paper: A Case Study*, Washington, DC, February 2008, https://web.archive.org/web/20080306020841/http://www.pewcenteronthestates.org/uploadedFiles/EB21Brief.pdf.

[66] See, for example, Mark Lindeman and Philip B. Stark, "A Gentle Introduction to Risk-Limiting Audits," *IEEE Security and Privacy, Special Issue on Electronic Voting*, March 16, 2012.

[67] The Voter Confidence and Increased Accessibility Act of 2003 (H.R. 2239/S. 1980), for example, would have required voter-verifiable paper ballots. A version of that bill has been introduced in every Congress since its initial introduction in the 108th Congress, including as part of the Freedom to Vote Act (117th Congress, S. 2747) and the For the People Act of 2021 (H.R. 1/S. 1/S. 2093). For more on legislation related to risk-limiting audits, see CRS In Focus IF11873, *Election Administration: An Introduction to Risk-Limiting Audits*, by Karen L. Shanton.

[68] National Association of Secretaries of State, *Resolution Reaffirming the NASS Position on Funding and Authorization of the U.S. Election Assistance Commission*, July 2015, at https://www.nass.org/sites/default/files/resolutions/2015/nass-resolution-eac-summer15-_0.pdf.

[69] See, for example, the Election Support Consolidation and Efficiency Act (112th Congress, H.R. 672) and the Election Assistance Commission Termination Act (115th Congress, H.R. 634). For more on proposals to terminate the EAC, see CRS Report R45770, *The U.S. Election Assistance Commission: Overview and Selected Issues for Congress*, by Karen L. Shanton.

have also been proposals intentionally to expand the agency's regulatory role. The explicit restriction on EAC rulemaking in HAVA means that the agency has limited authority beyond voluntary guidance to clarify ambiguities in the act, such as the open questions about voter registration data matching described above, or fill in details of future federal elections policies that Congress might not want to enshrine in legislative text. Some have proposed lifting the restriction in certain contexts or repealing it entirely.[70]

The limit on EAC rulemaking has also been cited by some as a reason to revisit HAVA's enforcement mechanisms.[71] Without the option of agency regulations—and barring new federal legislation—the primary federal forum for resolving ambiguities in HAVA is the courts.[72] HAVA expressly authorizes the Attorney General to bring civil action under the law pertaining to certain provisions. Some have proposed legislation that would also explicitly authorize individuals to bring suit for relief under the act. Bills have been introduced to add an explicit private right of action for existing HAVA requirements, for example, or when amending the act with new requirements.[73]

Proposals to Extend HAVA or the EAC

HAVA marked a departure from previous federal elections statutes in at least two ways: (1) it was more wide-ranging in the topics it aimed to address than elections measures Congress had tended to approve in the recent past, with (2) a greater emphasis on federal assistance for states and localities. Other recent federal election laws had tended to focus on particular aspects of election administration or ensuring access to the electoral process for particular groups of voters and on setting requirements.[74] HAVA, by contrast, spans multiple issues and groups of voters—from voter registration to voting information and voters with disabilities to young voters—and pairs its requirements with grant programs and the assistance-oriented EAC.

Those features have made HAVA and the agency it created common vehicles for congressional proposals to engage with new elections issues. First, the broad scope of the act has made it a common choice for proposals to set requirements for aspects of election administration that are not addressed by other, more specific federal election laws. New HAVA requirements have been proposed in response to events in particular election cycles. Following the onset of the COVID-19 pandemic in the 2020 cycle, for example, some Members proposed amending HAVA to require states and localities to offer no-excuse absentee registration and voting during emergencies,

[70] See, for example, the Polling Place Protection Act of 2019 (S. 955), the Early Voting Act (116th Congress, S. 957), and the Election Integrity Act of 2016 (H.R. 6072).

[71] See, for example, Daniel P. Tokaji, "Public Rights and Private Rights of Action: The Enforcement of Federal Election Laws."

[72] Daniel P. Tokaji, "Public Rights and Private Rights of Action: The Enforcement of Federal Election Laws."

