



U.S. ELECTION ASSISTANCE COMMISSION
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U.S. Senate Committee on Rules and Administration
“Oversight of the U.S. Election Assistance Commission”

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Christy McCormick, Chairwoman

Ben Hovland, Vice Chair

Thomas Hicks, Commissioner

Donald Palmer, Commissioner

United States Election Assistance Commission (EAC)

Good morning Chairman Blunt, Ranking Member Klobuchar, and members of the committee. Thank you for the opportunity to testify before you this afternoon to detail the vital work of the U.S. Election Assistance Commission, better known as the EAC. We are pleased to discuss the EAC’s work to fulfill its mission as prescribed by the Commission’s enabling legislation, the Help America Vote Act of 2002 (HAVA). While we each took diverse paths in coming to the EAC, we are in lock-step when it comes to this message: The Commission is as needed today as it has been at any other time since it was established, but we are at a critical crossroads with regard to having sufficient resources necessary to better support state and local election administrators and the voters they serve.

During the past year in particular, the leaders of this committee and other stakeholders have publicly echoed that same sentiment and voiced support for the EAC. We are emboldened by your confidence in our work, as well as your continued support for our mission. Commissioner Hicks and Commissioner McCormick were grateful for the opportunity to testify before this committee last year. Chairman Blunt, we were heartened to hear you say that the EAC “has now found a new mission and it’s an important one” and that you look forward to “working with the commission as they do everything they can to help give state and local election officials the kind of help they need from the federal government to do their job.”

Chairman Blunt and Ranking Member Klobuchar, you both underscored the importance of the EAC’s work when you attended and provided remarks during the Commission’s Election Readiness Summit last October, and we thank you for hosting the swearing-in ceremony held earlier this year for our two newest Commissioners. We know that this committee played a central role in restoring a quorum at the Commission, and that has been a welcome development. Senator Klobuchar, we also appreciate the observations you and your colleagues recently made in a letter to appropriators that noted the EAC “has proven to be a significant resource for our government agencies and state election officials as they face the increased challenges of protecting the integrity of elections” and that “the federal government only has one agency whose sole mission is to help administer elections and we should be increasing their funding, not cutting it.”

Our intent is to harness your energy and the feedback we hear each day from election officials across the nation to ensure that the EAC has all of the resources it needs ahead of 2020. Now is the time to finalize preparations for support during the presidential election year. We are committed to maximizing our impact ahead of the next Federal Election and providing services that not only meet, but exceed the expectations of those who are counting on us to do our job.

With regard to doing our job, we have included a copy of the Commission's 2018 Annual Report with our written testimony. In it are details of the Commission's robust achievements from last year, work accomplished by a small, but talented and motivated staff who are firing on all cylinders to fulfill the EAC's mission. They not only do their own full-time jobs, but they are often called upon to pitch in wherever and whenever needed across our various programs, and they have willingly stepped up to the plate. The Commissioners sincerely thank each member of the EAC staff for their hard work and dedication, and we appear here today in part to stress the importance of their efforts and the need for additional resources to secure their sustainability.

While 538 days remain until the 2020 Presidential Election, the first federal Presidential primary is just 7 months away, and election officials across the nation are administering state and local elections now. As you've noted, the EAC is the only federal agency solely devoted to supporting those officials in this work and helping America vote. HAVA established the EAC to serve as the nation's foremost clearinghouse on elections, to conduct original research – such as the Election Administration and Voting Survey – that informs ways to improve election administration, to establish federal voting system testing guidelines and operate the federal government's voting system certification program, to administer federal grant funding for states to improve election administration, and to help America vote. These resources give election administrators the tools they need to carry out secure, accurate, and efficient elections.

The EAC's work also helps to ensure that all eligible Americans have the opportunity to vote privately and independently, to cast a ballot with confidence, and to know that vote will be counted securely and accurately. Chairman Blunt, we completely agree with your statement from last year's Election Readiness Summit when you noted that, "The central thread of the fabric of democracy is people having confidence that what we were told happened on Election Day is what absolutely happened."

