

**MARKUP OF: H.R. 634, ELECTION ASSISTANCE
COMMISSION TERMINATION ACT; H.R. 133, TO
REDUCE FEDERAL SPENDING AND THE DEFICIT
BY TERMINATING TAXPAYER FINANCING OF
PRESIDENTIAL ELECTION CAMPAIGNS; AND
COMMITTEE RESOLUTION 115-4, THE COMMIT-
TEE'S VIEWS AND ESTIMATES ON THE FISCAL
YEAR 2018**

MARKUP
BEFORE THE
**COMMITTEE ON HOUSE
ADMINISTRATION**
HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTEENTH CONGRESS
FIRST SESSION

FEBRUARY 7, 2017

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**MARKUP OF: H.R. 634, ELECTION ASSISTANCE
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TO REDUCE FEDERAL SPENDING AND THE
DEFICIT BY TERMINATING TAXPAYER FI-
NANCING OF PRESIDENTIAL ELECTION
CAMPAIGNS; AND COMMITTEE RESOLUTION
115-4, THE COMMITTEE'S VIEWS AND ESTI-
MATES ON THE FISCAL YEAR 2018**

TUESDAY, FEBRUARY 7, 2017

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The Committee met, pursuant to call, at 11:55 a.m., in Room 1310, Longworth House Office Building, Hon. Gregg Harper [Chairman of the Committee] presiding.

Present: Representatives Harper, Davis, Comstock, Walker, Smith, Loudermilk, Brady, Lofgren, and Raskin.

Staff Present: Sean Moran, Staff Director; Katie Patru, Deputy Staff Director for Outreach and Communications; Kim Betz, Senior Advisor; Cole Felder, Counsel; C. Maggie Moore, Legislative Clerk; Erin McCracken, Communications Director; Rob Taggart, Deputy Legislative Clerk/Oversight; Alex Attebery, Staff Assistant; Jamie Fleet, Minority Staff Director; Matt Pinkus, Minority Senior Policy Advisor; Khalil Abboud, Minority Chief Counsel; Eddie Flaherty, Minority Chief Clerk; and Meredith Connor, Minority Staff Assistant.

The CHAIRMAN. I now call to order the Committee on House Administration for today's Committee meeting. A quorum is present so we may proceed. The meeting record will remain open for 5 legislative days so that Members may submit any materials that they wish to be included therein.

There are three items that we have on our docket today. First, H.R. 634, eliminating the Election Assistance Commission; second, H.R. 133, eliminating the Presidential Election Campaign Fund; and, finally, Committee Resolution 115-4, the Committee's Views and Estimates on the Fiscal Year 2018.

Our first measure, H.R. 634, ends the Election Assistance Commission. H.R. 634 transfers the Election Assistance Commission's few remaining functions to the Federal Election Commission. It is my firm belief that the EAC has outlived its usefulness and purpose. When first created after the 2000 election, the EAC was es-

established to distribute money to States to upgrade voting machines and make improvements to election processes. Early on, the EAC distributed more than \$3.1 billion to States for these purposes. However, over the last several years, the EAC has yet to receive additional funding. Notwithstanding the lack of resources, the temporary agency remains. Most of its functions have come to a close, and those remaining are easily transferable to the Federal Election Commission. Almost all of its mandated reports have been issued. The EAC's testing and certification program for voting machines is, for the most part, unused. For the past several years, the EAC has had so little substantive responsibility that it has spent more than half its budget on overhead expenses. It is time for the EAC to be officially ended.

The next measure we will consider is H.R. 133, which eliminates the Presidential Election Campaign Fund altogether. In the 113th Congress, I introduced the Gabriella Miller Kids First Research Act. This important bill, which was later enacted, redirected millions of dollars in taxpayer money away from political parties' national conventions and put it toward enhancing pediatric research based upon collaboration. Today, we will consider H.R. 133, introduced by Representative Tom Cole, which eliminates the Presidential Election Campaign Fund altogether and uses it to return funds to supplement the 10-year Pediatric Research Initiative Fund to fight childhood diseases and reduce the Federal deficit.

In 2008, Barack Obama became the first candidate to reject the use of this funding for the general election, opting instead to use privately raised funds. Since then, no major primary candidate nor party Presidential nominee has accepted general election grants. It is clear that this fund is antiquated and no longer in step, with taxpayers making their own decisions to support a candidate. These funds can and should be used for a greater purpose.

The last item before us is Committee Resolution 115-4, the Committee's Views and Estimates of the Fiscal Year 2018. The Congressional Budget Act of 1974 requires Congressional committees to submit to the Committee on the Budget their views and estimates of Federal programs that will have a significant budgetary impact. The Committee will continue its work to conduct oversight and identify future potential savings at the Federal Election Commission. One way to reduce the budget needs of the FEC is to eliminate the Presidential Election Campaign Fund, which will be accomplished by one of the measures before us today.

Lastly, the Committee supports the House's work of coordinating cybersecurity practices and policies across the legislative branch. As an institution, we must work to be in step with today's technology and work hard to protect data that we rely on each and every day.

I would now like to recognize my colleague and the Committee's Ranking Member, Mr. Brady, for the purpose of providing an opening statement.

Mr. Brady.

Mr. BRADY. Thank you, Mr. Chairman.

Mr. Chairman, despite its important mission, this is the latest of many repeated attempts to abolish the Election Assistance Commission. I have opposed these efforts in the past, and I oppose

them again today. The EAC is the only Federal agency charged with making elections more fair, accurate, accessible, and efficient. Election administrators across the country faced extraordinary challenges during the 2016 election when hackers tried to access voter registration database in more than 20 States. And the United States Senate Select Intelligence Committee recently launched a bipartisan investigation into foreign interference in the Presidential election. The EAC provided key support to States and municipalities facing these unprecedented difficulties, and they will continue to do so as they prepare for the next election. This is a time when we should be focusing on strengthening the only Federal agency charged with making elections work for all Americans, not trying to eliminate it. And I will also have an amendment to do just that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Brady.

I would now ask if any other Member of the Committee wishes to be recognized for the purpose of providing an opening statement. First, on the Republican side?

Democratic side?

Mr. RASKIN. If I might. Thank you, Mr. Chairman.

You know, most democratic countries on Earth have a Federal election commission, a national election commission, that oversees the integrity and the honesty of the vote count and deals with all of the manifold problems that present themselves in an election system. We have just the Federal Election Commission which is focused just on campaign finance and whose dysfunction is infamous. The Election Assistance Commission was an attempt to bring some modernization and focus to our electoral process. And so, you know, I would prefer if we went in the other direction and we doubled down on it and we really tried to deal with the repeated assaults on people's voting rights and the lack of uniformity and the chaos that often afflicts our elections.

So, with that, I guess I will just say I am very open to listening to the critique of the Election Assistance Commission, and maybe there are things that we can do to reform it, to bolster it, to make it more effective. But I think that simply disbanding it at this point sends completely the wrong message about our commitment to integrity and uniformity in our elections.

And I yield back. Thank you, Mr. Chair.

The CHAIRMAN. Thank you, Mr. Raskin.

Any other Members wish to be heard?

I would now call up and lay before the Committee H.R. 634, a bill to eliminate the Election Assistance Commission.

Without objection, the first reading is dispensed with, and the bill is considered read and open for amendment.

[The bill follows:]



115TH CONGRESS
1ST SESSION

H. R. 634

To terminate the Election Assistance Commission.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2017

Mr. HARPER introduced the following bill; which was referred to the
Committee on House Administration

A BILL

To terminate the Election Assistance Commission.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Election Assistance
5 Commission Termination Act”.

6 **SEC. 2. TERMINATION OF ELECTION ASSISTANCE COMMIS-** 7 **SION.**

8 (a) TERMINATION.—The Help America Vote Act of
9 2002 (52 U.S.C. 20901 et seq.) is amended by adding at
10 the end the following new title:

1 **“TITLE X—TERMINATION OF**
2 **COMMISSION**

3 **“SEC. 1001. TERMINATION.**

4 “Effective on the Commission termination date, the
5 Commission (including the Election Assistance Commis-
6 sion Standards Board and the Election Assistance Com-
7 mission Board of Advisors under part 2 of subtitle A of
8 title II) is terminated and may not carry out any programs
9 or activities.

10 **“SEC. 1002. OFFICE OF MANAGEMENT AND BUDGET TO**
11 **PERFORM TRANSITION FUNCTIONS.**

12 “Except as provided in section 1004, the Director of
13 the Office of Management and Budget shall, effective
14 upon the Commission termination date—

15 “(1) perform the functions of the Commission
16 with respect to contracts and agreements described
17 in subsection 1003(a) until the expiration of such
18 contracts and agreements, but shall not renew any
19 such contract or agreement; and

20 “(2) take the necessary steps to wind up the af-
21 fairs of the Commission.

22 **“SEC. 1003. SAVINGS PROVISIONS.**

23 “(a) **PRIOR CONTRACTS.**—The termination of the
24 Commission under this title shall not affect any contract
25 that has been entered into by the Commission before the

1 Commission termination date. All such contracts shall
2 continue in effect until modified, superseded, terminated,
3 set aside, or revoked in accordance with law by an author-
4 ized Federal official, a court of competent jurisdiction, or
5 operation of law.

6 “(b) OBLIGATIONS OF RECIPIENTS OF PAYMENTS.—

7 “(1) IN GENERAL.—The termination of the
8 Commission under this title shall not affect the au-
9 thority of any recipient of a payment made by the
10 Commission under this Act prior to the Commission
11 termination date to use any portion of the payment
12 that remains unobligated as of the Commission ter-
13 mination date, and the terms and conditions that
14 applied to the use of the payment at the time the
15 payment was made shall continue to apply.

16 “(2) SPECIAL RULE FOR STATES RECEIVING
17 REQUIREMENTS PAYMENTS.—In the case of a re-
18 quirements payment made to a State under part 1
19 of subtitle D of title II, the terms and conditions ap-
20 plicable to the use of the payment for purposes of
21 the State’s obligations under this subsection (as well
22 as any obligations in effect prior to the termination
23 of the Commission under this subtitle), and for pur-
24 poses of any applicable requirements imposed by
25 regulations promulgated by the Director of the Of-

1 fice of Management and Budget, shall be the general
2 terms and conditions applicable under Federal law,
3 rules, and regulations to payments made by the Fed-
4 eral Government to a State, except that to the ex-
5 tent that such general terms and conditions are in-
6 consistent with the terms and conditions that are
7 specified under part 1 of subtitle D of title II or sec-
8 tion 902, the terms and conditions specified under
9 such part and such section shall apply.

10 “(c) PENDING PROCEEDINGS.—

11 “(1) NO EFFECT ON PENDING PROCEEDINGS.—

12 The termination of the Commission under this title
13 shall not affect any proceeding to which the Com-
14 mission is a party that is pending on the Commis-
15 sion termination date, including any suit to which
16 the Commission is a party that is commenced prior
17 to such date, and the Director of the Office of Man-
18 agement and Budget shall be substituted or added
19 as a party to the proceeding.

20 “(2) TREATMENT OF ORDERS.—In the case of
21 a proceeding described in paragraph (1), an order
22 may be issued, an appeal may be taken, judgments
23 may be rendered, and payments may be made as if
24 the Commission had not been terminated. Any such
25 order shall continue in effect until modified, termi-

1 nated, superseded, or revoked by an authorized Fed-
2 eral official, a court of competent jurisdiction, or op-
3 eration of law.

4 “(3) CONSTRUCTION RELATING TO DIS-
5 CONTINUANCE OR MODIFICATION.—Nothing in this
6 subsection shall be deemed to prohibit the dis-
7 continuance or modification of any proceeding de-
8 scribed in paragraph (1) under the same terms and
9 conditions and to the same extent that such pro-
10 ceeding could have been discontinued or modified if
11 the Commission had not been terminated.

12 “(4) REGULATIONS FOR TRANSFER OF PRO-
13 CEEDINGS.—The Director of the Office of Manage-
14 ment and Budget may issue regulations providing
15 for the orderly transfer of proceedings described in
16 paragraph (1).

17 “(d) JUDICIAL REVIEW.—Orders and actions of the
18 Director of the Office of Management and Budget in the
19 exercise of functions of the Commission under section
20 1002 shall be subject to judicial review to the same extent
21 and in the same manner as if such orders and actions had
22 been issued or taken by the Commission. Any require-
23 ments relating to notice, hearings, action upon the record,
24 or administrative review that apply to any function of the

1 Commission shall apply to the exercise of such function
2 by the Director.

3 **“SEC. 1004. RETURN TO FEDERAL ELECTION COMMISSION**
4 **OF AUTHORITY TO CARRY OUT CERTAIN**
5 **FUNCTIONS UNDER NATIONAL VOTER REG-**
6 **ISTRATION ACT OF 1993.**

7 “Effective on the Commission termination date, there
8 are transferred to the Federal Election Commission any
9 functions transferred to the Election Assistance Commis-
10 sion under section 802 (relating to functions described in
11 section 9(a) of the National Voter Registration Act of
12 1993).

13 **“SEC. 1005. COMMISSION TERMINATION DATE.**

14 “The ‘Commission termination date’ is the first date
15 following the expiration of the 60-day period that begins
16 on the date of the enactment of this title.”.

17 (b) **TERMINATION OF TECHNICAL GUIDELINES DE-**
18 **VELOPMENT COMMITTEE.**—Section 221 of such Act (52
19 U.S.C. 20961) is amended by adding at the end the fol-
20 lowing new subsection:

21 “(g) **TERMINATION.**—Effective on the Commission
22 termination date described in section 1005, the Develop-
23 ment Committee is terminated.”.

24 (c) **CLERICAL AMENDMENT.**—The table of contents
25 of such Act is amended by adding at the end the following:

“TITLE X—TERMINATION OF COMMISSION

“Sec. 1001. Termination.

“Sec. 1002. Office of Management and Budget to perform transition functions.

“Sec. 1003. Savings provisions.

“Sec. 1004. Return to Federal Election Commission of authority to carry out certain functions under National Voter Registration Act of 1993.

“Sec. 1005. Commission termination date.”.

1 **SEC. 3. CONFORMING AMENDMENTS RELATING TO RETURN**
 2 **OF CERTAIN AUTHORITY TO FEDERAL ELEC-**
 3 **TION COMMISSION.**

4 (a) FEDERAL ELECTION CAMPAIGN ACT OF 1971.—
 5 Section 311(a) of the Federal Election Campaign Act of
 6 1971 (52 U.S.C. 30111(a)) is amended—

7 (1) by striking “and” at the end of paragraph
 8 (8);

9 (2) by striking the period at the end of para-
 10 graph (9) and inserting a semicolon; and

11 (3) by adding at the end the following new
 12 paragraph:

13 “(10) carry out the duties described in section
 14 9(a) of the National Voter Registration Act of
 15 1993.”.

16 (b) NATIONAL VOTER REGISTRATION ACT OF
 17 1993.—Section 9(a) of the National Voter Registration
 18 Act of 1993 (52 U.S.C. 20508(a)) is amended by striking
 19 “Election Assistance Commission” and inserting “Federal
 20 Election Commission”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall take effect on the Commission termi-

11

8

1 nation date described in section 1005 of the Help America

2 Vote Act of 2002 (as added by section 2(a)).

○

The CHAIRMAN. Would any Member like to make a statement or an amendment?

Mr. Brady.

Mr. BRADY. Yes, Mr. Chairman, I have an amendment in the nature of a substitute.

[The amendment of Mr. Brady follows:]

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 634
OFFERED BY MR. BRADY OF PENNSYLVANIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; FINDINGS.

2 This Act may be cited as the “EAC Reauthorization
3 Act of 2017”.

**4 SEC. 2. REAUTHORIZATION OF ELECTION ASSISTANCE
5 COMMISSION.**

6 Section 210 of the Help America Vote Act of 2002
7 (52 U.S.C. 20930) is amended by striking “for each of
8 the fiscal years 2003 through 2005” and inserting “for
9 each of the fiscal years 2017 through 2022”.

**10 SEC. 3. ASSISTANCE TO STATES FOR SECURITY UPGRADES
11 TO VOTER REGISTRATION LISTS AND PROC-
12 ESSES.**

13 (a) AUTHORIZATION OF FUNDING.—Section 257(a)
14 of the Help America Vote Act of 2002 (52 U.S.C.
15 21007(a)) is amended by adding at the end the following
16 new paragraph:

17 “(5) For fiscal year 2018, such sums as may be
18 necessary for such payments, except that a State

1 may use a requirement payment made with funds
2 authorized under this paragraph solely to upgrade
3 the security of the State's voter registration lists and
4 voter registration processes and to carry out other
5 activities necessary to meet the requirements of sec-
6 tion 303(a)(3) (relating to the technological security
7 of the State's computerized voter registration list).".

8 (b) WAIVER OF 5 PERCENT MATCH REQUIRE-
9 MENT.—Section 253(b)(5) of such Act (52 U.S.C.
10 21003(b)(5)) is amended—

11 (1) in subparagraph (A), by striking "subpara-
12 graph (B)" and inserting "subparagraphs (B) and
13 (C)"; and

14 (2) by adding at the end the following new sub-
15 paragraph:

16 "(C) Subparagraph (A) shall not apply for pur-
17 poses of determining the eligibility of a State to re-
18 ceive a requirements payment appropriated pursuant
19 to the authorization provided under section
20 257(a)(5) of this title for fiscal year 2018.".