[73] See, for example, the Streamlined and Improved Methods at Polling Locations and Early (SIMPLE) Voting Act of 2019 (H.R. 118), the Count the Vote Act (116th Congress, H.R. 1513), the People Over Long Lines (POLL) Act (117th Congress, S. 2117), the For the People Act of 2021 (H.R. 1/S. 1/S. 2093), and the Voter Empowerment Act of 2021 (H.R. 2358/S. 954).

[74] The NVRA sets requirements for voter registration, for example, and the VRA, as amended, primarily addresses the accessibility of the electoral process to members of racial and language minority groups. For more on those statutes, see CRS Report R45030, *Federal Role in Voter Registration: The National Voter Registration Act of 1993 and Subsequent Developments*, by Sarah J. Eckman; and CRS Testimony TE10033, *History and Enforcement of the Voting Rights Act of 1965*, by L. Paige Whitaker.

election officials to conduct public education campaigns about election changes due to emergencies, or states to conduct their 2020 elections entirely by mail.[75]

Some Members have also proposed new HAVA requirements as part of broader efforts to advance general election administration objectives. Requiring states to offer early voting has been presented as a way to increase eligible voters' access to the ballot, for example, and requiring states to allow observation of ballot tabulation has been presented as a way to secure the integrity of the electoral process.[76]

Second, the broad scope and assistance focus of the act have made HAVA and the EAC common choices for proposals to provide new federal support for election administration. Congress has appropriated funding for existing HAVA grant programs to help address new election administration challenges. It provided funding for HAVA's general improvements grant program in response to the COVID-19 pandemic, for example, using appropriations language to limit use of the funds to elections-related COVID-19-related response and set conditions like a 20% state match for federal funds.[77]

Bills have also been introduced to authorize new EAC grant programs or other new agency activities. Grant programs have been proposed to help states meet new federal requirements, such as a proposed requirement to use independent commissions for congressional redistricting, and to facilitate or encourage voluntary policies, such as limiting ballot collection by third parties.[78] Other proposals would direct the EAC to offer nonfinancial support for election administration, such as ballot design research or cybersecurity best practices for voting system vendors.[79]

Potential Considerations for Congress

As noted in the "Ongoing Role in Election Administration Policy" section of this report, no new federal election laws as multifaceted as HAVA have been enacted as of this writing. As that might suggest, Congress has generally tended to defer to state and local officials on policy responses to election administration issues. The enactment of HAVA and other federal election laws and the ongoing introduction of new election administration bills demonstrate, however, that Members sometimes also see a role for the federal government.

HAVA and the EAC offer potential vehicles for any future federal involvement in election administration policymaking. HAVA is perhaps the closest thing in federal law to a general elections statute, and the EAC has subject matter expertise in election administration, existing relationships with state and local election officials, and experience administering elections grants.

There are also other options, though, as well as various ways in which Congress might structure federal involvement in election administration through HAVA or the EAC. The following are

[75] See, for example, the Resilient Elections During Quarantines and Natural Disasters Act of 2020 (H.R. 6202/S. 3440), Vote From Home America Act of 2020 (H.R. 7118), and Voter Notice Act (116th Congress, H.R. 6512).

[76] See, for example, the Expanding Access to Early Voting Act of 2021 (H.R. 640) and the Save Democracy Act (117th Congress, H.R. 322/S. 459).

[77] P.L. 116-93; and P.L. 116-136.

[78] See, for example, the John Tanner Fairness and Independence in Redistricting Act (117th Congress, H.R. 80/H.R. 4307) and the Election Protection Act of 2021 (H.R. 2844).

[79] See, for example, the Protect our Elections Act (116th Congress, H.R. 4777) and the For the People Act of 2021 (H.R. 1/S. 1/S. 2093).

some issues that might be relevant to Members who are considering whether or how to engage with election administration topics.