Strengthening Election Security and Voter Confidence

Election security is a theme that continues to shape the national conversation about election administration, especially as we look ahead to 2020. Federal law enforcement and intelligence officials regularly remind us that the threats election administrators faced in 2016 and 2018 remain today and are likely to intensify in the months and years ahead. We take seriously the fact that voter confidence is enhanced when we adequately prepare for and respond to challenges such as election misinformation campaigns, persistent attempts to breach election systems and voting registration databases, and other real threats.

We are pleased to report that election officials across the nation successfully navigated these challenges in 2018, and they are better prepared to handle these issues today than they were several years ago. This not only reflects election officials' unwavering commitment to secure elections, but it is also a product of improved relationships between state and local election administrators and the federal agencies that serve them.

As the agency best positioned to communicate directly with election officials across the country, the EAC played an early and leading role in establishing trust and open lines of communications between state and local leaders and the federal government entities that work on election security. As the Commissioners have previously testified, the EAC drove the development of the election security working group that eventually became the subsector's Government Coordinating Council (GCC), and Chairwoman McCormick now sits on that council's executive board. In addition to the EAC's work with the Department of Homeland Security to establish the GCC, the Commission played an integral role in establishing the Sector Coordinating Council (SCC) comprised of private election equipment manufacturers and vendors.

Beyond the GCC and SCC, the Commission has taken a multifaceted approach to helping state and local election officials strengthen their election security. This work includes testing and federally certifying voting systems, providing hands-on security and post-election audit trainings across the country, producing security-focused resources, disseminating security best practices information and checklists to state and local election officials, as well as hosting widely attended forums that feature security experts as speakers.

The EAC's participation in critical infrastructure activities and its own security work was a direct result of the personal involvement and direction of the EAC's most senior staff, as well as the efforts of the Commission's talented team of professionals. The EAC does not have full-time employees devoted to these new components of providing election security support. In fact, the EAC's Inspector General highlighted this staffing issue as a Significant Management Challenge in 2018. At this time, existing staff, in conjunction with their other full time responsibilities, have been tasked with interacting with the agency's external partners to identify resources and materials that might be useful for our election official stakeholders. With additional resources, the EAC would have the opportunity to fund additional election security activities within its Election Technology Program.

For example, many state and local election officials have expressed great interest in an Elections Cyber Assistance Unit, and additional resources would allow the EAC to put this program in place. This unit would allow EAC to hire election and cyber security experts who would be regionally located to provide assistance with risk-management, resiliency, and other technical support to the jurisdictions in their respective areas. This would enable the EAC to spread its resources across all 50 States, D.C., and the four U.S. territories conducting Federal Elections, saving significant costs at the state and local levels by providing federal assistance to offset expenses that each state would otherwise incur.

When Congress passed HAVA, it entrusted the Commission to do exactly that kind of work. To find innovative solutions that would expand the EAC's clearinghouse of resources to keep pace with the challenges faced by election officials and voters. There is no shortage of ambition at the EAC when it comes to supporting this work, but there is a stark shortage of funds for such activities. This shortfall means the Commission faces tough programmatic choices each and every day, and we hope you will consider that as you continue to work on next year's appropriations bills.

Administering HAVA Funds to Improve U.S. Election Administration

Last year, Members of Congress provided much-needed and much-appreciated financial support to the states and territories through the EAC. We appreciate that you also factored the Commission's up-front grant administration costs into the Consolidated Appropriations Act of 2018, which appropriated \$380 million in HAVA Funds to improve the administration of federal elections. As we have previously reported, within three months of the appropriation, the EAC received disbursement requests for 100 percent of the funds from all 55 eligible states and territories, and approximately seven months prior to the 2018 Midterm Elections, the EAC made 100 percent of the funds available for the eligible states and territories to draw down.

