purposes of coordinating and conducting oversight of American Recovery and Reinvestment Act of 2009 funds to prevent fraud, waste, and abuse.

(8) *Disclosure in the Course of Responding to Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

4. On page 30158, 3rd column, under the heading "SYSTEM MANAGER AND ADDRESS", the paragraph is revised to read as follows:

SYSTEM MANAGER AND ADDRESS:

Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of Education, 400 Maryland Avenue, SW., room 8093, PCP building, Washington, DC 20202–1510.

[FR Doc. 2010–16926 Filed 7–9–10; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Publication of State Plan Pursuant to the Help America Vote Act

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: Pursuant to Sections 254(a)(11)(A) and 255(b) of the Help America Vote Act (HAVA), Public Law 107–252, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** changes to the HAVA state plan previously submitted by South Dakota.

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone 202–566–3100 or 1–866–747–1471 (toll-free).

Submit Comments: Any comments regarding the plans published herewith should be made in writing to the chief election official of the individual state at the address listed below.

SUPPLEMENTARY INFORMATION: On March 24, 2004, the U.S. Election Assistance Commission published in the **Federal Register** the original HAVA state plans filed by the fifty states, the District of Columbia and the territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. HAVA anticipated that states, territories and the District of Columbia would change or update their plans from time to time pursuant to HAVA Section 254(a)(11) through (13). HAVA Sections 254(a)(11)(A) and 255 require EAC to publish such updates. This is the fifth revision to the state plan for South Dakota.

The amendments to South Dakota's state plan provide for compliance with the Military and Overseas Voter Empowerment Act (MOVE Act); include additional information regarding the state's utilization of HAVA funds for additional personnel working on HAVA related projects and for requirements of HAVA Section 301(a)(4); and reflect how the state intends to use its FY 2010 Requirements Payments. In accordance with HAVA Section 254(a)(12), all the state plans submitted for publication provide information on how the respective state succeeded in carrying out its previous state plan. South Dakota confirms that its amendments to the state plan were developed and submitted to public comment in accordance with HAVA Sections 254(a)(11), 255, and 256.

Upon the expiration of thirty days from July 12, 2010, the state is eligible to implement the changes addressed in the plan that is published herein, in accordance with HAVA Section 254(a)(11)(C). EAC wishes to acknowledge the effort that went into revising this state plan and encourages further public comment, in writing, to the state election official listed below.

Chief State Election Official

Secretary Chris Nelson, Secretary of State, State Capitol, Suite 204, 500 East Capitol, Pierre, SD 57501–5070, Phone: (605) 773–5003, Fax: (605) 773–6580.

Thank you for your interest in improving the voting process in America.

Dated: July 6, 2010.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

BILLING CODE 6820–KF–C

HAVA State Plan for South Dakota
As required by Public Law 107-252 Section 253(b)
Help America Vote Act of 2002

Chris Nelson
Secretary of State
State Capitol, Suite 204
500 East Capitol
Pierre, SD 57501-5070
(605) 773-5003
hava@state.sd.us

In October of 2002, the 107th Congress passed and President George W. Bush signed into law the Help America Vote Act of 2002 (HAVA). HAVA was designed to strengthen the integrity of elections in America. HAVA created many new requirements for states and counties regarding federal elections -- including mandates for voter registration, provisional voting, accessible voting, and voter education. HAVA also created a new federal agency, the Election Assistance Commission (EAC), to guide the management of federal elections and administer federal funds to states for fulfilling HAVA's Title III requirements.

HAVA requires each state to describe its use of Title II Section 251 payments from the federal government by writing a "state plan." A 17 member HAVA task force developed South Dakota's first state plan in the spring of 2003. The state plan was updated in December of 2004 as HAVA projects matured. Federal elections in 2006 demonstrated the completion of all phases of the state plan.

In March 2007, the Secretary of State certified to the EAC that South Dakota had fulfilled all Title III requirements. The State also notified the EAC that it intended to expand its use of Title II Section 251 funds for other improvements to the administration of federal elections as allowed by HAVA §251(b)(2). The EAC notified the State that it must also revise its state plan to describe such use. The state plan was, therefore, revised in 2007 in a third version.