21 **SEC. 4. ASSESSMENT OF ADEQUACY OF VOTING SYSTEMS**
22 **AND MACHINES.**

23 (a) ASSESSMENT.—In consultation with the election
24 officials of each State, the Election Assistance Commission
25 shall carry out an assessment of whether the voting sys-

1 tems, including the voting machines, available for use in
 2 the elections for Federal office to be held in 2018 are ade-
 3 quate to meet the demands of such elections.

4 (b) PLAN FOR REPLACEMENT OF OUTDATED AND
 5 INADEQUATE MACHINES.—Not later than December 31,
 6 2017, the Commission shall submit to Congress and the
 7 States a report on the assessment carried out under sub-
 8 section (a), and shall include in the report a plan for re-
 9 placing voting machines which the Commission deter-
 10 mines, on the basis of such assessment, are outdated or
 11 otherwise not capable of meeting the demands of the elec-
 12 tions for Federal office to be held in 2018.

13 (c) DEFINITION.—In this section, the term “State”
 14 has the meaning given such term in section 901 of the
 15 Help America Vote Act of 2002 (52 U.S.C. 21141).

16 **SEC. 5. REQUIRING STATES TO PARTICIPATE IN POST-GEN-**
 17 **ERAL ELECTION SURVEYS.**

18 (a) REQUIREMENT.—Title III of the Help America
 19 Vote Act of 2002 (52 U.S.C. 21081 et seq.) is amended
 20 by inserting after section 303 the following new section:

21 **“SEC. 303A. REQUIRING PARTICIPATION IN POST-GENERAL**
 22 **ELECTION SURVEYS.**

23 “(a) REQUIREMENT.—Each State shall furnish to the
 24 Commission such information as the Commission may re-
 25 quest for purposes of conducting any post-election survey

1 of the States with respect to the administration of a regu-
 2 larly scheduled general election for Federal office.

3 “(b) EFFECTIVE DATE.—This section shall apply
 4 with respect to the regularly scheduled general election for
 5 Federal office held in November 2018 and any succeeding
 6 election.”.

7 (b) CONFORMING AMENDMENT RELATING TO EN-
 8 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)
 9 is amended by striking “and 303” and inserting “303, and
 10 303A”.

11 (c) CLERICAL AMENDMENT.—The table of contents
 12 of such Act is amended by inserting after the item relating
 13 to section 303 the following new item:

“Sec. 303A. Requiring participation in post-general election surveys.”.

14 **SEC. 6. RECOMMENDATIONS TO IMPROVE OPERATIONS OF**
 15 **ELECTION ASSISTANCE COMMISSION.**

16 (a) ASSESSMENT OF INFORMATION TECHNOLOGY
 17 AND CYBERSECURITY.—Not later than December 31,
 18 2017, the Election Assistance Commission shall carry out
 19 an assessment of the security and effectiveness of the
 20 Commission’s information technology systems, including
 21 the cybersecurity of such systems.

22 (b) IMPROVEMENTS TO ADMINISTRATIVE COMPLAINT
 23 PROCEDURES.—

24 (1) REVIEW OF PROCEDURES.—The Election
 25 Assistance Commission shall carry out a review of

1 the effectiveness and efficiency of the State-based
2 administrative complaint procedures established and
3 maintained under section 402 of the Help America
4 Vote Act of 2002 (52 U.S.C. 21112) for the inves-
5 tigation and resolution of allegations of violations of
6 title III of such Act.

7 (2) RECOMMENDATIONS TO STREAMLINE PRO-
8 CEDURES.—Not later than December 31, 2017, the
9 Commission shall submit to Congress a report on
10 the review carried out under paragraph (1), and
11 shall include in the report such recommendations as
12 the Commission considers appropriate to streamline
13 and improve the procedures which are the subject of
14 the review.

Amend the title so as to read: “A bill to amend the
Help America Vote Act of 2002 to reauthorize and im-
prove the operation of the Election Assistance Commis-
sion, to provide funds to States to make security up-
grades to voter registration lists and processes, and for
other purposes.”.



The CHAIRMAN. Okay.

Mr. BRADY. Again, thank you, Mr. Chairman.

The EAC was created by my friend, our Democratic whip, Steny Hoyer. And on a bipartisan basis, after the 2000 election, it has made significant progress toward improving elections administrations across the country over the past 15 years. The EAC provides local and State election officials with best practices information and voting machine certifications and other critical support. Last year, the Commission's Be Ready '16 effort helped more than 8,000 independently operating election jurisdictions in the country prepare for election day. At a time when elections administrations are facing serious difficulties from threats from foreign hackers to outdated and failing voting machines, it is critical that the EAC is equipped with the tools it needs. That is why I urge my colleagues on this Committee to support this amendment to reauthorize the EAC until 2022. The amendment also provides necessary funding for requirements payments to States to be used for the upgrading of security of voter registration process and database and requires the EAC to undertake an assessment of its own cybersecurity and IT systems. These provisions will ensure that most States' Federal elections administrators are in the position to adequately guard against attempted foreign influence in our elections. The EAC needs reformed, not replaced. And my amendment does just that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Brady.

Are there any other Members who wish to be recognized on the offered amendment?

Ms. Lofgren, you are recognized.

Ms. LOFGREN. I just want to speak in favor of Mr. Brady's amendment. You know, thinking back to the creation of the Election Assistance Commission, this wasn't a Democratic plan, and it wasn't a Republican plan. It was a bipartisan effort. Why? Because we all knew that there were problems with the administration of elections, and the election in 2000 was a mess. And rather than just worry about it, we worked together, Democrats and Republicans, to put together this Commission. Now, it is not perfect. And I think Mr. Brady's amendment does some important things to improve it. But to think that in light of the information we have received that databases are being attacked by Russia, that we have potential cyber holes in some of our voting systems, and at a time when some in politics are casting doubt on the integrity of the voting system itself, now is not the time to do away with the only entity at the Federal level that is obliged to try and secure the system itself. If not for an outcome, just for the integrity of the voting system. I think that Mr. Brady's amendment makes important improvements. But the important thing is it wouldn't eliminate the Election Assistance Commission. For the life of me, I really don't understand what the rush is, what the impetus is to eliminate instead of repair and reform this important effort. So I hope that we can support Mr. Brady's amendment and do so on a bipartisan basis as we did when the Commission itself was created.

And, with that, I would yield back.

The CHAIRMAN. Thank you, Ms. Lofgren.

Are there any other Members who wish to be recognized on the offered amendment?

Mr. RASKIN. Mr. Chair.

The CHAIRMAN. Mr. Raskin, you are recognized.

Mr. RASKIN. Mr. Chairman, thank you very much. I add my voice in support of the Ranking Member's amendment in the nature of a substitute. We have just come out of a Presidential election which has been roundly criticized on all sides for various inadequacies and problems that arose. Sixteen intelligence agencies of the United States, our entire intelligence community, issued a report demonstrating, at least to my satisfaction, that there was a deliberate campaign of cyber sabotage, espionage, fake news, and propaganda directed at the Presidential campaign by Vladimir Putin and agents of the Russian Government from Moscow. President Trump himself has said that there were 3 to 4 million fraudulent votes cast. And there have been criticisms in a number of the States of various legal changes that have taken place. Those changes actually took place in the context of the Supreme Court's 5-to-4 ruling in *Shelby County v. Holder*, which removed the heart of the Voting Rights Act by essentially emasculating the pre-clearance requirement, which had been in place for 50 years. So this was first Presidential election in a half century where we did not have the advanced protections of the Voting Rights Act for the pre-clearance of changes taking place at the State level. And so I think it would send a dangerous message to the people of the United States and to the world for us now to essentially abolish the only Federal agency we have tasked with looking at the problems in our election system. And I think that the Ranking Member's idea of reforming the Election Assistance Commission dealing with whatever problems have come up makes a lot more sense than simply scrapping it altogether.

I yield back, thank you.

The CHAIRMAN. Thank you, Mr. Raskin.

Any other Members wishing to be heard on this amendment?

Seeing none, the question is on the amendment offered to H.R. 634.

All those in favor of this amendment, signify by saying aye.

All those opposed, signify by saying nay.

In the opinion of the chair, the nays have it, and the motion is not agreed to.

Any other amendments?

Mr. BRADY. I request a recorded vote.

The CHAIRMAN. A recorded vote has been requested. So the clerk will call the roll.

The CLERK. Mr. Davis.

Mr. DAVIS. Nay.

The CLERK. Mr. Davis votes nay.

Mrs. Comstock.

Mrs. COMSTOCK. Nay.

The CLERK. Mrs. Comstock votes nay.

Mr. Walker.

Mr. WALKER. Nay.

The CLERK. Mr. Walker votes nay.

Mr. Smith.

Mr. SMITH. Nay.
The CLERK. Mr. Smith votes nay.
Mr. Loudermilk.
Mr. LOUDERMILK. Nay.
The CLERK. Mr. Loudermilk votes nay.
Mr. Brady.
Mr. BRADY. Aye.
The CLERK. Mr. Brady votes aye.
Ms. Lofgren.
Ms. LOFGREN. Yes.
The CLERK. Ms. Lofgren votes aye.
Mr. Raskin.
Mr. RASKIN. Aye.
The CLERK. Mr. Raskin votes aye.
Chairman Harper.
The CHAIRMAN. No.
The CLERK. Chairman Harper votes no.
The ayes, three; noes, six.

115th Congress
Committee on House Administration
U.S. House of Representatives

ROLL CALL VOTE

DATE: TUESDAY, FEBRUARY 07, 2017

ROLL CALL NO. 115 - 1

SUBJECT: HR 1634 - Brady Amendment

NAME	RESPONSE TO CALL OF THE ROLL			OFFICE EXTENSION
	AYE	NO	ANSWERED PRESENT	
Mr. Davis		✓		52371
Mrs. Comstock		✓		55136
Mr. Walker		✓		53065
Mr. Smith		✓		56435
Mr. Loudermilk		✓		52931
Mr. Brady	✓			54731
Ms. Lofgren	✓			53072
Mr. Raskin	✓			55341
Mr. Harper		✓		55031

Aye 3 Nay 6

The CHAIRMAN. The nays have it, and the amendment is not agreed to.

Are there any other amendments?

Ms. Lofgren is recognized for the purpose of presenting an amendment.

Ms. LOFGREN. Mr. Chairman, I have an amendment. As I have indicated earlier, I think it is a big mistake to eliminate——

The CHAIRMAN. The amendment is considered as read.

[The amendment of Ms. Lofgren follows:]

AMENDMENT TO H.R. 634
OFFERED BY MS. LOFGREN OF CALIFORNIA

Amend section 1005 of the Help America Vote Act of 2002, as proposed to be added by the bill, to read as follows:

1 **“SEC. 1005. COMMISSION TERMINATION DATE.**

2 “The ‘Commission termination date’ is the later of—

3 “(1) the first date following the expiration of
 4 the 60-day period that begins on the date of the en-
 5 actment of this title; or

6 “(2) the date on which the requirements of sec-
 7 tion 303(a)(3) are met with respect to each State.”.

Insert after section 2 the following (and redesignate the subsequent section accordingly):

8 **SEC. 3. ASSISTANCE TO STATES FOR SECURITY UPGRADES**
 9 **TO VOTER REGISTRATION LISTS AND PROC-**
 10 **ESSES.**

11 (a) **AUTHORIZATION OF FUNDING.**—Section 257(a)
 12 of the Help America Vote Act of 2002 (52 U.S.C.
 13 21007(a)) is amended by adding at the end the following
 14 new paragraph:

1 “(5) For fiscal year 2018, such sums as may be
2 necessary for such payments, except that a State
3 may use a requirement payment made with funds
4 authorized under this paragraph solely to upgrade
5 the security of the State’s voter registration lists and
6 voter registration processes and to carry out other
7 activities necessary to meet the requirements of sec-
8 tion 303(a)(3) (relating to the technological security
9 of the State’s computerized voter registration list).”.

10 (b) WAIVER OF 5 PERCENT MATCH REQUIRE-
11 MENT.—Section 253(b)(5) of such Act (52 U.S.C.
12 21003(b)(5)) is amended—

13 (1) in subparagraph (A), by striking “subpara-
14 graph (B)” and inserting “subparagraphs (B) and
15 (C)”; and

16 (2) by adding at the end the following new sub-
17 paragraph:

18 “(C) Subparagraph (A) shall not apply for pur-
19 poses of determining the eligibility of a State to re-
20 ceive a requirements payment appropriated pursuant
21 to the authorization provided under section
22 257(a)(5) of this title for fiscal year 2018.”.



Ms. LOFGREN. Thank you—to eliminate the Commission itself. But if that is the intent of the majority, it seems that we should not do that at least until the EAC has provided—has completed a very important function, and that is administering the payments to States to allow them to upgrade their State voter registration databases and processes. This is a critical task and particularly in light of the attempted breaches of 20 State voter registration databases last year. The EAC is the only Federal agency tasked with improving election administration. It is in a unique position to provide this important support to the States. And I think that, even if the majority believes the Commission should go away, this task needs to be completed first. You know, we are lucky in California. Our Secretary of State is also an electrical engineer and a computer savvy guy. He has really taken hold of this. But that is variable among the States.

And to think that, although there is no evidence that the actual vote totals were tampered with by foreign aggressors, cyber aggressors, there is evidence of attempts to manipulate the voter registration database. It would be a mistake for us to think that you couldn't affect the outcome of an election in that way. And it could go either way. I mean, you could go and take a profile of individuals who are likely to vote Republican and mess with their registrations. Or, likewise, you could do the same thing to voters who are likely to vote Democrat. You could affect the impact—you could—the outcome of an election by manipulating the database. And so it is really, really important that all of the States have their database security in place. Some are ahead of others.

But the EAC is in a key role to provide that assistance. So let's let them finish that. Even if you don't like—and I don't understand why—you don't like the other activities, it would really be a big, big mistake to eliminate this before that function is accomplished. So that is my amendment. I hope that we can agree to do this.

With that, I would yield back.

The CHAIRMAN. Thank you, Ms. Lofgren.

Are there another other Members who wish to be heard on this amendment?

Mr. Brady, you're recognized for 5 minutes.

Mr. BRADY. Mr. Chairman, I support Ms. Lofgren's amendment. We can't expect our local election officials to be cybersecurity experts, nor should they have to confront foreign governments trying to undermine our elections. This amendment supports them, and I hope that our colleagues will support it. Thank you.

The CHAIRMAN. Thank you, Mr. Brady.

Any other Members wishing to be heard on this?

Mr. RASKIN. Mr. Chair.

The CHAIRMAN. Mr. Raskin, you are recognized for 5 minutes.

Mr. RASKIN. Thank you very much.

I also support this and think it is absolutely essential if we are going to proceed with dissolving the Election Assistance Commission. Again, we all know the election that we just came out of. We know the findings of the intelligence agencies of the United States. We certainly don't want to turn a blind eye to the fact that there was cyber sabotage, cyber espionage, and an attempt to derail the electoral process of the world's first great democracy. And I think

it is a very small concession on the part of the majority simply to say that we should upgrade the security of the States' voter registration lists and voter registration processes before we simply disband the whole process. And I hope that we would all be able to agree on a bipartisan basis that is something we can do.

We have also learned that there continue to be a number of problems bedeviling the voter registration process. And this came out, of course, after the President asserted that there were millions of fraudulent votes cast. And turns out that there are lots of people affiliated with the Trump administration who are multiply registered in different States: Steve Bannon, Tiffany Trump, Sean Spicer, Jared Kushner, Steve Mnuchin. And that is not out of any act of malevolence on their part. It is simply because we are dealing with creaky and obsolescent systems that need to be reformed. And that was the whole genesis behind the Election Assistance Commission in the first place. They obviously have not finished their work in a number of areas. But certainly not in this most critical area. And I do hope that all of us would be able to support Ms. Lofgren's amendment.

I yield back. Thank you.

The CHAIRMAN. Thank you, Mr. Raskin.

The question is now on the amendment offered by Ms. Lofgren to H.R. 634.

All of those in favor of this amendment, signify by saying aye.

All those opposed, signify by saying nay.

In the opinion of the chair—

Ms. LOFGREN. Mr. Chairman, may I have a recorded vote?

The CHAIRMAN [continuing]. And the motion is not agreed to.

Ms. LOFGREN. Could I have a recorded vote, please?

The CHAIRMAN. There has been a recorded vote requested. So the clerk will call the roll.

The CLERK. Mr. Davis.

Mr. DAVIS. No.

The CLERK. Mr. Davis votes no.

Mrs. Comstock.

Mrs. COMSTOCK. No.

The CLERK. Mrs. Comstock votes no.

Mr. Walker.

Mr. WALKER. Nay.

The CLERK. Mr. Walker votes nay.

Mr. Smith.

Mr. SMITH. No.

The CLERK. Mr. Smith votes no.

Mr. Loudermilk.

Mr. LOUDERMILK. Nay.

The CLERK. Mr. Loudermilk votes nay.

Mr. Brady.

Mr. BRADY. Aye.

The CLERK. Mr. Brady votes aye.

Ms. Lofgren.

Ms. LOFGREN. Yes.

The CLERK. Ms. Lofgren votes yes.

Mr. Raskin.

Mr. RASKIN. Aye.

The CLERK. Mr. Raskin votes aye.
Chairman Harper.
The CHAIRMAN. Nay.
The CLERK. Chairman Harper votes nay.
The ayes, three; nays, six.