Consideration and Prioritization of Factors. The HAVA debate was framed by many of its participants as about making it "easier to vote and harder to cheat," and that access-fraud framework has often anchored other discussions of election administration policy.[80] The 2016 elections highlighted another possible consideration—security—however, and events in other election cycles and state and local experiences with implementing HAVA have suggested others. For example, state and local officials factored considerations like accessibility, administrability, and cost-effectiveness into their post-HAVA decisions about voting systems. As debates over issues like voter ID requirements illustrate, different decisions about which factors to consider and how to prioritize them can lead to different policy choices.

Choice of Agency. As the only federal agency dedicated to election administration, the EAC might often be a logical choice for new federal agency work on elections. Some features of the agency—such as its limited rulemaking authority and current size and funding levels—could introduce challenges for certain types of work, however. Other agencies might also have or acquire experience or expertise that is relevant to certain aspects of election administration. HHS has subject matter expertise in disability access, for example, and NIST has subject matter expertise in standards and technology. The U.S. Department of Homeland Security's (DHS's) Cybersecurity and Infrastructure Security Agency (CISA) has also taken on new election security responsibilities following the department's designation of election systems as critical infrastructure in January 2017.[81] Congress might choose to delegate new elections tasks to the EAC—either with or without revising some of its features—or to assign them to other agencies instead of or in conjunction with the EAC.

Choice of Legislative Approach. Like the EAC, HAVA might often be a logical choice for federal engagement with election administration. Also like the EAC, it might have some features that are less logical fits for certain purposes. Members could choose to address such features in new legislation. Congress used appropriations language to set new conditions for the HAVA funding it provided in response to the COVID-19 pandemic, for example, and bills have been introduced to revisit HAVA's enforcement mechanisms.[82] Members might also choose to create new law with features they prefer or to amend other existing laws. For example, some recent proposals to engage with election security and youth voter participation would amend the Homeland Security Act of 2002 (HSA; P.L. 107-296) and the Higher Education Act of 1965 (HEA; P.L. 89-329), respectively.[83]

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[80] See, for example, David Nather, "Election Overhaul May Have to Wait in Line Behind Other 'Crisis' Issues," *CQ Weekly*, July 27, 2002; Sen. Kit Bond, "Help America Vote Act of 2002—Conference Report," *Congressional Record*, vol. 148, part 136 (October 16, 2002), p. S10488; and Sen. Christopher Dodd, "Help America Vote Act of 2002—Conference Report," *Congressional Record*, vol. 148, part 136 (October 16, 2002), p. S10505.

[81] U.S. Department of Homeland Security, "Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector," press release, January 6, 2017, at https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical. For more on the critical infrastructure designation and Election Infrastructure Subsector, see CRS In Focus IF10677, *The Designation of Election Systems as Critical Infrastructure*, by Brian E. Humphreys; and CRS In Focus IF11445, *The Election Infrastructure Subsector: Development and Challenges*, by Brian E. Humphreys and Karen L. Shanton.

[82] P.L. 116-93 and P.L. 116-136. See also, for example, the Streamlined and Improved Methods at Polling Locations and Early (SIMPLE) Voting Act of 2019 (H.R. 118), the Count the Vote Act (116th Congress, H.R. 1513), the People Over Long Lines (POLL) Act (117th Congress, S. 2117), and the For the People Act of 2021 (H.R. 1/S. 1/S. 2093).

[83] See, for example, the Election Protection Act of 2021 (H.R. 2844), the For the People Act of 2021 (H.R. 1/S. 1/S. 2093), and the Help Students Vote Act (117th Congress, H.R. 2232/S. 992).

Balance of Statute and Regulation. As noted in the "Proposals to Revisit HAVA or the EAC" section of this report, the wording of HAVA left some open questions about voter registration data matching, and proposals have been offered to provide more definitive guidance either in legislative text or through agency action. That case illustrates two of the options available for federal policymaking on election administration: (1) specifying policy details in statute or (2) delegating details to an agency. Each of those options—or a combination of them—might be a better fit in certain circumstances. Specifying details in statute might fit cases in which Congress knows exactly how it wants a policy to be implemented, for example, and delegating might be a fit for cases in which new developments are likely to change the policy landscape or more information or expertise is required to determine how best to implement the policy.