South Dakota's HAVA state plan was revised in a fourth version in June 2008, which described how the State intended to use the $575,000 payment appropriated to the State by the Omnibus Appropriations Act of 2008.

The South Dakota state plan is hereby revised in a fifth version to meet the requirements of the Military and Overseas Voter Empowerment Act (MOVE). MOVE Section 588(b)(1)(A) requires States to amend their state plans to include, "How the State will comply with the provisions and requirements of the amendments made by the Military and Overseas Voter Empowerment Act." This updated state plan includes additional information regarding the State's utilization of HAVA funds for additional personnel working on HAVA related projects and for meeting the requirements of HAVA Section 301(a)(4). The state plan is also revised to reflect how the State intends to use the $350,000 payment appropriated for the State of South Dakota in the Omnibus Appropriations Act of 2010.

The 13 Required Points of the Help America Vote Act §254(a) and the Requirement of Section 588(b)(1)(A) of the Military and Overseas Voter Empowerment Act

(1) How the State will use the requirements payment to meet the requirements of title III, and, if applicable under section 251(b)(2), to carry out other activities to improve the administration of elections.

(1.1) Programs to educate, provide required information, eliminate overvotes, and provide replacement ballots

Two posters in 48 point font posted in each polling place and instructions posted in each voting booth inform voters when to vote, how to vote, how not to overvote, how to obtain a replacement ballot, how to obtain assistance, the right to a provisional ballot, how to contact an election official if rights are violated, and how to avoid election crimes. Facsimile ballots are available in county auditor offices prior to elections, posted at each polling place, and published in newspapers. Voters can also access their individual sample ballot and polling place information through the Secretary of State's Voter Information Portal (VIP) located on the Secretary of State's website at www.vip.sd.gov. Instructions are printed on all official ballots. AutoMARK ballot marking devices do not mark overvotes. In 2006 the State published full-page newspaper advertisements describing the AutoMARK. For 2010, the Secretary of State's office is working with a Lakota translator to translate public service announcements regarding AutoMARK availability in polling places and voter registration deadline information into the Lakota language. These public service announcements will be sent to Native American radio stations to be aired prior to the Primary and General Elections. The State also educates voters through its website at www.sdsos.gov and provides booklets entitled "General Information on South Dakota Elections." In 2004, the Secretary of State prepared a booklet describing election procedure changes, which was also provided in accessible formats, including 18 point font, Braille, and audio. The Secretary of State also prepares a ballot question pamphlet, made available in alternate formats.

(1.2) Accessible voting device in each polling place

South Dakota counties currently provide the AutoMARK ballot assistant in every polling place for federal elections. The AutoMARK is available for any voter. It assists a broad range of voters in accessing and marking ballots independently and privately. Counties may select other accessible voting devices approved by the State Board of Elections.

HAVA Section 301(a)(4) requires that voting systems used in federal elections, "shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965" (42 U.S.C. § 1548(a)(4). Pursuant to HAVA Section 301(a)(4) an audio translation of the ballot in the Lakota language was integrated on the AutoMARK ballot marking devices in 11 South Dakota counties for the Primary and General elections in 2006 and 2008. The State and counties will continue to provide the audio translation of the ballot in Lakota on the AutoMARK for all federal elections. HAVA Title I and Title II funds will be used to cover the expenses related to this requirement.

(1.3) Provisional voting

South Dakota Senate Bill 13 became law on July 1, 2003, providing for provisional voting. The processing and counting of provisional ballots is described in SDCL 12-20-5.1 and 12-20-13.1 through 12-20-13.4.

(1.4) Computerized statewide voter registration list

Beginning in January 2004, the State has maintained an electronic statewide voter database of every registered voter updated daily. The statewide file links to the state Unified Judicial System for updates on convicted felons and links to the state Department of Health for updates on deceased persons. Each new voter registration is verified by a driver license number or the last four digits of a social security number. Although the statewide file incorporates many processes to remove duplicate or ineligible registrations, the statewide file relies on local county knowledge for verification. The State continues to seek methods to improve the reliability of the list, including cooperative cross checks with other states.

(1.5) Voter registration cards

The South Dakota voter registration form, prescribed in administrative rule 5:02:03:01 as adopted by the State Board of Elections, was amended to include the HAVA required language and check boxes, including: "Are you a citizen of the United States? Will you be 18 years of age on or before Election Day? If you checked 'no' in response to either of these questions, do not complete this form."