115th Congress
Committee on House Administration
U.S. House of Representatives

ROLL CALL VOTE

DATE: TUESDAY, FEBRUARY 07, 2017

ROLL CALL NO. 115 - 2

SUBJECT: HR 634 Lofgren Amendment

NAME	RESPONSE TO CALL OF THE ROLL			OFFICE EXTENSION
	AYE	NAY NAY	ANSWERED PRESENT	
Mr. Davis		✓		52371
Mrs. Comstock		✓		55136
Mr. Walker		✓		53065
Mr. Smith		✓		56435
Mr. Loudermilk		✓		52931
Mr. Brady	✓			54731
Ms. Lofgren	✓			53072
Mr. Raskin	✓			55341
Mr. Harper		✓		55031

Aye 3 NAY 6

The CHAIRMAN. The nays have it, and the amendment is not agreed to.

Are there any other amendments?

Seeing none, I move the Committee favorably report H.R. 634. The question is on the motion.

All those in favor, signify by saying aye.

All those opposed, signify by saying nay.

In the opinion of the Chair, the ayes have it, and the motion is agreed to.

A recorded vote has been requested. So the clerk will call the roll.

The CLERK. Mr. Davis.

Mr. DAVIS. Aye.

The CLERK. Mr. Davis votes aye.

Mrs. Comstock.

Mrs. COMSTOCK. Aye.

The CLERK. Mrs. Comstock votes aye.

Mr. Walker.

Mr. WALKER. Aye.

The CLERK. Mr. Walker votes aye.

Mr. Smith.

Mr. SMITH. Aye.

The CLERK. Mr. Smith votes aye.

Mr. Loudermilk.

Mr. LOUDERMILK. Aye.

The CLERK. Mr. Loudermilk votes aye.

Mr. Brady.

Mr. BRADY. No.

The CLERK. Mr. Brady votes no.

Ms. Lofgren.

Ms. LOFGREN. No.

The CLERK. Ms. Lofgren votes no.

Mr. Raskin.

Mr. RASKIN. No.

The CLERK. Mr. Raskin votes no.

Chairman Harper.

The CHAIRMAN. Aye.

The CLERK. Chairman Harper votes aye.

The ayes, six; noes, three.

115th Congress
Committee on House Administration
U.S. House of Representatives

ROLL CALL VOTE

DATE: TUESDAY, FEBRUARY 07, 2017

ROLL CALL No. 115 - 3

SUBJECT: HR 1034

NAME	RESPONSE TO CALL OF THE ROLL			OFFICE EXTENSION
	AYE	NO	ANSWERED PRESENT	
Mr. Davis	✓			52371
Mrs. Comstock	✓			55136
Mr. Walker	✓			53065
Mr. Smith	✓			56435
Mr. Loudermilk	✓			52931
Mr. Brady		✓		54731
Ms. Lofgren		✓		53072
Mr. Raskin		✓		55341
Mr. Harper	✓			55031

Aye 6 No 3

The CHAIRMAN. The ayes have it, and the motion is agreed to. Without objection, the motion to reconsider is laid upon the table. Does any Member wish to submit supplemental or minority views?

Mr. BRADY. Mr. Chairman, I announce that the minority will request 2 additional days provided by the House rules to submit minority views.

Mr. Chairman, I also ask unanimous consent for the letters of support for the EAC be entered into the record.

[The information follows:]

Congress of the United States
Washington, DC 20515

February 7, 2017

Chairman Greg Harper
 House Administration Committee
 Washington, DC 20515

Ranking Member Robert Brady
 House Administration Committee
 Washington, DC 20515

Dear Chairman Harper and Ranking Member Brady:

We write today to express our strong opposition to H.R. 133, Eliminating the Presidential Election Campaign Fund and H.R. 634, Election Assistance Commission Termination Act, which are both due for consideration by your Committee today. We ask that you instead consider pragmatic reforms to update and improve the Presidential public financing system and that you reauthorize the Election Assistance Commission.

Americans of all political stripes are deeply concerned by the state of our democracy. Three-quarters of the American people believe that powerful interests have used campaign and lobbying money to rig the system for themselves and seventy-eight percent agree that both political parties are too beholden to special interests to create any meaningful change.¹ At the same time, the integrity and efficient operation of our election system remain of paramount interest.

Against this backdrop, it is hard to understand why the Republican Majority of the House Administration Committee is moving forward with the mark-up of H.R. 133 and H.R. 634 – two pieces of legislation that will likely further degrade the public's confidence in our democracy, in effect making it harder to vote and easier for big money donors to influence our politics.

H.R. 133, Eliminating the Presidential Election Campaign Fund: H.R. 133 would begin the process of eliminating the Presidential public financing system, which is regarded as one of the most successful campaign finance measures in the history of our country.

For decades, the Presidential public financing system has successfully operated, allowing candidates from both parties to run and win election without having to rely on big money contributions from the wealthy and well-connected.² Candidates using the system are unencumbered by the demands of political fundraising and are instead able to focus on communicating their message to the people. What is more, once elected, Presidents are less at risk of being beholden – or being perceived to be beholden – to big money campaign contributors. The system was so successful that from 1976 to 2004 every Democratic presidential nominee and every Republican presidential nominee used the system to finance their general

¹ Patrick Caddell, et al., *What Happened in Iowa*, HUFFINGTON POST (February 6, 2016), http://www.huffingtonpost.com/patrick-caddell/what-happened-in-iowa_b_9157958.html

² Enacted following the Watergate scandal, the system allows candidates for President who are able to build broad based public support from everyday citizens to access public funds to run their election. *Fact Sheet on the Presidential Public Financing System*, DEMOCRACY 21 (Jan. 21, 2011), <http://www.democracy21.org/archives/whats-n>

election campaigns. Famously, Ronald Reagan is reported to have attended zero fundraisers when using the Presidential public financing system in his 1984 reelection bid.³

Unfortunately, the system has buckled under the weight of the troubling Supreme Court decision in *Citizen United*, which unleashed unlimited outside political spending. This new world has forced candidates to rely exclusively on private campaign contributions from individuals and special interests. Without question, this new wild west of campaign spending has contributed to the public's cynicism about the role of money in our politics.

In the face of this reality, we urge the Committee to reject H.R. 133 and to instead study ways in which the Presidential public financing system can be updated to better account for the political realities of our current campaign finance system. Reforms could include indexing the public resources provided by the system, adopting a more robust match formula and providing participating candidates novel ways to account for the unlimited outside spending, as well as other important reforms. The fact that Congress has to-date failed to update the system is no reason to eliminate the system altogether.

H.R. 634, Election Assistance Commission Termination Act: H.R. 634 would terminate the Election Administration Commission (EAC), a federal body charged with helping state and local election administrators across the country improve the administration of our elections.

With more than 8,000 independently operating election jurisdictions in the United States, promoting the efficient and effective operation of our election system is no small task. Recognizing this challenge, Congress created the EAC following the 2000 election to help state and local election administrators by providing a central clearinghouse for information and promoting the transmission of best practices between jurisdictions. The EAC also plays the critical role of holding voting machine vendors accountable and ensuring certification standards remain high.

Critics of the EAC suggest its mission could be better carried out by the Federal Election Commission (FEC). This is wrongheaded. The FEC is an enforcement agency charged with administering and enforcing federal campaign finance laws. Expanding the FEC's mandate to include the testing and verification of our nation's voting procedures confuses the mission of the FEC and may lead to troubling conflicts of interest. It is also important to note that the FEC has for years been hobbled by its partisan construction. Recognizing this, it seems foolish – or worse, cynical – to layer even more responsibilities on the already strained FEC. Instead, we encourage the reauthorization of the EAC and ask that you reject H.R. 634.

The vast majority of Americans want to improve our institutions of democracy. Eliminating the Presidential public financing system and terminating the Election Administration Commission would represent an enormous step in the wrong direction. For these reasons, we urge your rejection of H.R. 133 and H.R. 634.

Thank you for your attention to these important issues.

³ Josh Israel, *Why Ronald Reagan Didn't Have To Hold A Single Reelection Fundraiser*, THINK PROGRESS (May 3, 2012, 6:30 PM), <http://thinkprogress.org/election/2012/05/03/476210/rnc-attacks-obama-fundraisers> [<http://perma.cc/KF4Z-VFEK>].

Sincerely,

John P. Cole

Aed Denton

Elizabeth E. Tumanga

Jamie Raskin

Conrad A. Culline

Mark

Robert A. Nelson

Frankie Joy

John

Mark

Ann M. Fane Fane

Deborah I. Dinyeo

Katherine Clark

David Price

Jon Schenk

Barbara Lee

Polly to Anne

February 6, 2017

Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

Dear Chairman Harper, Ranking Member Brady, and Members of the Committee on House Administration:

Our group of 38 organizations and individuals write in strong opposition to HR 133, a bill to terminate the Presidential Election Campaign Fund and HR 634, a bill to terminate the Election Assistance Commission. (See below for a list of signers of this letter.)

These two bills could profoundly impact the way we administer and finance national elections.

At stake is the survival of the public financing system for presidential elections and a commission that plays a vitally important role in standardizing and modernizing election administration. In the interest of ensuring a fair, ethical, and accessible system of elections, we urge the committee to reject HR 133 and HR 634.

HR 133

We oppose HR 133 because it vitiates an important check on special interest money by eliminating public financing for presidential campaigns.

The current public financing system does not work because Congress never modernized the system to account for greatly increased costs in the financing of presidential campaigns. The system needs meaningful reform, not repeal, and should be updated to accommodate the new realities of campaign fundraising after the Supreme Court's 5-4 decision in *Citizens United*. Before the introduction of copious amounts of soft money in the 1990s and the *Citizens United* decision, the federal financing of presidential elections worked well to ensure that campaigns were financed by the public, not by special interest groups and bundlers. Almost every major presidential candidate from both political parties used the system for a generation of elections.

While the current system is now in need of extensive reform, wholesale elimination of public funding of elections is not the answer. In 2012, outside groups spent over \$652 million in the presidential race alone,^[1] and campaigns engaged in a fundraising arms race to match the super PACs and dark money groups. This "new normal" means that important issues facing the country take a backseat to keeping up in the spending race. Candidates and campaigns should be focused on issues, not on fundraising.

^[1] Center for Responsive Politics, "2012 Outside Spending, by Race," <http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&disp=R&nty=A&type=A> (last accessed March 3, 2015).

Public financing of campaigns serves another important purpose: eliminating the appearance of corruption in the office of the president. Put in place following the Watergate scandals, public financing sought to reduce the role of money in elections and prevent the appearance or reality of having a president beholden to special interests.

Big money in elections, especially after *Citizens United*, is corrosive to government accountability and representative democracy. Now is the time to upgrade our presidential public financing system to empower small donors. Eliminating the presidential public financing system will ensure that the presidency is in the hands of the nation's wealthiest individuals and special interest groups.

HR 634

We also oppose HR 634, the Election Assistance Commission Termination Act, because it would eliminate a resource that is a critical part of the government's effort to ensure that our elections are fair, efficient, and accessible.

Established in the wake of the widespread election administration failures in the 2000 election, Congress created the Election Assistance Commission (EAC) to address serious problems with our voting systems that can suppress voter participation and turnout, including long lines at polling stations and outdated voter registration procedures. The EAC serves every American voter by conducting research, collecting data, and sharing information among elected officials, the public, and interested organizations. The EAC also oversees the distribution of federal funds that assist states and municipalities with election administration.

In December 2014, after over three years without a single commissioner in place, the Senate unanimously confirmed three new commissioners - two Republicans and one Democrat. Although a single vacancy remains, the EAC now has the quorum it needs to address the backlog of business that built up over the years.

In the two years since the EAC has had a quorum again, it has voted to accredit a new voting system test laboratory after a recommendation by the National Institute of Standards and Technology. The lab will test new voting equipment against the voluntary voting system guidelines, which are themselves in need of attention. The EAC has provided best practices on voting and election administration to countless jurisdictions around the country. It is an invaluable agency that serves a critical function to strengthen our democracy.

The four-year absence of a quorum at the EAC hindered the agency when Americans needed it most. The EAC could not hold public meetings, adopt new policies, or issue advisory opinions. It adopted its most recent voting system guidelines in 2005 – several lifetimes ago when it comes to technology. That's why so many local jurisdictions ran the 2012 election with outdated, broken voting machines and why so many voters waited in line for hours to cast their ballots.

The bipartisan Presidential Commission on Election Administration, co-chaired by the general counsels of the Obama and Romney 2012 campaigns, wrote in their report last year that

“the standard-setting process for new voting machines has broken down ... due to a lack of [EAC] commissioners. ... Without a fully functioning EAC to adopt new standards, many new technologies that might better serve local election administrators are not being brought to the marketplace.”^[2] Now that it has a quorum, the Commission has gotten back to work evaluating and endorsing standards and guidelines that reflect the newest and best methods of election administration.

In light of the many challenges faced by our state and local election administrators and the serious procedural problems that weaken voter access and participation, we believe that this is a time to reaffirm our commitment to voting rights and fair elections by strengthening the EAC and providing it with the staff it requires to function effectively. HR 634 would eliminate an important tool for improving a voting system fraught with problems and should be rejected.

Conclusion

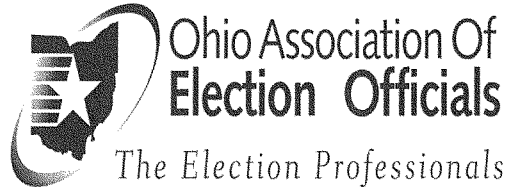
The presidential public financing system and the EAC are important components of an honest and fair election system that suffer from congressional neglect and gridlock, not from any inherent flaw. Instead of eliminating these important democracy reform tools, members of Congress should work to strengthen and expand our public financing system for presidential elections and provide the Election Assistance Commission with the resources it needs to perform its duties. The problems facing our electoral system demand such an effort to improve the integrity and effectiveness of campaign finance laws and election administration.

Signers of the letter include:

African American Ministers in Action (AAMIA)
 American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)
 Asian Americans Advancing Justice (AAJC)
 Asian American Legal Defense and Education Fund (AALDEF)
 Asian and Pacific Islander American Vote (APIA Vote)
 Campaign Legal Center
 Center for American Progress
 Common Cause National Organization and State Organizations
 CREW
 Crescent City Media Group
 CWA - Communications Workers of America
 Demand Progress
 Democracy 21
 Democracy North Carolina
 Demos
 Every Voice
 Fair Elections Legal Network
 Franciscan Action Network

^[2] PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, THE AMERICAN VOTING EXPERIENCE: REPORT AND RECOMMENDATIONS OF THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, p. 11-12 (2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

Georgia Coalition for the People's Agenda
 Issue One
 League of Women Voters
 Maine Citizens for Clean Elections Action
 MAYDAY America
 NAACP
 NAACP – National Voter Fund
 National Council of Jewish Women
 Native American Rights Fund
 Nebraskans for Civic Reform
 Norm Eisen, Former Ambassador, Former chief White House ethics lawyer, 2009-2011
 Norm Orenstein
 Patriotic Millionaires
 People For the American Way
 Public Citizen
 Represent.Us
 Service Employees International Union (SEIU)
 Seth Waxman, Former United States Solicitor General
 Sunlight Foundation
 United Steelworkers (USW)
 U.S. PIRG
 Voter Participation Center
 Voting Rights Institute
 Wisconsin United to Amend
 Women's Voices Women Vote Action Fund



January 6, 2017

The Honorable Gregg Harper
Committee on House Administration
1309 Longworth HOB
Washington, DC 20515

via electronic mail

My name is Aaron Ockerman and I am executive director of the Ohio Association of Election Officials. On behalf of Ohio's 88 bipartisan county boards of elections, I am writing to urge you to fully fund the United States Elections Assistance Commission (EAC). As Ohio's election professionals, we greatly value our partnership with the EAC. I will attempt to succinctly summarize the value they provide to us.

Ohio requires EAC certification for voting systems. Because of this Ohio has partnered with the EAC to create efficiencies and cost savings for the state in our testing process. Additionally, the state benefits from the rigorous standards and testing that the EAC conducts as part of its certification.

The EAC has worked with several Ohio counties to identify and address issues with their voting technology. The best example of this was in Cuyahoga Co. where the EAC, the county board of elections and the voting machine manufacturer's staff worked to identify an issue, develop a solution and get it certified before a critical primary election.

Additionally, the EAC worked with Ohio officials to develop Ohio's e-pollbook certification requirements. These requirements have since been adopted by Ohio and used to certify several e-pollbooks that are now either being used or considered for use by Ohio counties.

EAC research about ballot design and layout has been used across Ohio

to make ballots more usable and understandable for voters. Better ballot design leads to less “over votes” and “under votes” as well as greater confidence that votes will be counted as intended.

Finally, EAC survey data has been used by state and local officials in Ohio to evaluate operations and identify efficiencies and cost savings. Specifically, EAC data regarding provisional ballots has helped to identify areas where improvements can be made to lessen the use of provisional ballots, therefore, saving money while counting more ballots from eligible voters.

Now more than ever, local election officials needs the support of the EAC to be our voice in the nation's capital. Please don't short-circuit this important commission before it is able to refocus its efforts to improve elections around the county. Please vote to fully fund the EAC.

Sincerely,

Aaron Ockerman, Executive Director
Ohio Association of Election Officials

**The Leadership Conference
on Civil and Human Rights**

1620 L Street, NW
Suite 1100
Washington, DC
20036
202 466-3311 voice
202 466-3443 fax
www.civilrights.org



February 7, 2017

Oppose H.R. 634, the "Election Assistance Commission Termination Act"

The Honorable Gregg Harper, Chairman
Committee on House Administration
U.S. House of Representatives
Washington, DC 20515

The Honorable Robert Brady, Ranking Member
Committee on House Administration
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Harper and Ranking Member Brady:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national advocacy organizations, we write to express our opposition to H.R. 634, the "Election Assistance Commission Termination Act." This bill would eliminate one of our nation's most important resources for ensuring fair, efficient, and accessible voting systems and practices. Only three months after an election in which numerous problems and conspiracies have been raised by a range of political interests, some based in fact and some otherwise, it is baffling that the Committee would attempt to shut down an agency that stands as a voice of reason and that has earned the respect of voters and election administrators alike.