Balance of Federal Action and State or Local Action. The structure of HAVA highlights a third option for federal policymaking on election administration: deferring on some details to states and localities. HAVA set requirements for election administration, for example, but left states discretion over exactly how to implement some of them. It established a new federal elections agency but limited its power to set regulations for states and localities and provided for state and local input into its work. States and localities have primary responsibility for administering elections in the United States, and state and local officials might often be particularly well-positioned to identify the best options for their jurisdictions. Deferring to states and localities on policy details could also contribute, in some cases, to variations in a policy's effectiveness across states or policy choices that are at odds with congressional objectives. Members might consider, therefore, how they seek to distribute decisionmaking among federal, state, and local officials.

Appendix A. Major Provisions of HAVA by Issue

Table A-1. Major Provisions of HAVA by Issue

Issue	Corresponding Section of Report[a]	Provision[b]
Absentee Voting	U.S. Election Assistance Commission (EAC)	Study and report on electronic voting and the electoral process 52 U.S.C. §20985
	EAC	Study and report on free absentee ballot postage 52 U.S.C. §20986
Individuals with Disabilities and Older Individuals	Requirements	Accessibility for individuals with disabilities 52 U.S.C. §21081(a)(3)
	Requirements EAC	Adoption of voluntary guidance by Commission 52 U.S.C. §§21101
	Grant Programs	Process for development and filing of plan 52 U.S.C. §21005
	Grant Programs	Payments to states and units of local government to assure access to individuals with disabilities 52 U.S.C. §§21021-21025
	Grant Programs	Grants for research on voting technology improvements 52 U.S.C. §§21041-21043
	Grant Programs	Pilot program for testing of equipment and technology 52 U.S.C. §§21051-21053
	Grant Programs	Payments for protection and advocacy systems 52 U.S.C. §§21061-21062
	EAC	Membership of Board of Advisors 52 U.S.C. §20944
	EAC	Technical Guidelines Development Committee (TGDC) 52 U.S.C. §20961
	EAC	Report on human factor research 52 U.S.C. §20983
	EAC	Study and report on free absentee ballot postage 52 U.S.C. §20986
Individuals with Limited English Proficiency	Requirements	Alternative language accessibility 52 U.S.C. §21081(a)(4)
	Requirements EAC	Adoption of voluntary guidance by Commission 52 U.S.C. §§21101

Issue	Corresponding Section of Report[a]	Provision[b]
	Grant Programs	Grants for research on voting technology improvements 52 U.S.C. §§21041-21043
	Grant Programs	Pilot program for testing of equipment and technology 52 U.S.C. §§21051-21053
	EAC	Report on human factor research 52 U.S.C. §20983
Military and Overseas Citizens	Requirements Appendix B[c]	Voting assistance programs 10 U.S.C. §1566
	Requirements Appendix B[c]	Designation of single state office to provide information on registration and absentee ballots for all voters in state 52 U.S.C. §20302(b)
	Requirements Appendix B[c]	Report on absentee ballots transmitted and received after general elections 52 U.S.C. §§20302(c), note
	Requirements Appendix B[c]	Extension of period covered by single absentee ballot application 52 U.S.C. §20306[d]
	Requirements Appendix B[c]	Additional duties of Presidential Designee under Uniformed and Overseas Citizens Absentee Voting Act 52 U.S.C. §§20301-20302
	Requirements Appendix B[c]	Prohibition of refusal of voter registration and absentee ballot applications on grounds of early submission 52 U.S.C. §20306
	Requirements Appendix B[c]	Other requirements to promote participation of overseas and absent uniformed services voters 52 U.S.C. §20302(d)
	Grant Programs	Authorization of appropriations for requirements payments 52 U.S.C. §21007(a)(4)[e]
	EAC	Membership of Board of Advisors 52 U.S.C. §20944
	EAC	Study, report, and recommendations on best practices for facilitating military and overseas voting 52 U.S.C. §20982
Poll Workers	Grant Programs	State plan 52 U.S.C. §21004
	Grant Programs	Help America Vote Foundation 36 U.S.C. §§90101-90112
	Grant Programs EAC	Help America Vote College Program 52 U.S.C. §§21121-21123
Provisional Voting	Requirements	Provisional voting requirements 52 U.S.C. §21082(a)