As the funds became available last year, approximately 60 percent of states reached out to the EAC for assistance with at least one issue related to the new appropriations, including allowable costs, policy questions, pre-approval requests, and state appropriation process issues. I've attached to this testimony a chart detailing the EAC's interactions with the states. The chart lays bare the fact that the EAC's Grant team did not wait for states to reach out for guidance before it offered assistance. All states received pre-award notices, budget and narrative guidance, access to EAC webinars, phone and email consultations, and EAC review of budgets and plans. Through these interactions, states were given the opportunity to pose questions to ensure their plans contained only expenses allowable under Title 1 Section 101 of HAVA. The EAC's Grant team also answered inquiries, proactively provided guidance to anticipated questions, and reviewed proposals. Since these were the first new appropriations for HAVA grants since FY2010, many of the state-level contacts working on how to spend these funds had never received HAVA grants before, creating a knowledge gap that the EAC's team ably worked to close.

We know from state plans and expenditure reports that most states are spending these funds on items that will directly improve election security. In fact, at least 90 percent of the funds have been devoted to technological and cybersecurity improvements, the purchase of new voting equipment, and improvements to voter registration systems. Last month, the EAC released its Grant Expenditure Report for FY2018, which includes details about specific state HAVA grant expenditures through September 30, 2018. That report was previously shared with the committee and is included as an addendum to this testimony.

Through our more recent conversations with the 55 states and territories that received these funds, we believe that as of April 30, 2019, states have spent at least \$108.14 million, or 29 percent, of the \$380 million in grant funds. This represents a 262 percent increase in spending from the last reported spending levels on September 30, 2018. In addition, a straight line spending projection based on expenditures through the end of last month suggests that states and territories will spend approximately \$324 million, or 85 percent, of the funds prior to the 2020 Presidential Election.

States have until the end of FY2023 to spend the funds. The EAC's Grants team continues to work closely with the states regarding these funds and will have ongoing administrative responsibilities related to the funds through the conclusion of the five-year spending timeline. This is but one example of EAC staff delivering upon large expectations with few resources. Currently, the EAC has just one federal employee staff member and one part-time contract employee charged with administering the grants.

Bolstering the Election System Testing and Certification Process

As states seek to invest these funds in purchasing new voting equipment, election leaders are continuing to turn to the EAC's Testing and Certification Program as a key resource in ensuring the nation's voting systems are tested to confirm the secure and accurate tabulation of ballots. This includes seeking information about how best to craft Requests for Proposals, information on the systems currently certified, and when the EAC will implement the next iteration of the Voluntary Voting System Guidelines, which will be known as VVSG 2.0.

Some Members of Congress have also posed this last question to the EAC, so we are pleased to give you an update. By way of background, the VVSG have historically consisted of Principles, Guidelines and Requirements against which voting systems can be tested to determine if the systems meet required standards. Our goal is to bring technological gains in security and other factors to the voters. Some additional factors examined under these tests include functionality, accessibility, accuracy, and auditability. HAVA mandates that EAC develop and maintain these requirements, as well as test and certify voting systems. These guidelines are voluntary, and states may decide to adopt them entirely or in part.

Last year, the TGDC, as well as the EAC's Board of Advisors and Standards Board, recommended adoption of the proposed VVSG 2.0 Guidelines and Principles. Unfortunately, when one of the Commissioners left the EAC, we lost our quorum and were not able to vote to move the new guidelines forward. That changed earlier this year when the Senate confirmed two new EAC Commissioners. In February, after Commissioner Palmer and Commissioner Hovland were confirmed, our first official act was to unanimously vote to publish the VVSG 2.0 Principles and Guidelines in the Federal Register for a 90-day public comment period. At that time, we also announced our intention to hold public hearings to gather feedback on the proposed principles and guidelines. Our first public hearing took place on April 10 in Memphis, and we held our second public meeting in Salt Lake City on April 23. Next week, we plan to hold our third hearing at our office in Silver Spring. The public comment period on the VVSG 2.0 Principles and Guidelines concludes later this month on May 29.