(1.6) Other activities to improve the administration of federal elections

The Secretary of State's office has developed several innovative systems to help improve the administration of federal elections in South Dakota. South Dakota was one of the first states in the country to develop a computerized link to transmit voter registration data between driver license offices and county auditor offices. A voter is able to obtain a driver license and register to vote using one form. An electronic voter registration card is generated, complete with digital signature image, and sent to the county for validation and then transported to the State voter registration file. The State has used both Title I and Title II funds to cover the development and implementation costs for this project.

In 2008, the South Dakota Central Election Reporting System (CERS) was developed. The development of CERS aimed to eliminate duplicate data entry, provide for effective and efficient management of candidate data, allow for the seamless creation of ballot styles utilizing the candidate data, allow for the seamless importation of election results from the county auditors on election night and provide a system for electronic canvassing of results at both the county canvassers and State Board of Canvassers levels. CERS, with its data collection and analysis ability, is linked to the statewide voter file, this gives the public the ability to access data such as their polling place location and sample ballot via the web on the Voter Information Portal (VIP). CERS also provides Election night results down to the precinct level. Result distribution methods include graphical presentations with interactive maps available on the Secretary of State's website, and exports to the Associated Press. To date, the State of South Dakota has invested approximately $350,000 of HAVA Title II and Title I funds for this project.

The Voter Registration Cancellation Notification System (ST22) was developed in 2009 and went into production in January 2010. ST22 allows South Dakota County Auditors and other states to receive voter cancellations records electronically. ST22 contains three components: a data entry page, a data download page and a Driver License Voter Registration (DLVR) cancellation record capture. The system allows South Dakota County Auditors to enter voter registration cancellation information into a data entry page. The voter registration cancellation records for other states are sent electronically by email in PDF format to the appropriate state. The voter registration cancellation records for South Dakota counties are placed on a download page for a county auditor to print. All voter cancellation records from DLVR cards are captured and automatically entered into ST22. Title I funds were used in the development of this project.

The State will continue to use Title II Section 251 funds for additional projects to improve federal elections as determined by the Secretary of State. Counties may use Title II funds for specific projects to improve federal elections with the approval of the Secretary of State.

(2) How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of—

(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and

(B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

County auditors administer federal elections in South Dakota's counties. In order to receive the original Title II Section 251 funds in 2005, South Dakota was required to contribute 5% toward a total amount of the $11,596,803.00 federal grant. The State and counties cooperatively met the match requirement. The State legislature appropriated $198,405.80, which was spent on the development of the statewide electronic voter file. Each county established a reserved account determined by the county's portion of all statewide registered voters. The match contributions from the 66 counties totaled $411,952.20. The amount of federal grant funds reserved by the State for the counties was based on the portion of the total 5% match that the counties contributed. This total was reduced by the cost of the HAVA required voting system, purchased from Election Systems and Software in December of 2005. The remaining Title II amount of $3,235,652.80 was reserved in the state election fund, designated to each county based on its match contribution. The Secretary of State monitors and tracks county expenditures of Title II funds for ongoing Title III acceptable expenses and any expenses related to Secretary of State approved projects for the improvement of the administration of federal elections via the Title II reimbursement form reports sent to the State. Additional documentation is systematically requested through an audit process to ensure the acceptability of funds use. Counties are required to expend county-held accounts on Title III requirements before requesting state-held funds. Counties are reimbursed semi-annually from the state election fund. Any Title II amount in the state election fund not reserved for the counties, may be used for Title III requirements or for improving the administration of federal elections. The State may determine to increase the amount of the election fund reserved for individual counties.

On January 1, 2008, the State credited $4,000 from the state election fund to each of the counties' state-held accounts, for a total of $264,000. Such funds remained in the State election fund, in the state treasury, until expended by the counties in keeping with the existing model that requires counties to report to the State for funds used.