Issue	Corresponding Section of Report[a]	Provision[b]
	Requirements	Voters who vote after the polls close 52 U.S.C. §21082(c)
	Requirements	Fail-safe voting 52 U.S.C. §21083(b)(2)(B)
	Requirements EAC	Adoption of voluntary guidance by Commission 52 U.S.C. §§21101
Voter Identification	Requirements	Requirements for voters who register by mail 52 U.S.C. §§21083(b)(1)-(3)
	Requirements EAC	Adoption of voluntary guidance by Commission 52 U.S.C. §§21101
	EAC	Study and report on voters who register by mail and use of Social Security information 52 U.S.C. §20984
Voter Registration	Requirements	Computerized statewide voter registration list requirements implementation 52 U.S.C. §21083(a)(1)
	Requirements	Computerized list maintenance 52 U.S.C. §21083(a)(2)
	Requirements	Technological security of computerized list 52 U.S.C. §21083(a)(3)
	Requirements	Minimum standard for accuracy of State voter registration records 52 U.S.C. §21083(a)(4)
	Requirements	Verification of voter registration information 52 U.S.C. §21083(a)(5)
	Requirements	Requirements for voters who register by mail 52 U.S.C. §§21083(b)(1)-(3)
	Requirements	Contents of mail-in registration form 52 U.S.C. §21083(b)(4)
	Requirements EAC	Adoption of voluntary guidance by Commission 52 U.S.C. §§21101
	EAC	Study and report on voters who register by mail and use of Social Security information 52 U.S.C. §20984
	EAC	Study and report on electronic voting and the electoral process 52 U.S.C. §20985
Voting Information	Requirements	Voting information requirements 52 U.S.C. §21082(b)
	Requirements EAC	Adoption of voluntary guidance by Commission 52 U.S.C. §§21101

Issue	Corresponding Section of Report[a]	Provision[b]
	Grant Programs	State plan 52 U.S.C. §21004
	EAC	Study and report on electronic voting and the electoral process 52 U.S.C. §20985
Voting Systems	Requirements	Voting systems standards requirements in general 52 U.S.C. §21081(a)(1)
	Requirements	Audit capacity 52 U.S.C. §21081(a)(2)
	Requirements	Accessibility for individuals with disabilities 52 U.S.C. §21081(a)(3)
	Requirements	Alternative language accessibility 52 U.S.C. §21081(a)(4)
	Requirements	Error rates 52 U.S.C. §21081(a)(5)
	Requirements	Uniform definition of what constitutes a vote 52 U.S.C. §21081(a)(6)
	Requirements EAC	Adoption of voluntary guidance by Commission 52 U.S.C. §§21101
	Grant Programs	State plan 52 U.S.C. §21004
	Grant Programs	Payments to states for replacement of punch card and lever voting machines 52 U.S.C. §§20902-20906
	Grant Programs	Grants for research on voting technology improvements 52 U.S.C. §§21041-21043
	Grant Programs	Pilot program for testing of equipment and technology 52 U.S.C. §§21051-21053
	EAC	Technical Guidelines Development Committee (TGDC) 52 U.S.C. §20961
	EAC	Process for adoption of Voluntary Voting System Guidelines (VVSG) 52 U.S.C. §20962
	EAC	Certification and testing of voting systems 52 U.S.C. §20971
	EAC	Report on human factor research 52 U.S.C. §20983
	EAC	Study and report on electronic voting and the electoral process 52 U.S.C. §20985
Young Voters	Grant Programs	National Student and Parent Mock Election 52 U.S.C. §§21071-21072

Issue	Corresponding Section of Report[a]	Provision[b]
	Grant Programs	Help America Vote Foundation 36 U.S.C. §§90101-90112
	Grant Programs EAC	Help America Vote College Program 52 U.S.C. §§21121-21123

Source: CRS, based on review of the *U.S. Code*.