The Election Assistance Commission (EAC) was created with bipartisan support following the 2000 election to address widely-recognized problems with our voting systems that created confusion, suppressed voter turnout, and fostered doubt about the fairness of outcomes. These problems included long lines at polling stations, outdated voting technology, and registration practices that prevented lawful voters from being heard. The EAC works in a bipartisan fashion to ensure better elections by conducting research, collecting data, and sharing information among elected officials, the public, and interested organizations. The EAC also oversees the distribution of federal funds that assist states and municipalities with election administration.

For several years, the EAC lacked a quorum because of vacancies among its commissioners, and was unable to perform its work. It had adopted its most recent voting system guidelines in 2005, which was too long ago to keep up with the rapid evolution of voting technology. Following the unanimous Senate confirmation of three commissioners in December 2014, however, a quorum was reestablished and the EAC was able to resume its work. Since then, it has voted to accredit a new voting system test laboratory, following a recommendation by the National Institute of Standards and Technology. The laboratory will test new voting equipment against the voluntary voting system guidelines, which are themselves in need of attention. The EAC has also provided best practices on voting and election administration to countless jurisdictions around the country.

Officers
Chait
Judith L. Lichman
National Partnership for
Women & Families
Vice Chairs
Jacqueline Pata
National Congress of American Indians
Thomas A. Saenz
Mexican American Legal
Defense and Educational Fund
Hilary Shotton
NAACP
Secretary
Jo Ann Jenkins
AARP
Treasurer
Lee A. Saunders
American Federation of State,
County & Municipal Employees
Board of Directors
Helen Berger
American Association of
People with Disabilities
Cornell William Brooks
NAACP
Kristen Clarke
Lawyers' Committee for
Civil Rights Under Law
Lily Eskelsen Garcia
National Education Association
Marcia O. Greenberger
National Women's Law Center
Chad Griffin
Human Rights Campaign
Wesleya Wynn Harris
League of Women Voters of the
United States
Mary Kay Henry
Service Employees International Union
Mark Hopkins
AARP
Sherryll H
NAACP Legal Defense and
Educational Fund, Inc.
Michael B. Keegan
People for the American Way
Samir E. Khader
American-Arab
Anti-Discrimination Committee
Marco Morill
National Urban Leagues
Mera Mous
Asian Americans Advancing Justice |
AAJC
Janet Margolis
National Council of La Raza
Debra Ness
National Partnership for
Women & Families
Terry O'Neill
National Organization for Women
Rabbi Jonah Pesner
Religious Action Center
OF Reform Judaism
Anthony Romero
American Civil Liberties Union
Shanna Smith
National Fair Housing Alliance
Richard L. Trumka
AFL-CIO
Randi Weingarten
American Federation of Teachers
Dennis Williams
International Union, UAW
William Yoshino
Japanese American Citizens League
Policy and Enforcement
Committee Chair
Michael Liberman
Anti-Defamation League
President & CEO
Wade J. Henderson
Executive Vice President & COO
Karen McGill Lawson

February 7, 2017
Page 2 of 2



The EAC is an invaluable agency that serves a critical function in strengthening our democracy. It deserves strong bipartisan support so that it may continue in this role. For this reason, we urge you to reject H.R. 634.

Thank you for your consideration of our views. If we can be of any further assistance, please contact either of us or Rob Randhava, Senior Counsel, at (202) 466-3311.

Sincerely,

Wade Henderson
President & CEO

Nancy Zirkin
Executive Vice President



February 7, 2017

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Mr. Arturo Vargas

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The Honorable Gregg Harper
Chair, Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

The Honorable Robert Brady
Ranking Member, Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

Dear Chair Harper and Ranking Member Brady:

On behalf of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, I write to express our strong opposition to H.R. 634, which would terminate the Election Assistance Commission (EAC). The EAC plays an integral role in ensuring that our nation's elections are conducted in a sound, efficient and accessible manner. The NALEO Educational Fund is the nation's leading non-profit, non-partisan organization that facilitates full Latino participation in the American political process, from citizenship to public service. Our constituency encompasses the more than 6,100 Latino officials serving at all levels of government, and includes Republicans, Democrats, and Independents. The NALEO Educational Fund is dedicated to ensuring that Latinos have an active presence in our democratic process, and to that end, we engage in a broad range of civil rights and election policy development and voter engagement efforts.

The EAC performs critical functions of promoting best practices in election administration and directing programs and services under the Help America Vote Act and the National Voter Registration Act. Throughout the EAC's history, Commissioners have achieved bipartisan cooperation in pursuit of a higher goal that urgently demands our attention at this moment in history: an inclusive and responsive democracy.

For as long as the EAC has been in existence, the NALEO Educational Fund has supported its efforts. In the course of reaching out to and assisting Latino voters with overcoming barriers to casting ballots, we have documented significant confusion and disenfranchisement resulting from inconsistent and inefficient election administration practices across varying jurisdictions. The research-based standards, guidelines and technical assistance promulgated by the EAC are an effective means of guaranteeing equal access to the polls to all qualified voters.

The wide array of successful EAC guidance, such as its Glossary of Key Election Terminology, has standardized the administration of federal elections and has helped foster more equal treatment of voters, regardless of where and when they cast ballots. EAC publications have served as a particularly invaluable resource for jurisdictions which are required by federal or state law to provide language assistance to language

NALEO.ORG 800 NALEO 213.747.7696	LOS ANGELES, CA 1222 W. Washington Blvd., 10th Floor Los Angeles, CA 90015	HOUSTON, TX 1415 K. Loop W. Park, Ste. 1020 Houston, TX 77006	NEW YORK, NY 65 Broad St., Ste. 55 New York, NY 10004	ORLANDO, FL 5950 Lakeview Dr. Orlando, FL 32818	WASHINGTON, D.C. 600 Pennsylvania Ave. SE, Ste. 460 Washington, DC 20003
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The Honorable Gregg Harper and Robert Brady
 February 7, 2017
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minority voters, particularly those jurisdictions which do not have extensive experience with such voters and are just starting to develop their language assistance programs. In June 2016, the EAC convened election officials, voting experts and organizations familiar with the needs of language minority voters to highlight best practices for providing information to American voters who are not yet fully fluent in English. The EAC's work on best practices for language assistance helps jurisdictions save resources and operate elections more efficiently, because citizens can more easily understand and navigate the electoral process.

The EAC's language assistance efforts are particularly critical in light of the fact that pursuant to Census Bureau determinations in December 2016, the number of political subdivisions covered by the Voting Right Act's (VRA) requirements to provide language assistance during the electoral process increased by 15 since the previous determinations were made in October 2011. Many of these subdivisions will need the guidance provided by the EAC as they develop inclusive materials and procedures.

The EAC also serves every American voter by conducting research, collecting data, and sharing information among elected officials, the public, and interested organizations. One of the most important roles of the EAC is to adopt guidelines for voting systems; because of unfilled vacancies on the Commission that prevented it from operating with a quorum, the Commission went ten years, from 2005 until 2015, without publishing updated voting system guidelines. In the absence of the EAC's reliable guidance, local jurisdictions largely were unable to take advantage of significant advances in election technology, which hold the promise of making our elections more accessible to all voters. The EAC's renewed efforts at testing and certifying voting machines are helping jurisdictions address the looming crisis that aging and broken voting infrastructure represents. This work is sorely needed in the coming years: perhaps more than \$1 billion of new election equipment will be needed by 2020, according to an estimate based on the Brennan Center for Justice's interviews with election officials.

The problems encountered by voters in registering to vote and casting ballots also demonstrate that we need the EAC today as much as ever to ensure that elections evolve with our citizens' needs and our technical capacity to meet them. According to the Election 2016 national weekly tracking poll we conducted with Noticias Telemundo, 28% of Latinos registered to vote have experienced very long wait times at polling places, and 18% have experienced challenges with obtaining language assistance during the electoral process. In the Arizona March Presidential primary, Maricopa County significantly reduced polling locations, which resulted in long lines and voter confusion. In the 2016 general election, media reports indicated that citizens encountered long lines and malfunctioning voting equipment at polling sites across the nation.

The sound administration of our nation's election systems is particularly crucial for the Latino community, one of the nation's fastest growing electorates. According to Pew Research Center, Hispanic Trends, the number of Latinos eligible to vote will continue to increase significantly during the next two decades, with Latino youth driving that growth, as 67,000 Latino citizens turn 18 each month. The strong nationally-relevant strategic thinking, vision and coordination provided by the EAC are crucial to ensure the full participation of this emerging electorate in America's political process, and the vitality and responsiveness of our nation's democracy. We urge you to reject H.R. 634, to ensure that

The Honorable Gregg Harper and Robert Brady
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the EAC can continue its important work of standardizing and modernizing election administration to improve access to the franchise for all Americans.

Thank you for your consideration of our views. If you have any questions about this letter, please do not hesitate to contact Rosalind Gold, Senior Director of Policy, Research and Advocacy, at rgold@naleo.org or 213-747-7606.

Sincerely,



Arturo Vargas
Executive Director

cc: Members of the Committee on House Administration
Congressional Hispanic Caucus
Congressional Hispanic Conference



February 6, 2017

Representative Gregg Harper
Chairman
Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

Representative Robert Brady
Ranking Member
Committee on Administration
1309 Longworth House Office Building
Washington, DC 20515

Re: AAPD Opposition The Election Assistance Commission Termination Act of 2017 (EACTA),
H.R. 634

Dear Chairman Harper and Ranking Member Brady:

The American Association of People with Disabilities (AAPD) urges you to oppose H.R.634, the Election Assistance Commission Termination Act of 2017 (EACTA). Voting is a fundamental right and the Election Assistance Commission (EAC) has played an important role since its creation to ensuring that polling places and the voting process are accessible to people with disabilities. The EACTA would hinder this progress toward accessibility of polling places and the voting process by abolishing the EAC.

AAPD is a national disability rights organization that works to improve the lives of people with disabilities by acting as a convener, connector, and catalyst for change, increasing the economic and political power of people with disabilities.

Barriers still remain in the area of accessibility for the polling sites and these barriers do not change during the early voting process. A 2001 GAO report on the 2000 Presidential election found that 84 percent of polling places had impediments to accessibility for people with disabilities.¹ A similar report based on the 2008 Presidential elections found that the situation for people with disabilities had improved, but there were still significant problems – 73 percent of all polling places studied still had impediments to accessibility.² Although 2013 Census data shows that 15.6 million people with disabilities voted in the 2012 presidential election, research

1 U.S. Gov't Accountability Office, GAO-02-107, Voters with Disabilities: Access to Polling Places and Alternative Voting Methods (2001).

2 U.S. Gov't Accountability Office, GAO-09-685, Voters With Disabilities: More Polling Places Had No Potential Impediments Than In 2000, But Challenges Remain (2009)



by Rutgers University shows that the voter turnout rate of people with disabilities was 5.7 percentage points lower than that of people without disabilities.³

There remains much work to be done not only relating to physical accessibility, but also relating to other barriers to voting, such as a lack of voting and registration materials in accessible formats for people with sensory disabilities. In some instances, there have been outright denials of the right to register and vote based on false assumptions about a person's legal capacity to vote.

In the two years since the EAC has had a quorum again, it has voted to accredit a new voting system test laboratory after a recommendation by the National Institute of Standards and Technology. The lab will test new voting equipment against the voluntary voting system guidelines, which are themselves in need of attention. The EAC has provided best practices on voting and election administration to countless jurisdictions around the country. It is an invaluable agency that serves a critical function to strengthen our democracy.

The four-year absence of a quorum at the EAC hindered the agency when Americans needed it most. The EAC could not hold public meetings, adopt new policies, or issue advisory opinions. It adopted its most recent voting system guidelines in 2005 – several lifetimes ago when it comes to technology. That's why so many local jurisdictions ran the 2012 election with outdated, broken voting machines and why so many voters waited in line for hours to cast their ballots.

The bipartisan Presidential Commission on Election Administration, co-chaired by the general counsels of the Obama and Romney 2012 campaigns, wrote in their report last year that "the standard-setting process for new voting machines has broken down ... due to a lack of [EAC] commissioners. ... Without a fully functioning EAC to adopt new standards, many new technologies that might better serve local election administrators are not being brought to the marketplace."⁴

Now that it has a quorum, the Commission has gotten back to work evaluating and endorsing standards and guidelines that reflect the newest and best methods of election administration. As a member of the Consortium of Citizens with Disabilities (CCD) Rights Task Force (RTF), in 2016 CCD RTF worked with coalition partners and the EAC to ensure that some of these meetings were about issues and concerns with voter registration and voting for persons with

³ Lisa Schur, Rutgers University. Disability, Voter Turnout, and Voting Difficulties in the 2012 Elections (2013).

⁴ PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, THE AMERICAN VOTING EXPERIENCE: REPORT AND RECOMMENDATIONS OF THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, p. 11-12 (2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.



disabilities. The meetings were accessible and held both in-person and via the web. The CCD RTF advertised and encouraged members to send their networks and chapters to participate.

In light of the many challenges faced by our state and local election administrators and the serious procedural problems that weaken voter access and participation, we believe that this is a time to reaffirm our commitment to voting rights and fair elections by strengthening the EAC and providing it with the staff it requires to function effectively.

While a national election just passed, there remains a number of state and local elections coming up throughout 2017 and the EAC must continue to do its important work. Rather than abolishing the agency, Congress should strengthen the EAC to ensure that persons with disabilities fully enjoy the right to vote privately and independently.

We ask that you oppose The Election Assistance Commission Termination Act (EACTA), H.R. 634 as it is presented for mark up in the House of Representatives Committee on Administration on Tuesday February, 7, 2017. If you have any questions, please do not hesitate to contact me at (202) 521-4315 or at hberger@aapd.com.

Yours truly,

A handwritten signature in black ink, appearing to read "Helena Berger".

Helena Berger
President & CEO

cc: Rep. Ryan
Rep. McCarthy
Rep. Scalise
Rep. Hoyer
Rep. Pelosi
Rep. Clyburn
Rep. Langevin
Majority Counsel Sensenbrenner
Minority Counsel Abboud

Denver Elections Division
Amber McReynolds, Director
200 W 14th Ave, Ste 100
Denver, CO 80204



Debra Johnson
Denver Clerk & Recorder
Public Trustee



February 6th, 2017

Dear Members of the House Administration Committee and Congress:

I am writing to express my concern about H.R. 634, a bill that would terminate the Election Assistance Commission (EAC). I would like to provide some background information and illustrate the negative consequences that eliminating the EAC would have on election administration in the United States.

The EAC was established in 2002 (after Florida 2000) under the Help America Vote Act (HAVA) with the specific mandate to accredit voting system test laboratories and certify voting equipment, marking the first time the federal government has offered these services to the states.

Colorado has had commissioners from both political parties appointed to the EAC over the years and the current commissioners have served with incredible distinction and have provided authentic leadership in a bi-partisan manner throughout their tenure. The EAC runs the testing and certification program in a transparent manner, releasing voting system test plans and reports for the public to review and posting detailed information about the voluntary voting system guidelines, program policies, and related correspondence. This is critical to ensuring that voting systems are accessible, secure, transparent, and standards are consistent across the country.

Further, the EAC provides election management resources and assistance to state and local election administrators by issuing guidance, advisories, and best practices and this work has become one of their top priorities. Additionally, the EAC is also responsible, under the Help America Vote Act, for collecting information about election administration issues and sharing that information with Congress, election officials and the public. This includes reports commissioned by the EAC, information about EAC research in progress, and additional elections research issued by other organizations. Datasets are also available to download as needed.

The EAC also administers federal funding to improve the administration of elections as authorized by the Help America Vote Act. The commission also manages discretionary, competitive grant programs authorized by HAVA, including the HAVA College Program to recruit college students to serve as poll workers and the HAVA Mock Election Program, which supports activities to educate secondary students in the electoral process.

As you can see, the EAC's work is critical to ensuring that elections across the country are fair, accurate, secure, transparent, efficient, and reliable. As demonstrated in 2016 and prior, election administration is critical to the integrity of our democratic process.

The following is a summary of the potential impacts should the EAC be eliminated:

- Coming off a highly contentious presidential election year in which concerns over the security, accuracy, and integrity of the process were raised, the EAC's work has never been more important. The EAC is in the middle of writing the next set of voting system standards and that work is critical to modernizing the election process. As the voting equipment across the country ages, election officials are desperate for information and best practices on how to maintain that equipment and best practices for procuring new systems.
- During the 2016 election cycle, the EAC served as subject matter experts and the primary point of contact to a number of federal agencies and election officials. This included working with DHS, FBI,

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elections@denvergov.org

DenverVotes.org
DenverClerkandRecorder.org

/DenverElections
/DenverElections #DenverVotes

USPS and HHS on behalf of election officials. For instance, the EAC worked directly with the Department of Homeland Security to educate them on the election process, put them in contact with state and local election officials and ensured cooperation between all parties with limited disruption to those election officials that were focused on administering the election.