Given the State's experience with monitoring the costs to counties to provide Title III requirements in federal elections in 2006, the State observed that some expenses are consistent for each county, regardless of each county's number of registered voters. Based on that fact and a review of each county's current reserved state-held Title II fund balance, the State determined that the most appropriate method of distributing the Fiscal Year 2008 $575,000 requirements payment was to provide each of South Dakota's 66 counties with an equal share of the appropriated funds. Each county was required to reserve in a county-held account, $458.53, the sixty-sixth part of the $30,263 match requirement. The State credited each county's state-held

balance with $8,712.12, the sixty-sixth part of the $575,000. Each county was required to expend its $458.53 match money on a Title III requirement and report that to the State before accessing its state-held account funds.

Likewise, for the Fiscal Year 2009 requirements payment each county provided $398.73 in match money, the sixty-sixth part of the required $26,316 match. (Per guidance from the EAC, each county added $10.00 to cover interest earned on their match money, bringing each county's total to $408.73 in their county-held account.) Once this money was set aside in a county-held account each county then received $7,575.75 in their state-held account, the sixty-sixth part of the $500,000 provided in the Omnibus Appropriations Act of 2009.

The State and counties will follow the same plan for acquiring and distributing the Fiscal Year 2010 requirements payment. Each county will be requested to provide $279.11 in match money, the sixty-sixth part of the required $18,421 match. (An additional $5.00 will be requested from the counties to cover interest earned on their match money, bringing each county's total match to $284.11.) After the counties have verified to the Secretary of State's Office, by signing a subagreement with the State, that they have set aside their portion of the required match, each county will receive $5,303.03 in their state-held account, the sixty-sixth part of the $350,000 appropriated to the State. Keeping with the State's current subgrant system each county will be required to expend its match money and interest and report to the State prior to accessing its state-held account funds.

If further Title II Section 251 funds are made available to the State, the Secretary of State will determine an appropriate method for funds distribution.

(3) How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of title III.

In addition to the ongoing programs described above in (1.1), the State made special efforts to educate the public on the new voting system used for the first time in 2006. The State and counties demonstrated the AutoMARK to voters throughout the State through a variety of venues. Additional efforts may be made in future years. County auditors are trained by the State on HAVA procedures at election workshops and conventions and through publications and e-mails. Advocates for persons with disabilities assist the State in training. Special regional trainings were given in 2006 for the new voting system. County auditors in turn train precinct officials at county election schools. In 2006, the Secretary of State also gave special trainings to precinct workers at regional sessions explaining the new voting system and proper procedures for meeting the needs of voters with disabilities. In 2009, at the County Auditor Election Workshop an AutoMARK refresher course was offered to the auditors and their staff. Similar trainings may be given in future years.

(4) How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.

The HAVA task force guided the State on the voting system that would be selected. South Dakota laws and administrative rules have been passed to provide for all Section 301 requirements. The Secretary of State and county auditors manage the processes needed to comply with Section 301.

(5) How the State will establish a fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management.

An election fund has been established in the South Dakota State Treasury containing Title II Section 251 funds. Expenditures are made as needed by the Secretary of State, with oversight by the State Auditor, through spending authority granted by the State Legislature. Interest is earned and credited to the fund annually. All expenditures from the fund are subject to state government accounting and audit procedures.

(6) The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on—

(A) the costs of the activities required to be carried out to meet the requirements of title III;

(B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and

(C) the portion of the requirements payment which will be used to carry out other activities.

In previous HAVA state plans the State described a budget for projected amounts to fund Title III required programs. All programs were fulfilled within that budget and significant funds remain available to the State and its counties for ongoing HAVA expenses, future voting system purchases, and other improvements to the administration of federal elections.

South Dakota received a Title II Section 251 payment in April of 2005 in the amount of $11,596,803.00. As of September 30, 2009, the State has a total of $6,373,680.68 of Title II funds remaining available. Of this amount $3,350,413.62, is reserved in the counties' state-held Title II accounts.

As of December 31, 2009, the counties reported that $10,271.05 (including interest) remained in reserved county-held match money accounts.

The State expects that costs for the State and the counties will continue and may increase for maintenance of voting equipment, technical support, internet and intranet network connections, and specific design updates. At some future time, the State may need to develop a new computerized voter registration database system. When that might be and what that might cost are imprudent to predict. Potential amendments to HAVA of 2002 may also increase the cost of state compliance with enlarged federal requirements.

The State expects that costs to counties will continue and increase at least at the rate of inflation to prepare and implement federal elections within the framework of the current voting system. When new voting systems are required, counties will face significant additional costs in acquiring the new equipment. The State and counties will work to maintain the current voting system for as long as practicable.