Notes: Provisions of HAVA that relate to election administration generally—such as the act's enforcement mechanisms, its general improvements grant program, most aspects of its requirements payments program, and the EAC's general research authority—are not included in the table. Provisions that address more than one issue are listed for all of the provisions they address.

a. Provisions are classified here as they appear in the text of this report. For more on a given provision, see the corresponding section of the report.

b. Provisions are generally listed here as they are presented in statutory language.

c. These provisions amended existing law on military and overseas voting. The amendments are discussed briefly in the "Requirements" section of this report and summarized in **Appendix B**.

d. This provision was repealed by the Military and Overseas Voter Empowerment (MOVE) Act of 2009, which was enacted as Subtitle H of Title V of the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84).

e. The MOVE Act amended HAVA to authorize funding for the requirements payments program for FY2010 and subsequent fiscal years. The funding was authorized to meet new requirements established by the MOVE Act for military and overseas voting.

Appendix B. HAVA Amendments to Military and Overseas Voting Processes

Table B-1. HAVA Amendments to Military and Overseas Voting Processes

	Summary of Changes
Voting Assistance Programs 10 U.S.C. §1566	Require voting assistance officers to be given sufficient time and resources to perform specified voting assistance duties Direct the U.S. Department of Defense (DOD) to implement and report on measures to ensure that postmarks or other official proofs of mailing date are provided for absentee ballots that are collected overseas or at sea Direct the Secretary of each military department to provide notice of absentee ballot mailing deadlines; information about requirements and deadlines for voter registration and absentee ballot applications and the availability of voting assistance officers; and federal voter registration forms Require designation of day(s) for providing information at military installations about election timing, registration requirements, and voting procedures
Designation of Single State Office to Provide Information on Registration and Absentee Ballots for All Voters in State 52 U.S.C. §20302(b)	Require each state to designate a single state office to provide information about the voting and registration processes available to military and overseas voters Recommend that the designated office carry out the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)
Report on Absentee Ballots Transmitted and Received After General Elections 52 U.S.C. §§20302(c), note	Require states and localities to report to the U.S. Election Assistance Commission (EAC) and the public after each regular federal general election on the number of absentee ballots transmitted to and received from military and overseas voters Direct the EAC and its Board of Advisors and Standards Board to develop a standardized format for the reports and make the standardized format available to states and localities
Extension of Period Covered by Single Absentee Ballot Application 52 U.S.C. §20306	Extend the period covered by absentee ballot applications submitted by military and overseas voters to the following two regular federal general elections[a]
Additional Duties of Presidential Designee Under Uniformed and Overseas Citizens Absentee Voting Act 52 U.S.C. §§20301-20302	Direct the Presidential Designee under UOCAVA to ensure that election officials are aware of the act's requirements, develop a standard oath affirming potential penalty of perjury for material misstatements of fact on UOCAVA documents, and provide statistical analysis of voter participation by overseas voters Require states that require oaths or affirmations for UOCAVA documents to use the standard oath developed by the Presidential Designee
Prohibition of Refusal of Voter Registration and Absentee Ballot Applications on Grounds of Early Submission 52 U.S.C. §20306	Prohibit states from refusing to accept or process an otherwise valid voter registration or absentee ballot application from a military voter on the grounds that the application was submitted before the first date on which the state otherwise accepts or processes such applications

	Summary of Changes
Other Requirements to Promote Participation of Overseas and Absent Uniformed Services Voters 52 U.S.C. §20302(d)	Require states to provide military and overseas voters with reasons for rejecting their voter registration or absentee ballot applications

Source: CRS, based on review of the *U.S. Code*.