- Recently, DHS declared election systems to be a part of the nation's critical infrastructure. Since that time the EAC has been working on behalf of election officials to collect information about what this designation means, how it might be implemented and to express the concerns of election officials to DHS. Moving forward the EAC will continue to push for more clarity on the designation and work to ensure the process serves election officials positively.
- Throughout the 2016 election cycle, the EAC provided best practices and guidance to secure the voting process. This included distributing FBI and DHS information regarding possible threats to the process to state and local officials in all 50 states. Additionally, the EAC produced checklists for securing various election systems and simple steps all officials could take to better secure the process.
- Additionally, the EAC is working on improving the accessibility of the voting process. EAC's grant work in this area has already led to the largest voting system vendors in the country adopting the research and concepts to improve access to the process. In the last four years, the EAC has provided nearly 8 million dollars in grant funding for various academic and elections groups to research technology improvements to better serve voters with disabilities. This work is critical as the average voting age continues to increase and new systems are being purchased by election officials.
- Finally, improving the collection and dissemination of the EAC's election data survey data is critical to election officials moving forward as they look to find efficiencies and cost savings in their operation. The survey data is in the process of being collected right now and will be released in June 2017. With over 1 million data points, the EAC's survey represents the most comprehensive set of election information available.

The EAC is a bi-partisan commission and it is appropriate for this work to remain in an environment that operates across the political spectrum, free from political agenda. I believe this is a critical public interest issue and I strongly encourage you to continue to fund and support the EAC in a meaningful way so that this vitally important work endures and the voting experience across the country continues to improve.

Thank you for your consideration. I am available should any questions arise.

Sincerely,



Amber F. McReynolds
 Director of Elections, City and County of Denver, Colorado
 Email: Amber.McReynolds@denvergov.org
 @AmberMcReynolds



February 6, 2017

Honorable Gregg Harper, Chairman
Honorable Robert Brady, Ranking Member
Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

Re: Opposition to HR 634

Dear Chairman Harper and Ranking Member Brady:

I write on behalf of Project Vote to express our opposition to HR 634, the "Election Assistance Commission Termination Act." Project Vote is a nonpartisan, nonprofit organization dedicated to realizing the promise of American democracy. Our mission is to build an electorate that accurately represents the diversity of America's citizenry, and to ensure that every eligible citizen can register to vote and cast a ballot that counts.

The Election Assistance Commission (EAC), conceived by the bipartisan Help America Vote Act of 2002 (HAVA), provides numerous valuable tools for voters and election officials alike. Eliminating the EAC would result in a deficit of information around election administration and a lack of important elections data used to determine how resources can be spent to improve and modernizes our elections. Among other duties, the EAC develops critical guidance for voting technology, provides various election administration resources to assist local officials in running elections, and serves as a data clearinghouse regarding the conduct of elections. The EAC's assistance to states and research on elections issues are crucial tools in conducting elections and improving their administration in states throughout the country.

One important tool the EAC provides is language resources that can help election officials meet their language assistance obligations under federal law, and make elections more accessible to those citizens who are non-English proficient voters. These resources include a glossary of election terminology in nine languages, and providing the National Mail Voter Registration Form in seven languages. Other important EAC resources include information to assist election officials in serving voters with disabilities and military and overseas voters.

In its clearinghouse capacity, the EAC comprehensively reports and compiles state election administration information, an important function not provided by any other body. Central data collection in a complex and diversified election administration system such as ours is critical to determining potential issues and generally improving election administration.

*Chairman Harper and Ranking Member Brady
February 6, 2017
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At a time when voters in many jurisdictions must spend hours in line waiting to vote, the EAC plays a crucial role in ensuring that elections run as effectively as possible, in keeping with bipartisan HAVA standards. We should invest in election administration, not do away with this important entity. Thank you for your consideration.

Sincerely,

Michael Slater
President
Project Vote



February 6, 2017

Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

Dear Chairman Harper, Ranking Member Brady, and Members of the Committee on House Administration:

The Ranked Choice Voting Resource Center and FairVote write in strong opposition to HR 634, the "Election Assistance Commission Termination Act." This bill would profoundly impact the way we administer local, state, and national elections in the United States, undermining the important standardizing and modernizing roles the EAC plays in election administration and harming the infrastructure of our democracy.

The Ranked Choice Voting Resource Center was developed by former election administrators from North Carolina and Kansas with over 100 years of elections experience who are highly regarded for their knowledge and expertise in the field of election administration. They know that the administration of elections is ever evolving and often in the center of a very bright spotlight of public, political, and media attention. The Election Assistance Commission (EAC) helps election administrators work efficiently even under such intense public scrutiny, ensuring that our elections are fair, efficient, and accessible to all.

Congress, in the wake of the widespread election administration failures in the 2000 election and with the advice of a diverse, bipartisan group representing the Election Center, created the EAC to address serious problems with our voting system, including long lines at polling stations and outdated voter registration procedures, caused by a lack of best practices for election officials and that can suppress voter participation and turnout. The Election Center's committee, made up of election officials from around the nation, ultimately reached a consensus that the creation of an Election Assistance Commission with a primary focus on voting systems technology and election administration was the most promising course to addressing these problems head on.

The EAC now serves election administrators across the country, providing best practices, serving as a clearinghouse of resources for election administrators, and guiding the development of voting equipment for American elections. The EAC serves a critical function in strengthening our democracy by bringing together the best ideas from all parties involved in elections administration: local and state election officials, vendors, security specialists, disability advocates, elected officials, and other parties vital to developing a well-functioning democracy. H.R. 634 either proposes moving many of those responsibilities to agencies without the bandwidth or expertise needed to juggle those new tasks and convene those many stakeholders, or neglects to mention where those responsibilities would now lie.



Throughout the 1990s local administrators had little to no guidance or support in identifying and selecting voting systems for their jurisdictions. With the advent of the EAC and the Voluntary Voting System Guidelines (VVSG), state and local administrators had, for the first time, formal standards and guidelines to rely upon in making the multi-million dollar decisions involved in voting system purchases.

The EAC lacked a quorum of commissioners from 2010 to 2014, a time when Americans needed it most. The EAC could not hold public meetings, adopt new policies, or issue advisory opinions. It adopted its most recent voting system guidelines in 2005 – several lifetimes ago when it comes to technology. For this reason, many local jurisdictions ran the 2012 and 2016 elections with aging, outdated voting machines and many voters waited in line for hours to cast their ballots. To attempt the 2020 election without updated standards and equipment would be courting disaster.

The bipartisan Presidential Commission on Election Administration, co-chaired by the general counsels of the Obama and Romney 2012 campaigns, wrote in their report last year that “the standard-setting process for new voting machines has broken down . . . due to a lack of [EAC] commissioners. . . . Without a fully functioning EAC to adopt new standards, many new technologies that might better serve local election administrators are not being brought to the marketplace.”¹

Now that it has a quorum, the Commission has gotten back to work evaluating and endorsing standards and guidelines that reflect the newest and best methods of election administration. These updated standards and guidelines will greatly enhance the security and accessibility of a new generation of voting systems, and will do so in a way that encourages both innovation and competition in the specialized election machine market. We have seen first hand how the EAC can help voting system vendors innovate by clarifying ranked choice voting standards, which is central to the work both our organizations do. Without that coordination, vendors must make ad hoc changes to their systems to accommodate ranked choice voting, which raises costs and increases barriers to entry. Elimination of the EAC risks losing that progress and coordination, and risks the integrity and efficiency of America’s elections by forcing jurisdictions and voting system vendors to continue to rely on inadequate standards set more than a decade ago.

The EAC has had barely ten years of functional life. As this agency begins to mature in its role, it is poised to truly realize the promise hoped for before its inception. This is a time to reaffirm our commitment to fair elections and effective election administration by strengthening the EAC and providing it with the staff it requires to function effectively. H.R. 634 would eliminate an important tool for improving a voting system fraught with problems and should be rejected.

Instead of eliminating this important democracy reform tool, members of this Committee and both parties in Congress need to work together to provide the Election Assistance Commission with the resources it needs to perform its duties. The problems facing our electoral system demand such an effort to improve the integrity and effectiveness of our election administration.

¹ PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, THE AMERICAN VOTING EXPERIENCE: REPORT AND RECOMMENDATIONS OF THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, p. 11-12 (2014), *available at* <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.



Sincerely,

Gary Bartlett, Project Leader
Ranked Choice Voting Resource Center
info@rankedchoicevoting.org
www.rankedchoicevoting.org

Rob Richie, Executive Director
FairVote
rr@fairvote.org
www.fairvote.org





February 6, 2017

Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

Dear Chairman Harper, Ranking Member Brady, and Members of the Committee on House Administration:

On behalf of Asian Americans Advancing Justice (Advancing Justice), we write in strong opposition to HR 634, the "Election Assistance Commission Termination Act." Advancing Justice is a national affiliation of five leading organizations advocating for the civil and human rights of Asian Americans and other underserved communities to promote a fair and equitable society for all. The affiliation's members are: Advancing Justice - AAJC (Washington, D.C.), Advancing Justice - Asian Law Caucus (San Francisco), Advancing Justice - Los Angeles, Advancing Justice - Atlanta, and Advancing Justice - Chicago. As organizations that are committed to supporting and expanding the civil and voting rights of all Americans, we have devoted substantial resources to the passage of both the National Voter Registration Act and the Help America Vote Act (HAVA). Terminating the Election Assistance Commission (EAC) – a commission that plays a vitally important role in standardizing and modernizing election administration – risks reducing the voting and civil rights of our citizens. In the interest of ensuring a fair, efficient and accessible system of elections, we urge the Committee to reject HR 634.

Congress created the EAC to address serious problems with our voting systems that can suppress voter participation and turnout, including long lines at polling stations and outdated voter registration procedures. The EAC does valuable work to ensure the reliability and trustworthiness of our nation's election systems by conducting research, collecting data, and sharing information among elected officials, the public, and interested organizations. In addition, the Commission develops and fosters the training and organization of our nation's more than 8,000 election administrators. Through its many working committees and the work it does to foster robust dialogue among advocates, manufacturers, and administrators, the Commission is improving the administration of elections. The EAC also oversees the distribution of federal funds that assist states and municipalities with election administration.

In addition to helping ensure our elections are run professionally and efficiently, the EAC also focuses on developing language access tools that can be utilized across the country. These tools help voters with language needs in their efforts to be a part of American society. As mandated by HAVA, the EAC Language Accessibility Program studies and promotes accessibility in voting, registration, polling places, and voting equipment, working in collaboration with election officials, advocacy groups, and research and public policy organizations. The program developed Glossaries of Election Terminology, Voter's Guides to Federal Elections, and the National Mail Voter Registration Form, all of which are available in translated languages. The EAC glossaries are available in six languages: Chinese, Japanese, Korean, Spanish, Tagalog, and Vietnamese. The glossaries contain 1,843 terms and phrases used in the administration of elections in the United States. The EAC's voter's guide is available in eleven languages: Cherokee, Chinese, Dakota, English, Japanese, Korean, Navajo, Spanish, Tagalog, Vietnamese, and Yupik. Designed to help voters successfully navigate the federal elections process, it includes information on voter eligibility, early voting,

the registration and voting process for military and civilians living abroad, and polling place services that make voting more accessible. Finally, the EAC has translated the National Mail Voter Registration form into Chinese, Japanese, Korean, Spanish, Tagalog and Vietnamese. These resources can help election officials provide translated voting materials at a lower cost and can help encourage voluntary assistance by jurisdictions.

Finally, the EAC is an invaluable agency that serves a critical function to strengthen our democracy through its provision of best practices on voting and election administration to countless jurisdictions around the country. For example, in 2016, the EAC co-hosted the “2016 Summit on Language Access in Elections,” held at the University of Maryland at College Park. The full-day convening focused on the importance of language access in the 2016 elections and beyond and featured panelists from across government, advocacy, and academia discussing the language needs and solutions for a growing number of voters. The EAC is uniquely situated to engage these types of discussions that lead to synergy amongst elections officials and community advocates to help create a better election system.

In light of the many challenges faced by our state and local election administrators and the serious procedural problems that weaken voter access and participation, the need for the EAC could not be more critical. We believe that this is a time to reaffirm our commitment to fair, efficient, and secure elections by strengthening the EAC, not eliminating it. We urge you to oppose H.R. 634. Thank you for your consideration of our position. If you have any questions about this letter, please contact Terry Ao Minnis at tminnis@advancingjustice-aaajc.org or 202 296-2300 x127.

Sincerely,

Terry Ao Minnis
Director of Census & Voting Programs
Asian Americans Advancing Justice – AAJC

Jonathan Stein
Staff Attorney and Program Manager, Voting Rights Program
Asian Americans Advancing Justice – Asian Law Caucus

Javeria Jamil
Staff Attorney
Asian Americans Advancing Justice – Atlanta

Andy Kang
Legal Director
Asian Americans Advancing Justice – Chicago

Deanna Kitamura
Project Director, Voting Rights Project
Asian Americans Advancing Justice – Los Angeles



WASHINGTON BUREAU · NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
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February 6, 2017

The Honorable Gregg Harper
 Chairman
 Committee on House Administration
 U.S. House of Representatives
 Washington, DC 20515

The Honorable Robert Brady
 Ranking Minority Member
 Committee on House Administration
 U.S. House of Representatives
 Washington, DC 20515

**RE: NAACP STAUNCH OPPOSITION TO H.R. 634, *THE ELECTION ASSISTANCE
 COMMISSION TERMINATION ACT***

Dear Congressman Harper and Ranking Member Brady:

On behalf of the NAACP, our nation's oldest, largest and most widely-recognized grassroots-based civil rights organization, I am writing to let you know of our strong opposition to the ill-conceived H.R. 634, the *Election Assistance Commission Termination Act* (EAC). This problematic legislation moves us backwards in our attempts to encourage and support eligible Americans in their pursuit of their Constitutional right to vote. The EAC currently helps voters and potential voters by providing vital information on registration and voting sites and procedures as well as local municipalities by providing a national clearinghouse of information on election administration, from voting system testing and certification to data on how Americans voted in recent federal elections.

The EAC is an independent agency created by the *Help America Vote Act of 2002* (HAVA). The *Help America Vote Act* was signed into law in October, 2002, by President George W. Bush and was a response to the myriad of problems that culminated with those issues that plagued the 2000 Presidential election. At the time, the NAACP strongly supported the tenets of this important legislation, including (but not limited to) the creation of the EAC. The *Help America Vote Act* addressed many of the disenfranchising problems which came to light in the 2000 election and moved our Nation closer to the democratic goal of allowing every eligible American to cast an unfettered vote and to be assured that their vote would be counted.

A crucial component of the *Help America Vote Act* was the creation of the EAC. This bipartisan commission was established to act as a clearinghouse of information and as a resource to state and local election officials who want to employ the most current technology and best practices when overseeing elections. The EAC also oversees voting-system testing and certification. Through research, grant-making and the development of voting guidelines, the EAC is helping many groups which had heretofore been disenfranchised gain their Constitutional right to vote,

including racial and ethnic minorities, members of the Armed Services (especially those serving overseas), disabled Americans and senior citizens.

Since its creation the EAC has done an admirable job, especially in light of the fact that it has never been adequately funded and that for more than six months, between May and December of 2014, it was without the leadership of even a single commissioner. With the confirmation by the U.S. Senate on December 16, 2014, of three Commissioners the EAC was again able to address many of the problems which plague our nation's electoral process.

Given the importance to our democracy to protect the rights of all eligible Americans to vote and to be assured that their vote counted, the termination of this crucial agency would be shortsighted, to say the least. Given the allegations of foreign attempts to influence our recent Presidential election, among other challenges with voter suppression and election systems, we need to assure Americans that their electoral process cannot and is not corruptible. We need the guidance, the expertise, the assistance and the assurance of a fully functioning EAC.

Thus, I again urge you to ultimately oppose H.R. 634, and to withdraw it from consideration during the mark-up on Tuesday, February 7, 2017. Thank you in advance for your attention to the position of the NAACP. Should you have any questions or comments, please do not hesitate to contact me at my office at (202) 463-2940.

Sincerely,



Hilary O. Shelton
Director, NAACP Washington Bureau &
Senior Vice President for Policy and Advocacy

cc: Members,
House Administration Committee



www.ncil.org

Kelly Buckland
Executive Director

February 6, 2017

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Doug Toelle
Fairbanks, Alaska

Representative Gregg Harper

Chairman

Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

Representative Robert Brady

Ranking Member

Committee on Administration
1309 Longworth House Office Building
Washington, DC 20515

Re: CCD Rights TF Opposition The Election Assistance Commission Termination Act of 2017 (EACTA), H.R. 634

Dear Chairman Harper and Ranking Member Brady:

The National Council on Independent Living (NCIL) urges you to oppose H.R. 634, the Election Assistance Commission Termination Act of 2017 (EACTA). Voting is a fundamental right and the Election Assistance Commission (EAC) has played an important role since its creation to ensuring that polling places and the voting process are accessible to people with disabilities. The EACTA would hinder this progress toward accessibility of polling places and the voting process by abolishing the EAC.

NCIL represents people with disabilities, Centers for Independent Living (CILs), Statewide Independent Living Councils (SILCs), and other organizations that advocate for the human and civil rights of people with disabilities throughout the country.

Barriers still remain in the area of accessibility for the polling sites and these barriers do not change during the early voting process. A 2001 GAO report on the 2000 Presidential election found that 84 percent of polling places had impediments to accessibility for people with disabilities.¹ A similar report based on the 2008 Presidential elections found that the situation for people with disabilities had improved, but there were still significant problems – 73 percent of all polling places studied still had impediments to accessibility.²

¹ U.S. Gov't Accountability Office, GAO-02-107, Voters with Disabilities: Access to Polling Places and Alternative Voting Methods (2001).