Since the State has fulfilled HAVA's requirements and will continue to do so, the State wishes not to restrict itself unnecessarily through this state plan. New programs to improve the administration of federal elections may develop that have not yet been contemplated. The State

will continue to submit annual financial status and narrative reports to the EAC concerning HAVA grants as required.

With continued conservative management of the HAVA grant funds and the benefit of accumulating interest, the State may be able to indefinitely continue to meet HAVA obligations and continue to improve the administration of federal elections in South Dakota.

(7) How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

In previous HAVA state plans, the State described the expense to the State for the State Election Supervisor as maintenance of effort. However, in 2007 the EAC advised that maintenance of effort (MOE) applies specifically to prior expenses that became Title III requirements. HAVA's maintenance of effort requirement is designed to ensure that federal funds do not replace already occurring state or county expenses. With that new understanding, the State clarified that it had no such spending prior to HAVA and, therefore, had no level of spending to maintain.

With the new advisory issued by the EAC on February 19, 2010, regarding MOE pending, the State has once again reviewed the HAVA maintenance of effort issue and has again concluded that the State of South Dakota in State Fiscal Year 2000, had no prior expenses that became Title III requirements. Therefore, the State has no level of spending to maintain.

The pending EAC advisory on MOE states, "MOE tracks State expenditures on a prescribed set of Federal election activities, which includes any funds appropriated by the State to lower tier entities to support those activities. Under this MOE policy, States may exclude lower tier spending from MOE when the funds used by the lower tier entities are not derived from a State appropriation or expenditure."

The State also hereby clarifies that in the State Fiscal Year 2000 no State appropriations were given to the counties for election related expenditures. Therefore, South Dakota's 66 counties also, have no level of spending to maintain.

(8) How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

South Dakota has fulfilled the goals described in earlier state plans – including reducing the percentage of overvotes, educating voters on how to avoid and correct ballot errors, providing at least one §301(a)(3)(B) voting device in every polling place for any federal election with the required additional languages, providing provisional voting, posting required notices at polling places as described above in (1.1), removing every person convicted of a felony and sentenced to the adult state penitentiary system from the statewide voter registration list, verifying every new voter registration against either the person's driver license or last four digits of social security number, providing voter registration cards as described above in (1.5), and providing quicker, easier one-form voter registration and updating at driver licensing stations as described above in (1.6).

The Secretary of State and county auditors will continue to monitor these processes. South Dakota is in compliance with federal election law and will continue to meet HAVA requirements and will continue to develop innovative and effective programs to improve the administration of federal elections in the State.

(9) A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.

South Dakota law was written, effective July 1, 2003, to comply with HAVA Section 402. South Dakota Codified Law 12-1-21 thru 12-1-30 provides the procedure for the administrative complaint process. Initial complaints are resolved by the State Board of Elections using an existing administrative complaint process. The alternative dispute process involves judicial appointment of an arbitrator to resolve the complaint.

(10) If the State received any payment under title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

South Dakota received a Title I Section 101 payment in the amount of $5,000,000 in April of 2003. Title I funds have been used for payments to counties for punchcard voting system buyouts; voter education; statewide voter registration system programming; computer hardware, internet and intranet connection costs for the counties; development of additional systems such as CERS and ST22; training and materials for election personnel; travel for election personnel; salary and expenses for a dedicated state HAVA coordinator; a portion of salary and expenses for additional Secretary of State staff working on HAVA required projects and state plan development. The State may continue to use Title I funds on these programs and for other programs permitted by HAVA §101(b).

As of September 30, 2009 the State's Title I Section 101 funds remaining total was $3,729,789.97.

(11) How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change—

(A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;

(B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and

(C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

The Secretary of State and county auditors will administer this state plan at the direction of the Secretary of State, the State Board of Elections and the HAVA task force members.

(12) In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

The methods by which the State fulfilled its previous state plans have already been described in this plan. The State anticipates no major changes to its implementation of HAVA, except that Title II Section 251 funds may now be used for additional improvements to the administration of federal elections.