The implementation of new testing and certification guidelines will mark a new chapter for the EAC's Testing and Certification Program. It's been a year of change for this particular area of our mission. Earlier this year, the Director of the EAC's Testing and Certification Program retired after 35 years of service with the Federal Government, and last week, we announced that Jerome Lovato has been named our new Director of Testing and Certification. Now that a new leader has been selected for the department, we are actively seeking to fill remaining vacancies on the Testing and Certification team. Nonetheless, election system testing campaigns and other services provided by that department are continuing without interruption. Ideally, with adequate funding, the goal is to restore the department to a team of six Testing and Certification staff. This will ensure timely and thorough consideration of submitted election systems, as well as allow the Commission to provide additional critical infrastructure support to state and local election administrators who are seeking additional training and resources in areas such as election security and post-election audits.

Serving Election Officials' Needs Beyond Security

As we look ahead to the months leading up to the 2020 Presidential Election, the EAC has developed a robust calendar of planned activities and new resources. For example, next month we will release the 2018 Election Administration and Voting Survey, better known as EAVS. This biennial report is mandated by HAVA and is the nation's most comprehensive look at election administration. It provides data used across the 50 states, D.C., and in U.S. territories to identify trends, and its findings can be used to improve the way America votes. We are planning a one-day event to present the report's findings, and we look forward to sharing the full report with members of this committee and your colleagues.

The EAC has also established a group of election officials from across the United States who have agreed to work with us to improve resources for disaster preparedness and response. The group met last month in Memphis to detail their own experiences with man-made and natural disasters, how they navigated the challenges posed by these events, and the lessons they learned that could be helpful to other election officials. From forest fires, flooding, and hurricanes to potential threats posed by malicious actors, election officials must have plans in place to quickly regroup and move forward with elections should disaster strike. This group of election officials will help the EAC harness the experience of state and local election leaders to create vehicles for better information sharing among state and federal entities, direct assistance, and other valuable resources.

In addition, the EAC's Commissioners and staff continue to travel to state and local election conferences and meetings across the nation, where we share information about the EAC's broad spectrum of resources and how the Commission supports every facet of election administration. While election security is a topic that is a priority for all of us, election officials have support needs beyond security. To demonstrate this, the EAC has developed a wheel of competencies in which each plank represents a similar level of expertise and effort. The "Election Administrator Competency Wheel" ("Wheel"), which we have attached to this testimony, visualizes ongoing

duties, election preparation work, as well as responsibilities stemming from election night and beyond.

The 20 areas of competency represented on the Wheel are each important and require support from our team. This Wheel represents the fundamental roadmap of issues the EAC should address fully to meet the vision of the Help America Vote Act.

Today, the EAC lacks sufficient funding for the human capital capacity to address all of these areas in depth. In fact, the last time the EAC had a full slate of Commissioners, the Commission had 49 employees. Today, it has only 22, and our budget is 50 percent less than it was in FY2010. Without additional resources, we simply will not be able to provide the breadth of support election officials need and expect from the EAC to ensure secure, accessible, and efficient elections.

The EAC will continue to meet the requirements of HAVA. However, without additional resources, it will be a formidable stretch for our capable, devoted staff members who already work tirelessly to support our nation's election administrators and voters. To optimize our ability to deliver on the plans we have set forth ahead of the 2020 President Election, and if we have sufficient funding in the coming fiscal year, we hope to hire 10 additional staff members in a variety of departments ahead of 2020.

HAVA set forth an ambitious agenda for the EAC, one rooted in protecting the very foundation of our nation's democracy. Despite very real and persistent resource challenges in recent years, the EAC has faithfully fulfilled its obligations and has even expanded the support it provides election administrators and voters.

With the reestablishment of a quorum of Commissioners, the EAC is ready for its next chapter. The Wheel graphic helps illustrate very specifically the work needed. We look forward to working with Congress as we continue our efforts to help America vote. We are happy to answer any questions you may have following today's testimony.