² U.S. Gov't Accountability Office, GAO-09-685, Voters With Disabilities: More Polling Places Had No Potential Impediments Than In 2000. But Challenges Remain (2009).

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Although 2013 Census data shows that 15.6 million people with disabilities voted in the 2012 presidential election, research by Rutgers University shows that the voter turnout rate of people with disabilities was 5.7 percentage points lower than that of people without disabilities.³

There remains much work to be done not only relating to physical accessibility, but also relating to other barriers to voting, such as a lack of voting and registration materials in accessible formats for people with sensory disabilities. In some instances, there have been outright denials of the right to register and vote based on false assumptions about a person's legal capacity to vote.

In the two years since the EAC has had a quorum again, it has voted to accredit a new voting system test laboratory after a recommendation by the National Institute of Standards and Technology. The lab will test new voting equipment against the voluntary voting system guidelines, which are themselves in need of attention. The EAC has provided best practices on voting and election administration to countless jurisdictions around the country. It is an invaluable agency that serves a critical function to strengthen our democracy.

The four-year absence of a quorum at the EAC hindered the agency when Americans needed it most. The EAC could not hold public meetings, adopt new policies, or issue advisory opinions. It adopted its most recent voting system guidelines in 2005 – several lifetimes ago when it comes to technology. That's why so many local jurisdictions ran the 2012 election with outdated, broken voting machines and why so many voters waited in line for hours to cast their ballots.

The bipartisan Presidential Commission on Election Administration, co-chaired by the general counsels of the Obama and Romney 2012 campaigns, wrote in their report last year that “the standard-setting process for new voting machines has broken down ... due to a lack of [EAC] commissioners. ... Without a fully functioning EAC to adopt new standards, many new technologies that might better serve local election administrators are not being brought to the marketplace.”⁴

Now that it has a quorum, the Commission has gotten back to work evaluating and endorsing standards and guidelines that reflect the newest and best methods of election administration. In 2016 NCIL worked with coalition partners and the EAC to ensure that some of these meetings were about issues and concerns with voter registration and voting for persons with disabilities.

³ Lisa Schur, Rutgers University. Disability, Voter Turnout, and Voting Difficulties in the 2012 Elections (2013).

⁴ PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, THE AMERICAN VOTING EXPERIENCE: REPORT AND RECOMMENDATIONS OF THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, p. 11-12 (2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

The meetings were accessible and held both in-person and via the web. NCIL advertised and encouraged members to send their networks and chapters to participate.

In just the past two years, it has voted to accredit a new voting system test laboratory which was recommended by the National Institute of Standards and Technology. The EAC is serving a critical role by leading a process to update voting systems standards that are frighteningly out of date which were developed in 2005 before the existence of smartphones and tablets. The Election Assistance Commission has taken the leadership in the complex process of modernizing and updating these standards. This process is close to completion. Any delay in setting modern voting systems standards could jeopardize the next election. Just last year, after attempts were made to hack into state voter registration databases, the Commission working with the nations database security experts and election officials rapidly developed best security practices and distributed them to states and local jurisdictions.

In light of the many challenges faced by our state and local election administrators and the serious procedural problems that weaken voter access and participation, we believe that this is a time to reaffirm our commitment to voting rights and fair elections by strengthening the EAC and providing it with the staff it requires to function effectively.

While a national election just passed, there remains a number of state and local elections coming up throughout 2017 and the EAC must continue to do its important work. Rather than abolishing the agency, Congress should strengthen the EAC to ensure that persons with disabilities fully enjoy the right to vote privately and independently.

We ask that you oppose The Election Assistance Commission Termination Act (EACTA), H.R. 634 as it is presented for mark up in the House of Representatives Committee on Administration on Tuesday February, 7, 2017. We look forward to an opportunity to speak with you and your staff about our concerns. Please contact Kelly Buckland, Executive Director at kelly@ncil.org or 202-207-0334 ext. 1104 if you have any questions.

Respectfully,



Kelly Buckland
Executive Director

CC: U.S. House of Representatives



February 6, 2017

Representative Gregg Harper
Chairman
Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

Representative Robert Brady
Ranking Member
Committee on Administration
1309 Longworth House Office Building
Washington, DC 20515

Re: Opposition to H.R.634, Election Assistance Commission Termination Act (EACTA)

Dear Chairman Harper and Ranking Member Brady:

The National Disability Rights Network (NDRN) is the non-profit membership organization for the federally mandated Protection and Advocacy (P&A) and Client Assistance Program (CAP) systems for individuals with disabilities. The P&As and CAPs were established by the United States Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. P&As and CAPs are in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Territories (American Samoa, Guam, Northern Mariana Islands, and the US Virgin Islands), and there is a P&A and CAP affiliated with the Native American Consortium which includes the Hopi, Navaho and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. Collectively, the P&A and CAP Network is the largest provider of legally based advocacy services to people with disabilities in the United States.

We write to express our opposition to H.R.634, the Election Assistance Commission Termination Act (EACTA). Voting is a fundamental right and the Election Assistance Commission (EAC) has played an important role since its creation to ensuring that polling places and the voting process are accessible to people with disabilities. The EACTA would hinder this progress toward accessibility of polling places and the voting process by abolishing the EAC.

For over 30 years, the P&A systems have been mandated by Congress to protect and enhance the civil rights of individuals with disabilities of any age and in any setting. One area of focus for the P&A Network is on voting through the Protection and Advocacy for Voting Access Act (PAVA) program which charges P&As with helping to ensure the full participation of individuals with disabilities in the entire electoral process, including registering to vote, casting a ballot, and accessing polling places.

Barriers still remain in the area of accessibility for the polling sites and these barriers do not change during the early voting process. A 2001 GAO report on the 2000 Presidential election found that 84 percent of polling places had impediments to accessibility for people with disabilities.¹ A similar report based on the 2008 Presidential elections found that the situation for people with disabilities had improved, but there were still significant problems – 73 percent of all polling places studied still had impediments to accessibility.² Although 2013 Census data shows that 15.6 million people with disabilities voted in the 2012 presidential election, research by Rutgers University shows that the voter turnout rate of people with disabilities was 5.7 percentage points lower than that of people without disabilities.³

There remains much work to be done not only relating to physical accessibility, but also relating to other barriers to voting, such as a lack of voting and registration materials in accessible formats for people with sensory disabilities. In some instances, there have been outright denials of the right to register and vote based on false assumptions about a person's legal capacity to vote.

In the two years since the EAC has had a quorum again, it has voted to accredit a new voting system test laboratory after a recommendation by the National Institute of Standards and Technology. The lab will test new voting equipment against the voluntary voting system guidelines, which are themselves in need of attention. The EAC has provided best practices on voting and election administration to countless jurisdictions around the country. It is an important agency, which serves a critical function, to strengthen our democracy.

The four-year absence of a quorum at the EAC hindered the agency when Americans needed it most. The EAC could not hold public meetings, adopt new policies, or issue advisory opinions. It adopted its most recent voting system guidelines in 2005 – several lifetimes ago when it comes to technology.

1 U.S. Gov't Accountability Office, GAO-02-107, Voters with Disabilities: Access to Polling Places and Alternative Voting Methods (2001).

2 U.S. Gov't Accountability Office, GAO-09-685, Voters With Disabilities: More Polling Places Had No Potential Impediments Than In 2000, But Challenges Remain (2009)

3 Lisa Schur, Rutgers University. Disability, Voter Turnout, and Voting Difficulties in the 2012 Elections (2013).

The bipartisan Presidential Commission on Election Administration, co-chaired by the general counsels of the Obama and Romney 2012 campaigns, wrote in their report that "the standard-setting process for new voting machines has broken down ... due to a lack of [EAC] commissioners. ... Without a fully functioning EAC to adopt new standards, many new technologies that might better serve local election administrators are not being brought to the marketplace."⁴

Now that it has a quorum, the Commission has gotten back to work evaluating and endorsing standards and guidelines that reflect the newest and best methods of election administration. In 2016 the P&A Network partnered with the EAC to hold accessible public meetings that were both in-person and via the web, where persons with disabilities were able to discuss their concerns, issues and problems with voting registration and casting a ballot. The information provided will assist with future work of the EAC to improve the voting process for this community.

In light of the many challenges faced by our state and local election administrators and the serious procedural problems that weaken voter access and participation, we believe that this is a time to reaffirm our commitment to voting rights and fair elections by strengthening the EAC and providing it with the staff it requires to function effectively.

Abolishing the EAC at this point in time would be a step back for people with disabilities and the goal of full accessibility to the voting process, and prevent people with disabilities from participating in one of the most fundamental civil rights.

Therefore, on behalf of the NDRN and the 57 P&A agencies it represents, I ask that you oppose H.R.634 Election Assistance Commission Termination Act (EACTA) as it is presented for mark up in the House of Representatives Committee on Administration on Tuesday February, 7, 2017. Please contact Dara Baldwin, Senior Public Policy Analyst, at dara.baldwin@ndrn.org or 202-408-9514 ext. 102 with any questions or concerns.

Sincerely,



Curt Decker
Executive Director

⁴ PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, THE AMERICAN VOTING EXPERIENCE: REPORT AND RECOMMENDATIONS OF THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, p. 11-12 (2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

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TWENTY
YEARS

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February 6, 2017

The Honorable Gregg Harper
Chair
House Administration Committee
Washington, DC 20510

The Honorable Robert Brady
Ranking Member
House Administration Committee
Washington DC 20510

Re: Brennan Center Opposition to H.R. 634 (Election Assistance Commission Termination Act) and H.R. 133 (terminating the Presidential Election Campaign Fund)

Dear Chairman Harper and Ranking Member Brady:

On behalf of the Brennan Center for Justice at New York University School of Law, we strongly urge you to reject H.R. 634, the Election Assistance Commission ("EAC") Termination Act, and H.R. 133, which would dissolve the Presidential Election Campaign Fund ("PECF"). H.R. 634 would eliminate the only federal agency charged with improving our voting systems and helping states with other critical functions of election administration. At a time when the vast majority of our country's voting machines are outdated and in need of replacement, and after an election in which international criminals already attempted to hack our state voter registration systems, eliminating the EAC would pose a risky and irresponsible threat to our election infrastructure. H.R. 133 would destroy a presidential public financing system that is one of the few remaining tools to increase the voice of everyday Americans vis-à-vis the rising tide of special interest money that has flooded the political system since the Supreme Court's controversial decision in *Citizens United*.

Do Not Eliminate the Election Assistance Commission

The EAC is the only federal agency which has as its central mission the improvement of election administration, and it undertakes essential activities that no other institution is equipped to address. It sets national standards for new voting machines and systems through its certification program, tracks and corrects problems with those systems through its quality monitoring program, conducts research into election management and improvement, collects and disseminates critical election administration data, provides a clearinghouse of information for local election officials, and promotes accessible voting for Americans with disabilities.

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A functioning EAC is especially important at this time. In 2014, the bipartisan Presidential Commission on Election Administration (“PCEA”) identified an “impending crisis” in voting technology. A 2015 Brennan Center report detailed this crisis.¹ Among that report’s key findings were that the vast majority of voting machines in use today are either perilously close to or exceed their expected lifespans; that policymakers have not been responsive to election officials’ calls for new equipment; and that more problems may arise the longer we delay purchasing new equipment. Those problems include increased machine failures, and security and reliability flaws. When these vulnerabilities are coupled with credible reports that Russian cybercriminals already attempted to access state voter registration systems, insecure voting machines can place our democracy at serious risk, at the very least of a loss of public faith in our elections.

The EAC has a vital role to play in responding to these challenges. The agency sets standards for voting systems on criteria like performance, accessibility and security; and certifies testing laboratories that ensure that equipment actually meet those standards. Forty-seven states rely on the EAC’s standards and testing program in some way.² Now, the agency is developing new standards, which are badly needed so that states can begin purchasing new equipment with the latest security features. And the EAC helps in other ways, including by acting as a clearinghouse for voting system problems and their solutions. Eliminating the EAC would badly damage this work at a moment when it is most necessary.

No other federal agency has the capacity, willingness, or expertise to absorb its responsibilities, and these responsibilities can only be effectively or efficiently performed at the national level.

Given the pending threats to our election systems, and the critical role the EAC plays in responding to those threats, Congress must reject H.R. 634 and resist all efforts to weaken the EAC.

Do Not Eliminate Presidential Public Financing

H.R. 133 would eliminate public financing of presidential elections—an unacceptable response to last year’s election, in which voters made clear they are unhappy with the influence of big money over our politics, and desire a more responsive government. Instead of eliminating the only federal public financing program, Congress should work to modernize the PECF so that it is still a viable program for major party candidates in the age of Super PACs.

For decades, nearly every major party candidate—from Jimmy Carter and John Kerry to Ronald Reagan and George W. Bush—used the presidential public financing system. The program was

¹LAWRENCE NORDEN & CHRISTOPHER FAMIGHETTI, BRENNAN CTR. FOR JUSTICE, AMERICA’S VOTING MACHINES AT RISK (2015), *available at* <https://www.brennancenter.org/publication/americas-voting-machines-risk>.

² Press Release, U.S. ELECTION ASSISTANCE COMM’N, EAC Updates Federal Voting System Guidelines (Mar. 31, 2015), *available at* <http://www.eac.gov/assets/1/Documents/EAC%20Updates%20Federal%20Voting%20System%20Guidelines-NewsRelease-FINAL-3-31-15-website.pdf>

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successful at reducing candidates' reliance on large private contributions and high-dollar fundraisers. Unfortunately, the program has not been modernized in the face of greatly increased costs. In the years since the Supreme Court's 2010 decision in *Citizens United*, spending by outside groups has skyrocketed, totaling well over \$1 billion in the 2012 and 2016 elections.³

Instead of eliminating the Presidential Election Campaign Fund, Congress should respond to voters' frustration with the dominance of large and often secret spending in our elections by amending the system so it gives everyday citizens a chance to increase their voice and influence. There is already a proven method for improving citizen funded campaign finance systems. New York City's public financing program, which provides matching funds for small contributions to candidates who agree to abide by certain restrictions, has proven remarkably resilient in the post-*Citizen United* era. A 2012 report, jointly issued by the Brennan Center and Democracy 21, explains how a similar system could successfully replace the current presidential public financing program.⁴

* * *

Thank you for your attention to this important matter. If you have any questions, or are in need of additional information, please contact us at (646) 292-8310 or nicole.austin-hillery@nyu.edu or wendy.weiser@nyu.edu.

Sincerely,



Wendy Weiser
Director, Democracy Program
Brennan Center for Justice
at NYU School of Law



Nicole Austin-Hillery
Director and Counsel, Washington Office

³ *Outside Spending by Cycle, Excluding Party Committees*, CTR. FOR RESPONSIVE POLITICS, https://www.opensecrets.org/outsidespending/fes_summ.php (last visited Feb. 6, 2017).

⁴ ADAM SKAGGS & FRED WERTHEIMER, BRENNAN CTR. FOR JUSTICE & DEMOCRACY 21, EMPOWERING SMALL DONORS IN FEDERAL ELECTIONS (2012), available at http://www.brennancenter.org/sites/default/files/legacy/publications/Small_donor_report_FINAL.pdf.

The CHAIRMAN. Pursuant to clause 2 of rule 11, that is without objection. Pursuant to clause 2 of rule 11, the member is entitled to 2 additional calendar days to file such views in writing and signed by the member and filed with the clerk of the Committee.

And I will also ask unanimous consent to insert into the record a 2015 resolution from the National Association of Secretaries of State reaffirming resolutions from 2005 and 2010 encouraging Congress not to reauthorize or fund the EAC.

Without objection, that is entered into the record.

[The information follows:]



**Resolution Reaffirming the NASS Position on Funding and Authorization of the U.S.
Election Assistance Commission**

WHEREAS, the National Association of Secretaries of State (NASS), on February 6, 2005, voted to approve a resolution by a substantial majority asking Congress not to reauthorize or fund the U.S. Election Assistance Commission (EAC) after the conclusion of the 2006 federal election, by which date all the states were required to fully implement the mandates of the Help America Vote Act; and

WHEREAS, the 2005 resolution was passed to help prevent the EAC from eventually evolving into a regulatory body, contrary to the spirit of the Help America Vote Act; and

WHEREAS, that action was meant to preserve the state's ability to serve as laboratories of change through successful experiments and innovation in election reform; and

WHEREAS, each resolution passed at a NASS conference sunsets after five years unless reauthorized by a vote of the members; and

WHEREAS, the NASS position on funding and authorization of the U.S. Election Assistance Commission was renewed by the membership on July 20, 2010;

NOW THEREFORE BE IT RESOLVED that the National Association of Secretaries of State, expressing their continued consistent position in 2015, reaffirm their resolution of 2005 and 2010 and encourage Congress not to reauthorize or fund the U.S. Election Assistance Commission.

Adopted the 12th day of July 2015
in Portland, ME

EXPIRES: Summer 2020

On the motion to adopt the Resolution Reaffirming the NASS Position on Funding and Authorization of the U.S. Election Assistance Commission, the following vote was recorded of members voting in favor of the resolution (Y) and those opposed to the resolution (N). The motion passed with 16 voting in favor, and 12 opposed.