The State has provided voters with the option of an audio translation of the ballot in the Lakota language on the AutoMARK ballot marking devices in 11 counties for the Primary and General elections in 2006 and 2008. Pursuant to HAVA Section 301(a)(4), the State and Counties will continue to provide the audio translation of the ballot in Lakota on the AutoMARK for all federal elections. The State will also provide an audio Lakota translation of voter registration deadlines and public service announcements about the availability of the AutoMARKs at polling places to the Native American radio stations. South Dakota counties required to do so by federal law will continue to provide translations of election announcements on Native American radio stations and continue to provide interpreters at polling places to assist Native American voters.

To assist the counties in meeting the Lakota language requirements the Secretary of State has authorized reimbursement for counties from their Title II HAVA state-held accounts for the following expenses related to the Lakota Language assistance:

1. Translation of election materials in audio format. (SDCL 12-3-9).
2. AutoMARK Lakota expenses.
3. Broadcasting election notices and information in Lakota.
4. Training interpreters in election procedures.
5. Providing interpreters at polling places.
6. Providing oversight of interpreters and use of AutoMARKs containing Lakota audio.
7. Providing interpreters for absentee voting.
8. A coordinator for Lakota language requirements.

Each county will determine how to best meet the Lakota language requirements of the Voting Rights Act. Counties are not required to have expenditures in all eight categories. Individual counties will also determine whether to request Title II reimbursement for allowable Lakota expenditures or pay for the expenses with county general funds.

Reimbursement requests will be submitted to the Secretary of State's office via the HAVA Title II Reimbursement Form.

Section 588(b)(1)(A) MOVE How the State will comply with the provisions and requirements of and amendments made by the Military and Overseas Voter Empowerment Act" to section 254(a) of HAVA.

The Secretary of State's Office is directing the implementation of MOVE, which includes involvement from both the state and county levels. As of March 31, 2010, considerable progress has been made and the State does not anticipate any problems that would prevent implementation of MOVE in South Dakota before the 2010 General Election.

During the State Board of Elections meeting and the subsequent Legislative Rules Hearing, both held in December 2009, the necessary procedural and forms changes, including the Absentee Ballot Application, were made. Included were changes to the application to provide UOCAVA voters the means for requesting the ballot electronically by providing an email address. The changes to the application will go into effect July 1, 2010, so as to not cause confusion during the Primary Election process being held in June.

Legislative changes were also required in order to implement MOVE. At the recommendation of the State Board of Elections, Senate Bill 13 (SB 13) was introduced to the Legislature in January 2010. SB 13 included:

1) Allowing for UOCAVA voters to have their ballot sent electronically;
2) Adding absentee voter log information to the state computerized system and requiring the county auditors to transport the information to the Secretary of State on a daily basis;
3) Removing the requirement to send absentee ballots for two subsequent general election cycles following the initial receipt of a UOCAVA absentee ballot application;
4) Changing the number of days by which the official ballot shall be in the possession of the county auditor from 42 to 45 days; and
5) To define the penalty for providing the ballot access link or the UOCAVA ballot to anyone other than the intended UOCAVA voter.

SB 13 was signed into law on March 4, 2010, with an effective date of July 1, 2010.

The MOVE Act requires UOCAVA voters be allowed to request voter registration and absentee ballot application information by mail or electronically. Election application information is already available electronically via the Secretary of State's Office website – South Dakota's designated means of electronic communication. Application information is also available by mail from each of the county auditor's offices.

As was stated in (1.6), in 2008, South Dakota designed its Central Election Reporting System (CERS). The ballot creation and voter information access portions of the system will provide the critical foundation for the State's implementation of MOVE.

A key requirement of MOVE is the electronic provision of an UOCAVA voter's official absentee ballot. Currently, CERS uniquely identifies each voter within the state and has the capability of providing each specific voter with his/her own sample ballot via the Voter Information Portal (VIP) on the Secretary of State's website. This ballot has the same information as the official ballot, which could include federal to precinct level races, ballot questions and local, school and special district elections when they are combined with statewide elections. Use of the VIP feature will allow the system to provide an UOCAVA absentee ballot specific to an UOCAVA voter requesting his/her ballot electronically.