Notes: The requirements in this table generally apply to elections for federal office.

a. This provision was repealed by the Military and Overseas Voter Empowerment (MOVE) Act of 2009, which was enacted as Subtitle H of Title V of the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84).

Appendix C. Timeline of Congressional Deliberations on Election Administration

Table C-1. Timeline of Congressional Deliberations on Election Administration

(from the November 2000 general election to the enactment of HAVA)

Date	Action
November 7, 2000	November 2000 regular federal general elections are held.
December 12, 2000	U.S. Supreme Court issues decision in *Bush v. Gore*.
February 14, 2001	House Committee on Energy and Commerce holds hearing on "Election Night Coverage by the Networks."
March 7, 2001	Senate Committee on Commerce, Science, and Transportation holds hearing on "Election Reform."
March 14, 2001	Senate Committee on Rules and Administration holds hearing on "Election Reform."
March 19, 2001	Equal Protection of Voting Rights Act (S. 565) is introduced in Senate.
March 22, 2001	Equal Protection of Voting Rights Act (H.R. 1170) is introduced in House of Representatives.
May 3, 2001	Senate Committee on Governmental Affairs holds hearing on "Federal Election Practices and Procedures."
May 8, 2001	Senate Committee on Commerce, Science, and Transportation holds hearing on "S. 368 and Election Reform."
May 9, 2001	House Committee on Armed Services Subcommittee on Military Personnel holds hearing on "Department of Defense Voting Assistance and Military Absentee Ballot Issues."
	Senate Committee on Governmental Affairs holds hearing on "Federal Election Practices and Procedures."
May 10, 2001	House Committee on House Administration holds hearing on "Federal Election Reform."
May 17, 2001	House Committee on House Administration holds "Voting Technology Hearing."
May 22, 2001	House Committee on Science holds hearing on "Improving Voting Technologies: The Role of Standards."
May 24, 2001	Bipartisan Federal Election Reform Act (S. 953) is introduced in Senate.
	House Committee on House Administration holds "Hearing on Technology and the Voting Process."
June 27, 2001	Senate Committee on Rules and Administration holds hearing on "Report of the U.S. Commission on Civil Rights on the November 2000 Election and on Election Reform Issues."
June 28, 2001	Senate Committee on Rules and Administration holds hearing on "Members of the House of Representatives on Election Reform Issues."
July 23, 2001	Senate Committee on Rules and Administration holds "Field Hearing in Atlanta, Georgia on Election Reform Issues."
November 14, 2001	Help America Vote Act (H.R. 3295) is introduced in House of Representatives.
November 15, 2001	House Committee on House Administration holds "Mark Up of H.R. 3295, the Help America Vote Act of 2001."

November 28, 2001	Senate Committee on Rules and Administration reports S. 565 to full Senate.
December 5, 2001	House Committee on the Judiciary holds hearing on "Help America Vote Act of 2001."
December 10, 2001	House Committee on House Administration reports H.R. 3295 to full House of Representatives.
December 12, 2001	House of Representatives passes H.R. 3295 362-63.
February 13-15, 2002	Senate considers S. 565.
February 25-27, 2002	Senate considers S. 565.
March 1, 2002	Senate considers S. 565.
March 4, 2002	Senate considers S. 565.
April 10, 2002	Senate considers S. 565.
April 11, 2002	Senate passes S. 565 99-1, amends text of H.R. 3295 with text of S. 565, and requests conference with House of Representatives.
May 1, 2002	Senate appoints conferees.
May 16, 2002	House of Representatives appoints conferees.
October 8, 2002	Conference report on H.R. 3295 (H.Rept. 107-730) is filed.
October 10, 2002	Conference report on H.R. 3295 is agreed to in House of Representatives 357-48.
October 16, 2002	Conference report on H.R. 3295 is agreed to in Senate 92-2.
October 29, 2002	H.R. 3295 is signed by President George W. Bush and becomes P.L. 107-252.

Source: CRS, based on review of data from Congress.gov, the *Congressional Record*, and the Government Publishing Office.

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