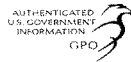
Roll Call Vote:

Hon. John Merrill, AL: Y
 Hon. Mark Martin, AR: Y
 Hon. Alex Padilla, CA: N
 Hon. Wayne Williams, CO: N
 Hon. Denise Merrill, CT: N
 Hon. Brian Kemp, GA (by proxy): Y
 Hon. Connie Lawson, IN: Y
 Hon. Paul Pate, IA: Y
 Hon. Kris Kobach, KS: Y
 Hon. Tom Schedler, LA: Y
 Hon. Matt Dunlap, ME: Y
 Hon. John Wobensmith, MD: Y
 Hon. Steve Simon, MN: N
 Hon. Jason Kander, MO (by proxy): N
 Hon. Linda McCulloch, MT (by proxy): N
 Hon. Barbara Cegavske, NV: Y
 Hon. Bill Gardner, NH: Y
 Hon. Elaine Marshall, NC: N
 Hon. Al Jaeger, ND: Y
 Hon. Jon Husted, OH: Y
 Hon. Jeanne Atkins, OR: N
 Hon. Pedro Cortés, PA: N
 Hon. Nellie Gorbea, RI: N
 Hon. Tre Hargett, TN: Y
 Hon. Carlos Cascos, TX: Y
 Hon. Jim Condos, VT: N
 Hon. Kim Wyman, WA: Y
 Hon. Natalie Tennant, WV: N

The CHAIRMAN. I now call up and lay before the Committee H.R. 133.

Without objection, the first reading is dispensed with, and the bill is considered read and open for amendment.

[The bill follows:]



115TH CONGRESS
1ST SESSION

H. R. 133

To reduce Federal spending and the deficit by terminating taxpayer financing of Presidential election campaigns.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2017

Mr. COLE introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reduce Federal spending and the deficit by terminating taxpayer financing of Presidential election campaigns.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TERMINATION OF TAXPAYER FINANCING OF**
4 **PRESIDENTIAL ELECTION CAMPAIGNS.**

5 (a) **TERMINATION OF DESIGNATION OF INCOME TAX**
6 **PAYMENTS.**—Section 6096 of the Internal Revenue Code
7 of 1986 is amended by adding at the end the following
8 new subsection:

1 “(d) TERMINATION.—This section shall not apply to
2 taxable years beginning after December 31, 2016.”.

3 (b) TERMINATION OF FUND AND ACCOUNT.—

4 (1) TERMINATION OF PRESIDENTIAL ELECTION
5 CAMPAIGN FUND.—

6 (A) IN GENERAL.—Chapter 95 of subtitle
7 H of such Code is amended by adding at the
8 end the following new section:

9 **“SEC. 9014. TERMINATION.**

10 “The provisions of this chapter shall not apply with
11 respect to any Presidential election (or any Presidential
12 nominating convention) after the date of the enactment
13 of this section, or to any candidate in such an election.”.

14 (B) TRANSFER OF REMAINING FUNDS.—

15 Section 9006 of such Code is amended by add-
16 ing at the end the following new subsection:

17 “(d) TRANSFER OF FUNDS REMAINING AFTER TER-
18 MINATION.—Of the amounts in the fund as of the date
19 of the enactment of this subsection—

20 “(1) the Secretary shall transfer \$63,002,400
21 to the 10-Year Pediatric Research Initiative Fund
22 described in section 9008(i)(2), to be available as de-
23 scribed in such section; and

1 “(2) the Secretary shall transfer the remainder
2 to the general fund of the Treasury, to be used only
3 for reducing the deficit.”.

4 (2) TERMINATION OF ACCOUNT.—Chapter 96
5 of subtitle H of such Code is amended by adding at
6 the end the following new section:

7 **“SEC. 9043. TERMINATION.**

8 “The provisions of this chapter shall not apply to any
9 candidate with respect to any Presidential election after
10 the date of the enactment of this section.”.

11 (c) CLERICAL AMENDMENTS.—

12 (1) The table of sections for chapter 95 of sub-
13 title H of such Code is amended by adding at the
14 end the following new item:

“Sec. 9014. Termination.”.

15 (2) The table of sections for chapter 96 of sub-
16 title H of such Code is amended by adding at the
17 end the following new item:

“Sec. 9043. Termination.”.

○

The CHAIRMAN. Would any Member like to make a statement?

Mr. DAVIS. Mr. Chairman.

The CHAIRMAN. I will first recognize the Ranking Member, Mr. Brady, 5 minutes.

Mr. BRADY. Thank you, Mr. Chairman.

Mr. Chairman, public finance has played a role in our Presidential election since 1976 when the PECF was first created in the wake of the Watergate scandal. The PECF allows taxpayers to voluntarily set aside \$3 to contribute to the public financing of our elections. That is what the taxpayers wanted to do with \$3. That was their clear intent.

Over the past 40 years, Presidential candidates on both sides of the aisle have taken advantage of this funding. I know the recent candidates have not used this system, but that means the system needs to be improved, not repealed.

My colleague Representative David Price of North Carolina has worked on this for years, and he has some very good ideas that the Committee should consider. Campaign finance reform is undoubtedly one of the most important and pressing issues we face. Outside groups spent nearly \$1.5 billion to influence the 2016 election. And the rise of anonymous unlimited corporate spending has made it increasingly difficult for individual citizens to have a voice in our elections. This is not the time to terminate the only public financing system at the Federal level, but it is the absolutely right time to make it better.

Thank you, Mr. Chairman.

The CHAIRMAN. Any other Members wish to be heard?

I now recognize Mr. Davis for 5 minutes.

Mr. DAVIS. Thank you, Chairman Harper.

I want to thank you for bringing this important piece of legislation to our attention. As history has shown us, since 2008, participation by the candidates running for President has gone down. And as a matter of fact, every 2016 candidate for President—every major candidate shied away from using public funds, so much so we have a balance of \$317 million sitting in the Presidential Election Campaign Fund.

And, Chairman Harper, your bill would take \$63 million of that and put it toward fighting pediatric cancer. During my tenure as a Member of Congress, I am thrilled this Committee has found a way to better appropriate the resources of the dying Presidential Election Campaign Fund. The rest of the money would go to paying down the national debt. I got to tell you, Chairman Harper, you and I have worked together on these issues. And I was personally touched by the story of one of my constituents, Jonny Wade, a courageous 8-year-old from my district, who passed away tragically this past year from a rare form of brain cancer on Christmas Eve of 2015. I rallied other Members during the State of the Union to wear our Team Jonny bracelets to show support for funding more pediatric cancer research. And I have worked with my colleagues to push more funds through the appropriations process. In 80 percent of children, when cancer is detected, it has already spread to other parts of the body. And unlike many adult cancers that can be diagnosed early, pediatric cancers are more difficult to detect.

New therapies going under clinical trials at the NIH, such as CAR T-cell therapy, where a patient's T-cells are removed and engineered to fight cancer cells, are showing promise. But we need to do more to make sure that these therapies can improve and have a widespread impact to save children like Jonny Wade. And research funding for NIH, including that for the Gabriella Miller Kids First Act, can do just that. I fully support this legislation and urge my colleagues on this Committee to vote yes on H.R. 13e.

The CHAIRMAN. Thank you, Mr. Davis.

Are there any other Members wishing to be heard on H.R. 133, the bill eliminating the Presidential Election Campaign Fund?

Mrs. COMSTOCK. Yes, Mr. Chairman.

The CHAIRMAN. Mrs. Comstock, you are recognized for 5 minutes.

Mrs. COMSTOCK. Thank you, Mr. Chairman. I too appreciate your work that you have done on the Gabriella Miller Act. Mark and Ellyn Miller, Gabriella's parents, do live in my district. And so I appreciate that now that we have a situation where participation in this fund is—because exactly no major candidate of 2016—and that precedent was started in 2008—this is money that is sitting there that could be much better used for this purpose. And I appreciate the start that we made on this. And I think—in the past. And I think this additional money is very much needed and will be very much appreciated on this front. In terms of the outside spending increasing, I think that has really come as a result of campaign finance reform. So however we are going to deal with campaign finance reform—and I think we all have a lot of ideas on how to do that—this fund has died of its own, you know, lack of use. And it would be much better utilized for pediatric cancer. And, in fact, I might like to see more of that \$317 million going toward that, but I could address that at another time. But I appreciate the work done here and support the measure.

The CHAIRMAN. Thank you, Mrs. Comstock.

Any other Members wishing to be heard on this?

Would any Member like to offer an amendment?

Seeing none, without objection, the amendment will be considered as read.

Are there any other Members who wish to be recognized?

Okay. So no amendment. So if not, I move that the Committee favorably report H.R. 133. The question is on the motion.

All those in favor, signify by saying aye.

All those opposed, signify by saying nay.

In the opinion of the chair, the ayes have it, and the motion is agreed to. And—yes.

Mr. BRADY. Mr. Chairman.

The CHAIRMAN. Mr. Brady.

Mr. BRADY. I ask that the minority will request 2 additional days provided by the House rules to submit minority views.

Mr. Chairman, I also ask unanimous consent—

The CHAIRMAN. Mr. Brady, if I may interrupt. There is a request for a recorded vote. I apologize. My apologies.

Okay. So a recorded vote has been requested. So the clerk will call the roll.

The CLERK. Mr. Davis.

Mr. DAVIS. Yes.

The CLERK. Mr. Davis votes yes.
Mrs. Comstock.
Mrs. COMSTOCK. Aye.
The CLERK. Mrs. Comstock votes aye.
Mr. Smith.
Mr. SMITH. Aye.
The CLERK. Mr. Smith votes aye.
Mr. Loudermilk.
Mr. LOUDERMILK. Aye.
The CLERK. Mr. Loudermilk votes aye.
Mr. Brady.
Mr. BRADY. No.
The CLERK. Mr. Brady votes no.
Ms. Lofgren.
Ms. LOFGREN. No.
The CLERK. Ms. Lofgren votes no.
Mr. Raskin.
Mr. RASKIN. No.
The CLERK. Mr. Raskin votes no.
Chairman Harper.
The CHAIRMAN. Aye.
The CLERK. Chairman Harper votes aye.
The ayes, five; noes, three.

115th Congress
Committee on House Administration
U.S. House of Representatives

ROLL CALL VOTE

DATE: TUESDAY, FEBRUARY 07, 2017

ROLL CALL No. 115 - ~~115~~ 4

SUBJECT: HR 133

NAME	RESPONSE TO CALL OF THE ROLL			OFFICE EXTENSION
	AYE	NO	ANSWERED PRESENT	
Mr. Davis	✓			52371
Mrs. Comstock	✓			55136
Mr. Walker				53065
Mr. Smith	✓			56435
Mr. Loudermilk	✓			52931
Mr. Brady		✓		54731
Ms. Lofgren		✓		53072
Mr. Raskin		✓		55341
Mr. Harper	✓			55031

Aye 5 NO 3

The CHAIRMAN. The ayes have it. The motion is agreed to.

Mr. Brady.

Mr. BRADY. Thank you, Mr. Chairman.

I announce that the minority will request 2 additional days provided by the House rules to submit minority views.

Mr. Chairman, I also ask for unanimous consent for the letters of support for PECF to be entered into the record. Thank you.

The CHAIRMAN. Without objection.

[The information follows:]

Congress of the United States
Washington, DC 20515

February 7, 2017

Chairman Greg Harper
House Administration Committee
Washington, DC 20515

Ranking Member Robert Brady
House Administration Committee
Washington, DC 20515

Dear Chairman Harper and Ranking Member Brady:

We write today to express our strong opposition to H.R. 133, Eliminating the Presidential Election Campaign Fund and H.R. 634, Election Assistance Commission Termination Act, which are both due for consideration by your Committee today. We ask that you instead consider pragmatic reforms to update and improve the Presidential public financing system and that you reauthorize the Election Assistance Commission.

Americans of all political stripes are deeply concerned by the state of our democracy. Three-quarters of the American people believe that powerful interests have used campaign and lobbying money to rig the system for themselves and seventy-eight percent agree that both political parties are too beholden to special interests to create any meaningful change.¹ At the same time, the integrity and efficient operation of our election system remain of paramount interest.

Against this backdrop, it is hard to understand why the Republican Majority of the House Administration Committee is moving forward with the mark-up of H.R. 133 and H.R. 634 – two pieces of legislation that will likely further degrade the public's confidence in our democracy, in effect making it harder to vote and easier for big money donors to influence our politics.

H.R. 133, Eliminating the Presidential Election Campaign Fund: H.R. 133 would begin the process of eliminating the Presidential public financing system, which is regarded as one of the most successful campaign finance measures in the history of our country.

For decades, the Presidential public financing system has successfully operated, allowing candidates from both parties to run and win election without having to rely on big money contributions from the wealthy and well-connected.² Candidates using the system are unencumbered by the demands of political fundraising and are instead able to focus on communicating their message to the people. What is more, once elected, Presidents are less at risk of being beholden – or being perceived to be beholden – to big money campaign contributors. The system was so successful that from 1976 to 2004 every Democratic presidential nominee and every Republican presidential nominee used the system to finance their general

¹ Patrick Caddell, et al., *What Happened in Iowa*, HUFFINGTON POST (February 6, 2016), http://www.huffingtonpost.com/patrick-caddell/what-happened-in-iowa_b_9157958.html

² Enacted following the Watergate scandal, the system allows candidates for President who are able to build broad based public support from everyday citizens to access public funds to run their election. *Fact Sheet on the Presidential Public Financing System*, DEMOCRACY 21 (Jan. 21, 2011), <http://www.democracy21.org/archives/whats-n>

election campaigns. Famously, Ronald Reagan is reported to have attended zero fundraisers when using the Presidential public financing system in his 1984 reelection bid.³

Unfortunately, the system has buckled under the weight of the troubling Supreme Court decision in *Citizen United*, which unleashed unlimited outside political spending. This new world has forced candidates to rely exclusively on private campaign contributions from individuals and special interests. Without question, this new wild west of campaign spending has contributed to the public's cynicism about the role of money in our politics.

In the face of this reality, we urge the Committee to reject H.R. 133 and to instead study ways in which the Presidential public financing system can be updated to better account for the political realities of our current campaign finance system. Reforms could include indexing the public resources provided by the system, adopting a more robust match formula and providing participating candidates novel ways to account for the unlimited outside spending, as well as other important reforms. The fact that Congress has to-date failed to update the system is no reason to eliminate the system altogether.

H.R. 634, Election Assistance Commission Termination Act: H.R. 634 would terminate the Election Administration Commission (EAC), a federal body charged with helping state and local election administrators across the country improve the administration of our elections.

With more than 8,000 independently operating election jurisdictions in the United States, promoting the efficient and effective operation of our election system is no small task. Recognizing this challenge, Congress created the EAC following the 2000 election to help state and local election administrators by providing a central clearinghouse for information and promoting the transmission of best practices between jurisdictions. The EAC also plays the critical role of holding voting machine vendors accountable and ensuring certification standards remain high.

Critics of the EAC suggest its mission could be better carried out by the Federal Election Commission (FEC). This is wrongheaded. The FEC is an enforcement agency charged with administering and enforcing federal campaign finance laws. Expanding the FEC's mandate to include the testing and verification of our nation's voting procedures confuses the mission of the FEC and may lead to troubling conflicts of interest. It is also important to note that the FEC has for years been hobbled by its partisan construction. Recognizing this, it seems foolish – or worse, cynical – to layer even more responsibilities on the already strained FEC. Instead, we encourage the reauthorization of the EAC and ask that you reject H.R. 634.

The vast majority of Americans want to improve our institutions of democracy. Eliminating the Presidential public financing system and terminating the Election Administration Commission would represent an enormous step in the wrong direction. For these reasons, we urge your rejection of H.R. 133 and H.R. 634.

Thank you for your attention to these important issues.

³ Josh Israel, *Why Ronald Reagan Didn't Have To Hold A Single Reelection Fundraiser*, THINK PROGRESS (May 3, 2012, 6:30 PM), <http://thinkprogress.org/election/2012/05/03/476210/rnc-attacks-obama-fundraisers> [<http://perma.cc/KF4Z-VFEK>].

Sincerely,

John P. ColeAed DentonElizabeth E. TumangaJamie RaskinConrad A. CullineMarkRobert A. NelsonFrankie JoyJohnMarkAnn M. Fane FaneDeborah I. DinyeoKatherine ClarkDavid PriceJon SchenkBarbara Lee

Polly to Anne

BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

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February 6, 2017

The Honorable Gregg Harper
Chair
House Administration Committee
Washington, DC 20510

The Honorable Robert Brady
Ranking Member
House Administration Committee
Washington DC 20510

Re: Brennan Center Opposition to H.R. 634 (Election Assistance Commission Termination Act) and H.R. 133 (terminating the Presidential Election Campaign Fund)

Dear Chairman Harper and Ranking Member Brady:

On behalf of the Brennan Center for Justice at New York University School of Law, we strongly urge you to reject H.R. 634, the Election Assistance Commission ("EAC") Termination Act, and H.R. 133, which would dissolve the Presidential Election Campaign Fund ("PECF"). H.R. 634 would eliminate the only federal agency charged with improving our voting systems and helping states with other critical functions of election administration. At a time when the vast majority of our country's voting machines are outdated and in need of replacement, and after an election in which international criminals already attempted to hack our state voter registration systems, eliminating the EAC would pose a risky and irresponsible threat to our election infrastructure. H.R. 133 would destroy a presidential public financing system that is one of the few remaining tools to increase the voice of everyday Americans vis-à-vis the rising tide of special interest money that has flooded the political system since the Supreme Court's controversial decision in *Citizens United*.

Do Not Eliminate the Election Assistance Commission

The EAC is the only federal agency which has as its central mission the improvement of election administration, and it undertakes essential activities that no other institution is equipped to address. It sets national standards for new voting machines and systems through its certification program, tracks and corrects problems with those systems through its quality monitoring program, conducts research into election management and improvement, collects and disseminates critical election administration data, provides a clearinghouse of information for local election officials, and promotes accessible voting for Americans with disabilities.