As was previously stated, the VIP aspect of CERS provides any South Dakota voter with his/her unique information, to include residence address, party of registration, precinct, polling place name and location, county auditor's contact information and the legislative district. This portal is being modified to include the absentee ballot tracking information. Where MOVE requires that an UOCAVA voter be provided with the electronic means of determining when the absentee ballot was received, the State has decided to provide this information to all South Dakota absentee voters. Through VIP absentee voters will be able to track the date their absentee ballot application was received, the date their absentee ballot was sent out and the date their absentee ballot was received. Programming changes to allow this additional information is currently underway at both

the state and county level, with several of the counties already having these changes into production. Additional programming upgrades have been made for the transmission of voter registration, history and absentee ballot tracking information to the state system for incorporation into the statewide voter registration database.

Electronic provision of the official ballot to the UOCAVA voter will be through the Secretary of State's Military and Overseas Citizens (UOCAVA) Web Portal. The process will begin when an absentee ballot application is received, and the county auditor enters the request into the county system. For those UOCAVA voters that are requesting electronic access to their ballot, after the absentee ballot application receipt date and email address is uploaded to the state voter registration system, an email to the UOCAVA voter is automatically forwarded to verify the validity of the email address. A subsequent email is forwarded to the UOCAVA voter upon the upload of the absentee ballot sent date. The ballot access email provides the necessary information for accessing the Military and Overseas Citizens (UOCAVA) Web Portal. Upon accessing the portal, the UOCAVA voter can print their official UOCAVA ballot, as well as voting and mailing instructions and the absentee voter's oath. After voting his/her ballot, the UOCAVA voter returns the ballot to the auditor of the county in which the voter is registered. Upon receipt of the absentee ballot by the county auditor, the date the ballot was received is entered into the county system, which is then uploaded to the state voter registration system. This absentee ballot receipt date is then displayed on VIP for the absentee voter to view. The UOCAVA absentee ballot is then handled according to administrative rules that are in place for absentee ballot handling.

To accommodate the MOVE requirement for electronic provision absentee ballots and voting instructions to UOCAVA voters, programming is currently underway to add the Secretary of State's Military and Overseas Citizens (UOCAVA) Web Portal to CERS. Included in the programming is the process for emailing the UOCAVA voter, administrative management reporting and statistical tracking features.

The Secretary of State's Office is currently drafting the instructions for inclusion with the UOCAVA absentee ballot and for the Secretary of State's website. In addition, the plan for provision of the absentee ballot to UOCAVA voters for secondary elections is being drafted.

Many UOCAVA voters may have already submitted an application for all elections held in 2010 and did not have the ability to submit an email address. This will require the submission of a new absentee ballot application in order for the UOCAVA voter to have electronic access to the ballot. Making South Dakota's UOCAVA voters aware of the availability of electronic access to the absentee ballot is needed. To enhance upon any media provided by the federal agencies, specific instructions to UOCAVA voters will be available on the Secretary of State's website and through press releases. In addition, the Secretary of State's Office will be working with the Department of Military and Veteran's Affairs to communicate to South Dakota military, overseas military families and overseas citizens about MOVE and electronic access to the absentee ballot.

In that South Dakota received HAVA §251(b)(2) certification in 2007, remaining Title II funds are being used to pay for the implementation of MOVE.

(13) A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.

The state plans of 2003 and 2004 were developed with guidance from a HAVA task force comprised of advocates for persons with disabilities and voter participation, representatives of the recognized political parties, state legislators, county auditors including the county auditors of South Dakota's two most populous counties, the State Board of Elections, the State Election Director, and the Secretary of State.

Task force members and other stake holders were notified of the 2008 proposed plan and were offered the opportunity to comment. The proposed plan was available for inspection and comment by the public for at least 30 days. The plan was posted at www.sdsos.gov and was available by request. The State also notified the public of the opportunity to comment on the proposed plan at an open hearing, which was the July 2008 meeting of the State Board of Elections. The State considered all comments submitted.

For this fifth version of South Dakota's state plan a HAVA task force has been re-established. The task force members consists of the Board of Elections members, election officials from South Dakota's two most populous counties, advocates for persons with disabilities, the Secretary of State, and the State Election Supervisor.

This proposed plan will be available for inspection and comment by the public for at least 30 days. The plan will be posted at www.sdsos.gov and be available by request. The State will also notify the public of the opportunity to comment on the proposed plan at an open hearing scheduled for May 12, 2010.

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