

Elections Policy Overview and the 117th Congress

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The second session of the 117th Congress has continued considering legislation on issues related to campaign finance, elections, and voting. As Congress examines whether or how to address such proposals, a threshold question may be which policy areas the House and Senate want to affect, if any. This CRS Insight provides a brief overview of the campaign finance, election administration, and voting rights policy issues that pending or future legislation could address. It also provides links to selected CRS products that contain additional detail about various policy issues. It does not address constitutional or legal issues, but links to CRS products that do so.

Recent Legislative Activity

The first session of the 117th Congress did not enact major changes to federal election law. In the first session, the House passed three bills related to campaign finance, elections, or voting rights: H.R. 1, the For the People Act; H.R. 4, the John R. Lewis Voting Rights Advancement Act (VRAA); and H.R. 5314, the Protecting Our Democracy Act. In addition, a House-passed appropriations bill (H.R. 4502) contained funding for elections grants to states. Also during the first session, the Senate did not invoke cloture on the motion to proceed to versions of the For the People Act (S. 2093; see also S. 1); the VRAA (S. 4); and another bill, the [Freedom to Vote Act](#) (S. 2747). Early in the second session, on January 13, 2022, the House approved the Freedom to Vote: John R. Lewis Act and sent it to the Senate in the form of an amendment between the houses on an unrelated bill (H.R. 5746). [On January 19, 2022](#), the Senate did not agree to a cloture motion on the text. The legislation combines elements of some of the bills noted above and addresses aspects of campaign finance, election administration, and voting rights. Because policy issues are not necessarily mutually exclusive, how to classify various bills could be a matter of debate.

Votes on elections-related bills that have advanced during the 117th Congress primarily have occurred along party lines, amid disagreements over the extent of policy problems and appropriate federal remedies, if any. Additional activity on bills related to campaign finance, elections, or voting is possible.

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Policy Area Overview

Existing federal statutes, and proposals to amend them, generally fall into three broad areas: campaign finance, election administration, and voting rights. Each addresses unique but potentially related topics. Congress most recently approved substantial amendments to these policy areas between 2002 and 2009. Traditionally, the [federal role in campaigns and elections](#) primarily includes regulating campaign finance, protecting voting rights, and supporting states in election administration. States and localities are responsible for [most aspects](#) of determining voter eligibility and casting and counting ballots.

Campaign Finance

Congress most recently substantially amended campaign finance law in 2002, with the [Bipartisan Campaign Reform Act](#) (BCRA). BCRA amended the [Federal Election Campaign Act](#) (FECA), which currently houses most federal campaign finance statutory provisions. [Federal campaign finance policy](#) is organized around three major themes: (1) prohibitions on contributions or expenditures from certain sources (e.g., foreign nationals); (2) limits on contributions from permissible sources; and (3) disclosure and disclaimer requirements designed to provide identifying information about financial transactions and responsibility for campaign-related communications. FECA also established the [Federal Election Commission](#) (FEC). Supreme Court rulings [have affected](#) several FECA provisions.

Election Administration

States are primarily responsible for election administration and [voter registration](#). The [Help America Vote Act](#) (HAVA) and the [National Voter Registration Act](#) (NVRA) address aspects of both issues. Enacted in 1993, NVRA is noted primarily for requiring states to offer [voter-registration opportunities](#) when eligible citizens apply for drivers licenses and during specified other interactions with state agencies. The act also specifies “[list maintenance](#)” [requirements](#) for updating state voter rolls.

[HAVA](#), enacted in 2002, primarily addresses election administration issues. Among other requirements, HAVA sets minimum standards for voting systems; requires provisional ballots subject to verification; and mandates statewide voter registration databases. The act also [authorized grants](#) for states to upgrade election equipment after the 2000 presidential election and otherwise support election administration. It also established the [Election Assistance Commission](#) (EAC). Congress also has [authorized grants](#) separately to support state and territorial election administration. Most recently, the 116th Congress provided funding to support states and territories responding to developments in [election security](#) and [the COVID pandemic](#).

Voting Rights

Since initial enactment in 1965, Voting Rights Act (VRA) provisions are the primary method by which the federal government affects voting policy nationwide. The VRA contains various provisions that, among others, prohibit discrimination or abridgment in voter registration, ballot access, and redistricting based on race, color, or membership in certain language-minority groups. Historical protections for some jurisdictions, mostly in the South, that fall under a VRA coverage formula [currently are inoperable](#) due to a 2013 [Supreme Court decision](#) (*Shelby County v. Holder*). Other federal statutes address voting protections for [elderly and disabled voters](#), [those in the military and other uniformed services members](#), and [overseas citizens](#).

Selected Other Issues Related to Elections

In addition to the broad policy issues and statutes discussed above, legislation could address issues affecting election processes. At the federal level, [apportionment and redistricting](#) criteria affect allocation

and district boundaries of House seats. Although redistricting is primarily a state responsibility, the process has obvious implications for Members of Congress. [VRA provisions](#) also [can affect](#) redistricting.

Two other process issues affect presidential elections. Congress occasionally considers proposals to alter the [electoral college](#) process [specified in the Constitution](#). Some Members of Congress [reportedly](#) also are considering changes to the [Electoral Count Act](#) (ECA), which addresses the [process](#) of counting electoral votes. As with the other areas discussed above, Congress could approve such changes as “stand-alone” measures or through bills affecting multiple policy issues.

Author Information

R. Sam Garrett
Specialist in American National Government

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