A functioning EAC is especially important at this time. In 2014, the bipartisan Presidential Commission on Election Administration (“PCEA”) identified an “impending crisis” in voting technology. A 2015 Brennan Center report detailed this crisis.¹ Among that report’s key findings were that the vast majority of voting machines in use today are either perilously close to or exceed their expected lifespans; that policymakers have not been responsive to election officials’ calls for new equipment; and that more problems may arise the longer we delay purchasing new equipment. Those problems include increased machine failures, and security and reliability flaws. When these vulnerabilities are coupled with credible reports that Russian cybercriminals already attempted to access state voter registration systems, insecure voting machines can place our democracy at serious risk, at the very least of a loss of public faith in our elections.

The EAC has a vital role to play in responding to these challenges. The agency sets standards for voting systems on criteria like performance, accessibility and security; and certifies testing laboratories that ensure that equipment actually meet those standards. Forty-seven states rely on the EAC’s standards and testing program in some way.² Now, the agency is developing new standards, which are badly needed so that states can begin purchasing new equipment with the latest security features. And the EAC helps in other ways, including by acting as a clearinghouse for voting system problems and their solutions. Eliminating the EAC would badly damage this work at a moment when it is most necessary.

No other federal agency has the capacity, willingness, or expertise to absorb its responsibilities, and these responsibilities can only be effectively or efficiently performed at the national level.

Given the pending threats to our election systems, and the critical role the EAC plays in responding to those threats, Congress must reject H.R. 634 and resist all efforts to weaken the EAC.

Do Not Eliminate Presidential Public Financing

H.R. 133 would eliminate public financing of presidential elections—an unacceptable response to last year’s election, in which voters made clear they are unhappy with the influence of big money over our politics, and desire a more responsive government. Instead of eliminating the only federal public financing program, Congress should work to modernize the PEF so that it is still a viable program for major party candidates in the age of Super PACs.

For decades, nearly every major party candidate—from Jimmy Carter and John Kerry to Ronald Reagan and George W. Bush—used the presidential public financing system. The program was

¹LAWRENCE NORDEN & CHRISTOPHER FAMIGHETTI, BRENNAN CTR. FOR JUSTICE, AMERICA’S VOTING MACHINES AT RISK (2015), available at <https://www.brennancenter.org/publication/americas-voting-machines-risk>.

² Press Release, U.S. ELECTION ASSISTANCE COMM’N, EAC Updates Federal Voting System Guidelines (Mar. 31, 2015), available at <http://www.eac.gov/assets/1/Documents/EAC%20Updates%20Federal%20Voting%20System%20Guidelines-NewsRelease-FINAL-3-31-15-website.pdf>

BRENNAN CENTER FOR JUSTICE

successful at reducing candidates' reliance on large private contributions and high-dollar fundraisers. Unfortunately, the program has not been modernized in the face of greatly increased costs. In the years since the Supreme Court's 2010 decision in *Citizens United*, spending by outside groups has skyrocketed, totaling well over \$1 billion in the 2012 and 2016 elections.³

Instead of eliminating the Presidential Election Campaign Fund, Congress should respond to voters' frustration with the dominance of large and often secret spending in our elections by amending the system so it gives everyday citizens a chance to increase their voice and influence. There is already a proven method for improving citizen funded campaign finance systems. New York City's public financing program, which provides matching funds for small contributions to candidates who agree to abide by certain restrictions, has proven remarkably resilient in the post-*Citizen United* era. A 2012 report, jointly issued by the Brennan Center and Democracy 21, explains how a similar system could successfully replace the current presidential public financing program.⁴

* * *

Thank you for your attention to this important matter. If you have any questions, or are in need of additional information, please contact us at (646) 292-8310 or nicole.austin-hillery@nyu.edu or wendy.weiser@nyu.edu.

Sincerely,



Wendy Weiser
Director, Democracy Program
Brennan Center for Justice
at NYU School of Law



Nicole Austin-Hillery
Director and Counsel, Washington Office

³ *Outside Spending by Cycle, Excluding Party Committees*, CTR. FOR RESPONSIVE POLITICS, https://www.opensecrets.org/outsidespending/fes_summ.php (last visited Feb. 6, 2017).

⁴ ADAM SKAGGS & FRED WERTHEIMER, BRENNAN CTR. FOR JUSTICE & DEMOCRACY 21, EMPOWERING SMALL DONORS IN FEDERAL ELECTIONS (2012), available at http://www.brennancenter.org/sites/default/files/legacy/publications/Small_donor_report_FINAL.pdf.

February 6, 2017

Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

Dear Chairman Harper, Ranking Member Brady, and Members of the Committee on House Administration:

Our group of 38 organizations and individuals write in strong opposition to HR 133, a bill to terminate the Presidential Election Campaign Fund and HR 634, a bill to terminate the Election Assistance Commission. (See below for a list of signers of this letter.)

These two bills could profoundly impact the way we administer and finance national elections.

At stake is the survival of the public financing system for presidential elections and a commission that plays a vitally important role in standardizing and modernizing election administration. In the interest of ensuring a fair, ethical, and accessible system of elections, we urge the committee to reject HR 133 and HR 634.

HR 133

We oppose HR 133 because it vitiates an important check on special interest money by eliminating public financing for presidential campaigns.

The current public financing system does not work because Congress never modernized the system to account for greatly increased costs in the financing of presidential campaigns. The system needs meaningful reform, not repeal, and should be updated to accommodate the new realities of campaign fundraising after the Supreme Court's 5-4 decision in *Citizens United*. Before the introduction of copious amounts of soft money in the 1990s and the *Citizens United* decision, the federal financing of presidential elections worked well to ensure that campaigns were financed by the public, not by special interest groups and bundlers. Almost every major presidential candidate from both political parties used the system for a generation of elections.

While the current system is now in need of extensive reform, wholesale elimination of public funding of elections is not the answer. In 2012, outside groups spent over \$652 million in the presidential race alone,^[1] and campaigns engaged in a fundraising arms race to match the super PACs and dark money groups. This "new normal" means that important issues facing the country take a backseat to keeping up in the spending race. Candidates and campaigns should be focused on issues, not on fundraising.

^[1] Center for Responsive Politics, "2012 Outside Spending, by Race," <http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&disp=R&nty=A&type=A> (last accessed March 3, 2015).

Public financing of campaigns serves another important purpose: eliminating the appearance of corruption in the office of the president. Put in place following the Watergate scandals, public financing sought to reduce the role of money in elections and prevent the appearance or reality of having a president beholden to special interests.

Big money in elections, especially after *Citizens United*, is corrosive to government accountability and representative democracy. Now is the time to upgrade our presidential public financing system to empower small donors. Eliminating the presidential public financing system will ensure that the presidency is in the hands of the nation's wealthiest individuals and special interest groups.

HR 634

We also oppose HR 634, the Election Assistance Commission Termination Act, because it would eliminate a resource that is a critical part of the government's effort to ensure that our elections are fair, efficient, and accessible.

Established in the wake of the widespread election administration failures in the 2000 election, Congress created the Election Assistance Commission (EAC) to address serious problems with our voting systems that can suppress voter participation and turnout, including long lines at polling stations and outdated voter registration procedures. The EAC serves every American voter by conducting research, collecting data, and sharing information among elected officials, the public, and interested organizations. The EAC also oversees the distribution of federal funds that assist states and municipalities with election administration.

In December 2014, after over three years without a single commissioner in place, the Senate unanimously confirmed three new commissioners - two Republicans and one Democrat. Although a single vacancy remains, the EAC now has the quorum it needs to address the backlog of business that built up over the years.

In the two years since the EAC has had a quorum again, it has voted to accredit a new voting system test laboratory after a recommendation by the National Institute of Standards and Technology. The lab will test new voting equipment against the voluntary voting system guidelines, which are themselves in need of attention. The EAC has provided best practices on voting and election administration to countless jurisdictions around the country. It is an invaluable agency that serves a critical function to strengthen our democracy.

The four-year absence of a quorum at the EAC hindered the agency when Americans needed it most. The EAC could not hold public meetings, adopt new policies, or issue advisory opinions. It adopted its most recent voting system guidelines in 2005 – several lifetimes ago when it comes to technology. That's why so many local jurisdictions ran the 2012 election with outdated, broken voting machines and why so many voters waited in line for hours to cast their ballots.

The bipartisan Presidential Commission on Election Administration, co-chaired by the general counsels of the Obama and Romney 2012 campaigns, wrote in their report last year that

“the standard-setting process for new voting machines has broken down ... due to a lack of [EAC] commissioners. ... Without a fully functioning EAC to adopt new standards, many new technologies that might better serve local election administrators are not being brought to the marketplace.”^[2] Now that it has a quorum, the Commission has gotten back to work evaluating and endorsing standards and guidelines that reflect the newest and best methods of election administration.

In light of the many challenges faced by our state and local election administrators and the serious procedural problems that weaken voter access and participation, we believe that this is a time to reaffirm our commitment to voting rights and fair elections by strengthening the EAC and providing it with the staff it requires to function effectively. HR 634 would eliminate an important tool for improving a voting system fraught with problems and should be rejected.

Conclusion

The presidential public financing system and the EAC are important components of an honest and fair election system that suffer from congressional neglect and gridlock, not from any inherent flaw. Instead of eliminating these important democracy reform tools, members of Congress should work to strengthen and expand our public financing system for presidential elections and provide the Election Assistance Commission with the resources it needs to perform its duties. The problems facing our electoral system demand such an effort to improve the integrity and effectiveness of campaign finance laws and election administration.

Signers of the letter include:

African American Ministers in Action (AAMIA)
 American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)
 Asian Americans Advancing Justice (AAJC)
 Asian American Legal Defense and Education Fund (AALDEF)
 Asian and Pacific Islander American Vote (APIA Vote)
 Campaign Legal Center
 Center for American Progress
 Common Cause National Organization and State Organizations
 CREW
 Crescent City Media Group
 CWA - Communications Workers of America
 Demand Progress
 Democracy 21
 Democracy North Carolina
 Demos
 Every Voice
 Fair Elections Legal Network
 Franciscan Action Network

^[2] PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, THE AMERICAN VOTING EXPERIENCE: REPORT AND RECOMMENDATIONS OF THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, p. 11-12 (2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

Georgia Coalition for the People's Agenda
 Issue One
 League of Women Voters
 Maine Citizens for Clean Elections Action
 MAYDAY America
 NAACP
 NAACP – National Voter Fund
 National Council of Jewish Women
 Native American Rights Fund
 Nebraskans for Civic Reform
 Norm Eisen, Former Ambassador, Former chief White House ethics lawyer, 2009-2011
 Norm Orenstein
 Patriotic Millionaires
 People For the American Way
 Public Citizen
 Represent.Us
 Service Employees International Union (SEIU)
 Seth Waxman, Former United States Solicitor General
 Sunlight Foundation
 United Steelworkers (USW)
 U.S. PIRG
 Voter Participation Center
 Voting Rights Institute
 Wisconsin United to Amend
 Women's Voices Women Vote Action Fund

The CHAIRMAN. I now call up and lay before the Committee Committee Resolution 115-4, the Committee's Views and Estimates for Fiscal Year 2018.

Without objection, the first reading is dispensed with and the resolution is considered read and open for amendment.

COMMITTEE ON HOUSE ADMINISTRATION

115TH CONGRESS

COMMITTEE RESOLUTION 115-__

February 07, 2017

Resolution to Approve Committee Views and Estimates

Resolved, pursuant to § 301(d) of the Congressional Budget Act of 1974 and House Rule X, clause 4(f), the Committee adopts the following views and estimates for Fiscal Year 2018:

COMMITTEE ON HOUSE ADMINISTRATION

VIEWS AND ESTIMATES FOR FISCAL YEAR 2018

Federal Election Commission

The Federal Election Commission (FEC) is an independent, bipartisan commission which facilitates transparency in the federal election process through public disclosure of campaign finance data, and encourages compliance with the Federal Election Campaign Act by providing information and policy guidance. The FEC administers and interprets the Federal Election Campaign Act, the Presidential Election Campaign Fund, and the Presidential Primary Matching Payment Account Act. The FEC also enforces these Acts through audits, investigations, and civil litigation.

The FY 17 appropriated amount for the FEC totaled \$76,119,000. This and any increased funding requires appropriate allocation. The Committee will conduct vigorous oversight to identify and realize future potential savings.

Presidential Election Campaign Fund

One means to reduce the budget needs of the FEC is to eliminate the Presidential Election Campaign Fund (PECF). The PECF provides taxpayer financing for presidential campaigns. The PECF receives its funds through a voluntary election on tax returns to have \$3 of the taxpayer's taxes directed to the fund. For primary elections the PECF provides payments to candidates to match private contributions. Candidates who elect to participate are subject to state-by-state spending limits. For general elections the PECF provides a single grant payment to participating candidates, in return for which the candidate agrees not to spend funds from any other source.

The FEC incurs costs to administer the PECF and to audit recipients of PECF funds. These costs could be eliminated if the PECF were eliminated.

The fund is underutilized by candidates. After pledging to participate in the PECF, in 2008 then-Senator Obama declined public financing during the general election. In the 2012 campaign, only three candidates received PECF funds – Buddy Roemer (Americans Elect and the Reform Party), Gary Johnson (Libertarian) and Jill Stein (Green). The total they received was \$1,356,108. Both major party candidates rejected PECF financing in both the primary and general elections. No major party candidate utilized PECF financing in the 2016 campaign.

If candidates did chose to accept PECF funds and the accompanying restrictions, the fund would be undercapitalized because the American public chooses to no longer contribute. Public support for the PECF has declined precipitously since its introduction. The percentage of taxpayers participating dropped from 28.7% in 1980 to approximately 5.4% in 2015, even though participating does not affect tax liability.

In the 112th Congress, the House twice voted to eliminate the Presidential Election Campaign Fund by passing both H.R. 359 and H.R. 3463. In the 113th Congress, the Committee reported H.R. 95, which would eliminate the PECF and would reduce direct spending by approximately \$130 million by 2023. In the 114th Congress, the Committee has reported H.R. 412, which would transfer \$88,202,400 to the 10-Year Pediatric Research Initiative to fight childhood diseases and the remaining amount, roughly \$170 million, to the United States Treasury to pay down the national debt. In the 115th Congress, H.R. 133 has been introduced, which would transfer \$63,002,400 to the 10-Year Pediatric Research Initiative to fight childhood diseases and the remaining amount, roughly \$250 million, to the United States Treasury to pay down the national debt.

Given the scarce resources available and our duty to the American tax payer to set priorities for federal spending, eliminating a needless and underutilized fund while paying down our national debt and directing more money to pediatric illness research is an appropriate and crucial step toward fiscal responsibility.

The Committee does not support continued operation of the PECF and strongly supports the elimination of the PECF.

Election Assistance Commission

The Election Assistance Commission (EAC) is an independent, bipartisan commission which develops guidance to meet Help America Vote Act (HAVA) requirements, adopts voluntary voting system guidelines, and serves as a national clearinghouse of information on election administration. The EAC also establishes voluntary voting system guidelines, certifies voting systems, accredits test laboratories, and audits the use of funds provided the states through election reform grants.

No funding for election reform grants was appropriated in FY 11, FY 12, FY 13, FY 14, FY 15 or FY 16. The FY 16 appropriated amount for the EAC totals \$9,600,000, which includes a transfer of \$1,500,000 to the National Institute of Standards and Technology. The EAC is left with an operating budget of \$8,100,000. Further reductions from the President's budget are warranted.

In the 112th Congress, a majority of the House twice voted to eliminate the EAC, with 235 Members voting in favor of both H.R. 672 and H.R. 3463. A majority of the Committee's members voted in favor of eliminating the EAC on three occasions. In the 113th Congress, the Committee reported H.R. 1994, which would eliminate the EAC. The CBO estimate for H.R. 1994 stated that eliminating the EAC would save taxpayers \$42 million over five years. In the 114th Congress, the Committee reported H.R. 195, which would eliminate the EAC. The CBO estimate for H.R. 195 stated that eliminating the EAC would save taxpayers \$40 million over five years. In that report, the Committee stated that the EAC's "operations and budget show that its mission cannot justify maintaining a federal agency." In the 115th Congress, H.R. 634 has been introduced, which would eliminate the EAC.

The Committee does not support continued funding for the EAC and strongly supports the elimination of the EAC.

Cybersecurity

The Committee supports appropriate funding to support policies that improve cybersecurity within each of the Legislative branch entities and agencies and across the Legislative Branch. The Committee supports the Legislative Branch Cybersecurity Working Group for its work on coordinating cybersecurity practices and policies.

Would any Member like to make a statement?

The CHAIRMAN.

Would any Member like to offer an amendment?

Without objection, if not, no amendments, I move the Committee favorably report Committee Resolution 115-4.

The question is on the motion.

All those in favor, signify by saying aye.

All those opposed, signify by saying nay.

In the opinion of the Chair, the ayes have it, and the motion is agreed to.

Mr. BRADY. Mr. Chairman.

The CHAIRMAN. Yes, sir, Mr. Brady.

Mr. BRADY. I announce that the minority will request 2 additional days provided by the House rules to submit minority views.

The CHAIRMAN. Without objection.

Without objection, the motion is considered laid upon the table.

For all the matters considered here today, I would ask unanimous consent that the staff be authorized to make technical and conforming changes if necessary.

Without objection, so ordered.

That concludes today's markup.

Without objection, the markup is adjourned.

[Whereupon, at 12:29 p.m., the Committee was adjourned.]

